Mr. J. E. Cross
President-Generation Group
Duquesne Light Company
Post Office Box 4
Shippingport, PA 15077

June 19, 1997

SUBJECT: ORDER APPROVING APPLICATION REGARDING MERGER AGREEMENT BETWEEN CENTERIOR ENERGY CORPORATION AND OHIO EDISON COMPANY AFFECTING LICENSES DPR-66 AND NPF-73, BEAVER VALLEY POWER STATION, UNIT NOS. 1 AND 2 (TAC NOS. M97439 AND M97440)

Dear Mr. Cross:

The enclosed order is in response to a request dated December 13, 1996, from The Cleveland Electric Illuminating Company (CEI), Toledo Edison Company (TE), Ohio Edison Company (OE), and Pennsylvania Power Company (Penn Power), through counsel, requesting approval, pursuant to Section 50.80 of Title 10 of the Code of Federal Regulations, of the indirect transfer of Facility Operating License Nos. DPR-66 and NPF-73, to the extent held by the foregoing possession only licensees for the Beaver Valley Power Station, Unit Nos. 1 and 2 (BVPS-1 and BVPS-2). Supplemental information was submitted by letters dated February 14 and May 20, 1997.

The proposed indirect transfer would be a result of a proposed merger between Centerior Energy Corporation (the parent corporation for CEI and TE), and OE (the parent of Penn Power). The merger would result in the formation of a new single holding company, FirstEnergy Corporation, of which CEI, TE, OE, directly, and Penn Power, indirectly, would be subsidiaries. Duquesne Light Company, which is also a licensed owner and the operator of BVPS-1 and BVPS-2, is not involved in the merger. The staff's safety evaluation in support of the order is also enclosed.

The order is being forwarded to the Office of the Federal Register for publication.

Sincerely,
original signed by Tilda Liu for
Donald S. Brinkman, Senior Project Manager
Project Directorate I-2
Division of Reactor Projects - I/II
Office of Nuclear Reactor Regulation

Docket Nos. 50-334 and 50-412

Enclosures: 1. Order
2. Safety Evaluation

cc w/encls: See next page

DISTRIBUTION:

Docket File	PUBLIC	THarris (SE only)	
PDI-2 r/f	SCollins/FMiraglia	SVarga	DBrinkman
RZimmerman	OGC	JHopkins	AMcKeigney
GHill (2)	ACRS	WDean	MDavis
SECY	PEselgroth, RI	JStolz	
		MO'Brien	

*SEE PREVIOUS CONCURRENCE

To receive a copy of this document, indicate in the box: "C" = Copy without enclosures "E" = Copy with enclosures "N" = No copy

OFFICE	PDI-2:LA		TECH ED*		PD2-1:PM		OGC*		PGEB/DRPM
NAME	MO'Brien		BCalure		DBrinkman:cw		SHom		DMatthews
DATE	6/19/97		05/29/97		6/19/97		06/11/97		6/18/97

OFFICE	PD2-2:PD	DRPE:D	NRR:ADP	NRR:AD
NAME	JStolz	SVarga	RZimmerman	SCollins
DATE	6/18/97	6/18/97	6/18/97	6/19/97

9706240188 970619
PDR ADOCK 05000334
P PDR

DOCUMENT NAME: BV97439.ORD

UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D.C. 20555-0001

June 19, 1997

Mr. J. E. Cross
President-Generation Group
Duquesne Light Company
Post Office Box 4
Shippingport, PA 15077

SUBJECT: ORDER APPROVING APPLICATION REGARDING MERGER AGREEMENT BETWEEN CENTERIOR ENERGY CORPORATION AND OHIO EDISON COMPANY AFFECTING LICENSES DPR-66 AND NPF-73, BEAVER VALLEY POWER STATION, UNIT NOS. 1 AND 2 (TAC NOS. M97439 AND M97440)

Dear Mr. Cross:

The enclosed order is in response to a request dated December 13, 1996, from The Cleveland Electric Illuminating Company (CEI), Toledo Edison Company (TE), Ohio Edison Company (OE), and Pennsylvania Power Company (Penn Power), through counsel, requesting approval, pursuant to Section 50.80 of Title 10 of the Code of Federal Regulations, of the indirect transfer of Facility Operating License Nos. DPR-66 and NPF-73, to the extent held by the foregoing possession only licensees for the Beaver Valley Power Station, Unit Nos. 1 and 2 (BVPS-1 and BVPS-2). Supplemental information was submitted by letters dated February 14 and May 20, 1997.

