

August 27, 2001

Mr. A. Alan Blind
Vice President, Nuclear Power
Consolidated Edison Company
of New York, Inc.
Broadway and Bleakley Avenue
Buchanan, NY 10511

Mr. Michael Kansler
Vice President and
Chief Operating Officer
Entergy Nuclear Operations, Inc.
440 Hamilton Avenue
White Plains, NY 10601

SUBJECT: INDIAN POINT NUCLEAR GENERATING UNIT NOS. 1 AND 2 - ORDER APPROVING TRANSFER OF LICENSES FROM THE CONSOLIDATED EDISON COMPANY OF NEW YORK, INC., TO ENTERGY NUCLEAR INDIAN POINT 2, LLC, AND ENTERGY NUCLEAR OPERATIONS, INC. AND APPROVING CONFORMING AMENDMENTS (TAC NOS. MB0743 AND MB0744)

Dear Messrs. Blind and Kansler:

Under cover of a letter dated December 12, 2000, Consolidated Edison Company of New York, Inc. (Con Edison), Entergy Nuclear Indian Point 2, LLC (Entergy Nuclear IP2), and Entergy Nuclear Operations, Inc. (ENO) submitted an application to the U.S. Nuclear Regulatory Commission (NRC) requesting approval of the transfer of the licenses for the Indian Point Nuclear Generating Unit Nos. 1 and 2 (IP1 and IP2), held by Con Edison, to Entergy Nuclear IP2, as the proposed owner of IP1 and IP2, and to ENO, as the proposed entity to maintain IP1 and operate IP2. In the application, Con Edison also requested approval of conforming amendments pursuant to Sections 50.80 and 50.90 of Title 10 of the *Code of Federal Regulations*. The application was supplemented by letters from Con Edison dated April 12, 2001, and from Entergy Nuclear IP2 and ENO dated April 16, May 24, June 6, and June 8, 2001.

The NRC staff has completed its review of the application. Enclosure 1 is the Order which approves both the proposed transfer, subject to the conditions described therein, and the conforming amendments. Enclosures 2 and 3 provide the conforming amendment pages for IP1 and IP2, respectively. The conforming amendments will be issued and become effective at the time the transfer is consummated. Enclosures 4 and 5 contain the nonproprietary and proprietary versions, respectively, of the staff's safety evaluation related to the preceding action. The nonproprietary version of the safety evaluation will be placed in the NRC public document room and added to the Agency-wide Documents Access and Management System's Publicly Available Records System (ADAMS PARS) Library.

NOTE: THIS DOCUMENT CONTAINS PROPRIETARY INFORMATION. THIS DOCUMENT BECOMES NONPROPRIETARY UPON REMOVAL OF ENCLOSURE 5.

The Order has been forwarded to the Office of the Federal Register for publication.

Sincerely,

/RA/

Patrick D. Milano, Senior Project Manager, Section 1
Project Directorate I
Division of Licensing Project Management
Office of Nuclear Reactor Regulation

Docket Nos. 50-003 and 50-247

Enclosures: 1. Order
2. Conforming Amendment for IP1
3. Conforming Amendment for IP2
4. Safety Evaluation (nonproprietary)
5. Safety Evaluation (proprietary)

cc w/encls: See next page

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PACKAGE ACCESSION NO. ML012250501

PROPRIETARY VERSION ACCESSION NO. ML012250502

NON-PROPRIETARY NO. ML012250459

*See previous concurrence

*See previous concurrence

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DATED August 27, 2001

ORDER APPROVING TRANSFER OF FACILITY OPERATING LICENSE FOR INDIAN POINT
NUCLEAR GENERATING UNIT NOS. 1 AND 2

DISTRIBUTION w/Enclosures 1, 2, 3, & 4 (non-proprietary)

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P. Milano

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Indian Point Nuclear Generating
Units 1 and 2

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Units 1 and 2

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Units 1 and 2

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UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

In the Matter of)	
)	
CONSOLIDATED EDISON COMPANY)	Docket Nos. 50-003 and 50-247
OF NEW YORK, INC.)	
)	
(Indian Point Nuclear Generating Unit)	
Nos. 1 and 2))	

ORDER APPROVING TRANSFER OF LICENSES
AND CONFORMING AMENDMENTS

I.