The proposed indirect transfer would be a result of a proposed merger between Centerior Energy Corporation (the parent corporation for CEI and TE), and OE (the parent of Penn Power). The merger would result in the formation of a new single holding company, FirstEnergy Corporation, of which CEI, TE, OE, directly, and Penn Power, indirectly, would be subsidiaries. Duquesne Light Company, which is also a licensed owner and the operator of BVPS-1 and BVPS-2, is not involved in the merger. The staff's safety evaluation in support of the order is also enclosed.

The order is being forwarded to the Office of the Federal Register for publication.

Sincerely,

Donald S. Brinkman, Senior Project Manager
Project Directorate I-2
Division of Reactor Projects - I/II
Office of Nuclear Reactor Regulation

Docket Nos. 50-334/412

Enclosures: 1. Order
2. Safety Evaluation

cc w/encls: See next page

cc:

Jay E. Silberg, Esquire
Shaw, Pittman, Potts & Trowbridge
2300 N Street, NW.
Washington, DC 20037

Director-Safety and Licensing
Department (BV-A)
Duquesne Light Company
Beaver Valley Power Station
PO Box 4
Shippingport, PA 15077

Commissioner Roy M. Smith
West Virginia Department of Labor
Building 3, Room 319
Capitol Complex
Charleston, WVA 25305

Director, Utilities Department
Public Utilities Commission
180 East Broad Street
Columbus, OH 43266-0573

Director, Pennsylvania Emergency
Management Agency
Post Office Box 3321
Harrisburg, PA 17105-3321

Ohio EPA-DERR
ATTN: Zack A. Clayton
Post Office Box 1049
Columbus, OH 43266-0149

Dr. Judith Johnsrud
National Energy Committee
Sierra Club
433 Orlando Avenue
State College, PA 16803

Duquesne Light Company
Beaver Valley Power Station
PO Box 4
Shippingport, PA 15077
ATTN: R. L. Grand, Division Vice
President, Nuclear Operations Group
and Plant Manager (BV-SOSB-7)

Bureau of Radiation Protection
Pennsylvania Department of
Environmental Resources
ATTN: Michael P. Murphy
Post Office Box 2063
Harrisburg, PA 17120

Mayor of the Borrough of
Shippingport
Post Office Box 3
Shippingport, PA 15077

Regional Administrator, Region I
U.S. Nuclear Regulatory Commission
475 Allendale Road
King of Prussia, PA 19406

Resident Inspector
U.S. Nuclear Regulatory Commission
Post Office Box 298
Shippingport, PA 15077

Duquesne Light Company
Beaver Valley Power Station
PO Box 4
Shippingport, PA 15077
ATTN: S. C. Jain, Vice President
Nuclear Services (BV-A)

Roy P. Lessy, Jr., Esq.
Andrew G. Berg, Esq.
Akin, Gump, Strauss, Hauer
& Feld, L.L.P.
1333 New Hampshire Avenue, N.W.
Washington, D.C. 20036

UNITED STATES OF AMERICA

NUCLEAR REGULATORY COMMISSION

In the Matter of THE CLEVELAND ELECTRIC ILLUMINATING COMPANY TOLEDO EDISON COMPANY OHIO EDISON COMPANY PENNSYLVANIA POWER COMPANY DUQUESNE LIGHT COMPANY (Beaver Valley Power Station, Unit Nos. 1 and 2)	)))))))))))	Docket Nos. 50-334 and 50-412

ORDER APPROVING APPLICATION REGARDING MERGER AGREEMENT BETWEEN CENTERIOR ENERGY CORPORATION AND OHIO EDISON COMPANY

I.

The Cleveland Electric Illuminating Company (CEI), Duquesne Light Company (DL), Ohio Edison Company (OE), Pennsylvania Power Company (Penn Power), and Toledo Edison Company (TE) are the licensees of Beaver Valley Power Station, Unit Nos. 1 and 2 (BVPS-1 and BVPS-2). DL acts as agent for the other licensees and has exclusive responsibility for and control over the physical construction, operation, and maintenance of BVPS-1 and BVPS-2 as reflected in Facility Operating License Nos. DPR-66 and NPF-73. The Nuclear Regulatory Commission (NRC) issued License Nos. DPR-66 and NPF-73 on July 2, 1976, and on August 14, 1987, respectively, pursuant to Part 50 of Title 10 of the Code of Federal Regulations (10 CFR Part 50). The facility is located on the southern shore of the Ohio River in Beaver County, Pennsylvania, approximately 22 miles northwest of Pittsburgh and 5 miles east of East Liverpool, Ohio.

9706240246 970619
PDR ADOCK 05000334
P PDR

II.

By letter dated December 13, 1996, CEI, OE, Penn Power, and TE, through counsel, informed the Commission of a proposed merger of Centerior Energy Corporation and OEC resulting in the formation of a new single holding company, FirstEnergy Corporation ("FirstEnergy"). DL is not involved in the merger. Supplemental information was submitted by letters dated February 14 and May 20, 1997.

Under the proposed merger, CEI, OE, and TE will become wholly owned subsidiaries of FirstEnergy. Penn Power will remain a wholly owned subsidiary of OE. The current licensees will continue to hold the license, and no direct transfer of the license will result from the merger. On April 16, 1997, a Notice of Consideration of Approval of Application Regarding Proposed Corporate Restructuring was published in the Federal Register (62 FR 18658). An Environmental Assessment and Finding of No Significant Impact was published in the Federal Register on May 23, 1997 (62 FR 28523).

Under 10 CFR 50.80, no license shall be transferred, directly or indirectly, through transfer of control of the license, unless the Commission shall give its consent in writing. Upon review of the information submitted in the letter of December 13, 1996, and other information before the Commission, the NRC staff has determined that the proposed merger will not affect the qualifications of CEI, OE, Penn Power, and TE as holders of Facility Operating License Nos. DPR-66 and NPF-73, and that the transfer of control of the licenses, to the extent effected by the merger, is otherwise consistent with applicable provisions of law, regulations, and orders issued by the Commission, subject to the conditions set forth herein. These findings are supported by a safety evaluation dated June 19, 1997.

III.

Accordingly, pursuant to Sections 161b, 161i, 161o. and 184 of the Atomic Energy Act of 1954, as amended, 42 USC §§ 2201(b), 2201(i), 2201(o), and 2234; and 10 CFR 50.80, IT IS HEREBY ORDERED that the Commission approves the application regarding the merger agreement between Centerior Energy Corporation and OE subject to the following: (1) CEI, OE, Penn Power, and TE shall provide the Director of the Office of Nuclear Reactor Regulation a copy of any application, at the time it is filed, to transfer (excluding grants of security interests or liens) from such licensee to its parent or to any other affiliated company, facilities for the production, transmission, or distribution of electric energy having a depreciated book value exceeding 10 percent of such licensee's consolidated net utility plant, as recorded on the licensee's books of account; and (2) should the merger not be completed by June 30, 1998, this Order shall become null and void, unless upon application and for good cause shown this date is extended. This Order is effective upon issuance.

IV.

By July 25 , 1997, any person adversely affected by this Order may file a request for a hearing with respect to issuance of the Order. Any person requesting a hearing shall set forth with particularity how such person's interest is adversely affected by this Order and shall address the criteria set forth in 10 CFR 2.714(d).

If a hearing is to be held, the Commission will issue an order designating the time and place of such hearing.

The issue to be considered at any such hearing shall be whether this Order should be sustained.

Any request for a hearing must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, Attention: Rulemakings and Adjudications Staff, or may be delivered to the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, by the above date. Copies should also be sent to the Office of the General Counsel and to the Director, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, and to Gerald Charnoff, Esquire, Shaw, Pittman, Potts and Trowbridge, 2300 N Street, NW., Washington, DC 20037.

For further details with respect to this action, see the application dated December 13, 1996, as supplemented February 14 and May 20, 1997, and the safety evaluation dated June 19, 1997, which are available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC., and at the local public document room located at the B. F. Jones Memorial Library, 663 Franklin Avenue, Aliquippa, PA 15001.

Dated at Rockville, Maryland, this 19th day of June 1997.

FOR THE NUCLEAR REGULATORY COMMISSION

Frank J. Miraglia

Frank J. Miraglia, Acting Director
Office of Nuclear Reactor Regulation

UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D.C. 20555-0001

SAFETY EVALUATION BY THE OFFICE OF NUCLEAR REACTOR REGULATION

RELATED TO THE INDIRECT TRANSFERS OF CONTROL OF

LICENSE NOS. DPR-66 AND NPF-73

FOR

BEAVER VALLEY POWER STATION, UNIT NOS. 1 AND 2

DOCKET NOS. 50-334 AND 50-412

1.0 BACKGROUND

On December 13, 1996, The Cleveland Electric Illuminating Company (CEI), Toledo Edison Company (TE), Ohio Edison Company (OE), and Pennsylvania Power Company (Penn Power) submitted an application, through counsel, for approval under 10 CFR 50.80 in connection with a proposed merger between Centerior Energy Corporation (Centerior) and OE. Subsequent to interim organizational changes, the new company resulting from this merger will be named FirstEnergy Corporation (FirstEnergy). CEI and TE are wholly owned subsidiaries of Centerior and will become wholly owned subsidiaries of FirstEnergy as a result of the merger. Centerior will cease to exist as a result of the merger. Penn Power, now a wholly owned subsidiary of OE will remain such after the merger, while OE will become a wholly owned subsidiary of FirstEnergy. Upon consummation of the restructuring, current stockholders of Centerior and OE would become stockholders of FirstEnergy pursuant to a formula stipulated in the merger agreement.

OE is a 35-percent owner of Beaver Valley Power Station, Unit No. 1 (BVPS-1) and Penn Power is a 17.50-percent owner of BVPS-1. OE is a 41.88-percent owner of Beaver Valley Power Station, Unit No. 2 (BVPS-2), CEI is a 24.47-percent owner of BVPS-2, and TE is a 19.91-percent owner of BVPS-2. These percent shares will remain such after the proposed merger is completed. Duquesne Light Company (DL) owns the remaining 47.50-percent of BVPS-1 and the remaining 13.74-percent of BVPS-2. The proposed merger does not involve DL, which is the licensed operator of the BVPS-1 and BVPS-2 facilities. The proposed merger will result in the indirect transfer of control of the interests held by the licensees (except for DL) in the BVPS-1 and BVPS-2 operating licenses to a new holding company, FirstEnergy. (See application letter dated December 13, 1996, pp. 1-2 of the enclosure.) Accordingly, the NRC staff believes that the provisions of 10 CFR 50.80 apply and Commission approval is required.

In the application for approval dated December 13, 1996, the applicants made the following statement on page 13:

> The purpose of the merger is to achieve benefits for Ohio Edison's and Centerior's shareholders, customers and communities that would not be achievable if they were to remain separate companies. The expected savings related to the merger are approximately $1 billion over the first ten years. The savings will come from the elimination of duplicative activities, improved operating efficiencies, lower capital costs, and the combination of the companies' work forces.

2.0 FINANCIAL AND TECHNICAL QUALIFICATIONS

On the basis of the information provided in the application, the NRC staff finds that there will be no near-term substantive change in the financial ability of CEI, TE, OE, and Penn Power to contribute appropriately to the operations and decommissioning of the BVPS-1 and BVPS-2 facilities as a result of the proposed merger. CEI, TE, OE, and Penn Power each is, and would remain after the merger, an "electric utility" as defined in 10 CFR 50.2, engaged in the generation, transmission, and distribution of electric energy for wholesale and retail sale. CEI, TE, and OE each recover the cost of such electricity through the rate regulation of the Public Utilities Commission of Ohio and the Federal Energy Regulatory Commission (FERC), and Penn Power likewise recovers the loss of such electricity through the rate regulation of the Pennsylvania Public Utility Commission and by the FERC. Thus, pursuant to 10 CFR 50.33(f), CEI, TE, OE, and Penn Power as electric utilities are exempt from further financial qualifications review.

However, in view of the NRC's concern that restructuring can lead to a diminution of assets necessary for the safe operation and decommissioning of a licensee's nuclear power plants, the NRC has sought to obtain commitments from its licensees that initiate restructuring actions not to transfer significant assets from the licensee without notifying the NRC. Each licensee that will be affiliated with FirstEnergy has agreed--

> to provide the Director of the Office of Nuclear Reactor Regulation a copy of any application, at the time it is filed, to transfer (excluding grants of security interests or liens) from such licensee to its proposed parent, or to any other affiliated company, facilities for the production, transmission or distribution of electric energy having a depreciated book value exceeding ten percent of such licensee's consolidated net utility plant, as recorded on the utility's books of account. (See application letter dated December 13, 1996, p. 8 of the enclosure.)

The NRC staff believes that this commitment, modified to clarify the abbreviations used in this evaluation and as a condition to the NRC's consent in connection with the proposed restructuring, will enable the NRC to ensure that CEI, TE, OE, and Penn Power will continue to maintain adequate resources to contribute to the safe operation and decommissioning of BVPS-1 and BVPS-2.

With respect to technical qualifications, the proposed merger will not have any impact on the licensed operator, DL.

3.0 ANTITRUST

The antitrust provisions of Section 105c of the Atomic Energy Act apply to an application for a license to construct or operate a facility licensed under Section 103 of the Act. Although FirstEnergy may become the holding company of the licensees for the Beaver Valley facilities, i.e., may indirectly acquire control of the licenses, it will not be performing activities for which a license is needed. Since approval of the instant application would not involve the issuance of a license, the procedures under Section 105c do not apply, including the making of any "significant changes" determination. Therefore, there is no need to conduct any additional antritrust review.

4.0 FOREIGN OWNERSHIP

The application letter states that for the four companies--CEIC, TEC, OEC, and Penn Power--following the proposed merger, none will be owned, controlled or dominated by any alien, foreign corporation or foreign government. Also, according to the application, all members of the FirstEnergy board will be U.S. Citizens, while currently the directors and principal officers of the licensees are citizens of the United States. The staff does not know or have reason to believe that any of the applicants are owned, controlled, or dominated by any alien, foreign corporation, or foreign government.

5.0 CONCLUSIONS

In view of the foregoing, the NRC staff concludes that the proposed restructuring of Centerior and OEC through a merger to form a new company, FirstEnergy, will not adversely affect the financial qualifications of CEIC, TEC, OEC, or Penn Power with respect to the operation and decommissioning of the BVPS-1 and BVPS-2 facilities. Also, there do not appear to be any problematic antitrust or foreign ownership issues related to the BVPS-1 and BVPS-2 licenses that would result from the proposed merger or the transactions to facilitate the merger. Thus, the proposed merger will not affect the financial qualifications of CEIC, TEC, OEC, or Penn Power as holders of the license, and the transfer of control of the license, to the extent effected by the proposed transactions, is otherwise consistent with applicable provisions of law, regulations, and orders issued by the Commission. Accordingly, the NRC should approve the application regarding the proposed merger and restructuring.

Principal Contributors: A. McKeigney
M. Davis

Date: June 19, 1997