The Consolidated Edison Company of New York, Inc., (Con Edison) is the holder of Facility Operating License No. DPR-5, for the Indian Point Nuclear Generating Unit No. 1 (IP1), and Facility Operating License No. DPR-26, for the Indian Point Nuclear Generating Unit No. 2 (IP2). The licenses authorize Con Edison to possess and maintain IP1 and to possess, use, and operate IP2 at steady-state power levels not in excess of 3071.4 megawatts thermal. The IP1 and 2 facilities, which are owned by Con Edison, are located in Westchester County, New York.

II.

Under cover of a letter dated December 12, 2000, Con Edison, Entergy Nuclear Indian Point 2, LLC (Entergy Nuclear IP2) and Entergy Nuclear Operations, Inc., (ENO) submitted an application requesting approval of a transfer of the above licenses to Entergy Nuclear IP2, the proposed owner of IP1 and IP2, and to ENO, the proposed entity to maintain IP1 and operate IP2, and approval of conforming amendments to the licenses to reflect the transfer. The application was supplemented by letters dated April 12, 2001, from Con Edison and April 16,

May 24, June 6, and June 8, 2001, from Entergy Nuclear IP2 and ENO. The application and supplements are collectively referred to herein as the application, unless otherwise noted.

According to the application, Entergy Nuclear IP2 would assume title to both facilities following approval of the proposed license transfers, and ENO would become responsible for the maintenance of IP1 and operation and maintenance of IP2.

Entergy Nuclear IP2, a Delaware limited liability company, is an indirect wholly owned subsidiary of Entergy Corporation, and an indirect wholly owned subsidiary of Entergy Nuclear Holding Company #3. ENO, a Delaware corporation, is an indirect wholly owned subsidiary of Entergy Corporation, and a direct wholly owned subsidiary of Entergy Nuclear Holding Company #2.

The conforming amendments would remove the current licensee from the facility operating licenses and would add Entergy Nuclear IP2 and ENO in its place, as appropriate. In addition, other administrative changes to the licenses would be made to reflect the filing of the application and subject license transfers.

Approval of the transfer of the facility operating licenses and the conforming license amendments was requested pursuant to 10 CFR 50.80 and 50.90. Notice of the request for approval and an opportunity to request a hearing or to submit written comments was published in the *Federal Register* on January 29, 2001 (66 FR 8122). Pursuant to the notice, the Commission received hearing requests dated February 20, 2001, from the Citizens Awareness Network, Inc., and jointly from the Town of Cortlandt Manor, New York, and the Hendrick Hudson School District. These requests are currently pending before the Commission. No written comments as alternatives to hearing requests were submitted.

Pursuant to 10 CFR 2.1316, during the pendency of a hearing, the U.S. Nuclear Regulatory Commission (NRC) staff is expected to promptly proceed with the approval or denial of license transfer requests consistent with the staff's findings in its safety evaluation. Notice of

the staff's action shall be promptly transmitted to the Presiding Officer and parties to the proceeding. Commission action on the pending hearing requests is being handled independently of this action.

Under 10 CFR 50.80, no license, or any right thereunder, shall be transferred, directly or indirectly, through transfer of control of the license, unless the NRC shall give its consent in writing. After reviewing the information in the application and other information before the Commission, and relying upon the representations and agreements contained in the application, the NRC staff has determined that Entergy Nuclear IP2 and ENO are qualified to be the holders of the licenses to the extent proposed in the application, and that the transfer of the licenses to Entergy Nuclear IP2 and ENO is otherwise consistent with applicable provisions of law, regulations, and orders issued by the Commission, subject to the conditions set forth below. The NRC staff has further found that the application for the proposed license amendments complies with the standards and requirements of the Atomic Energy Act of 1954, as amended, and the Commission's rules and regulations set forth in 10 CFR Chapter 1; the facilities will operate in conformity with the application, the provisions of the Act and the rules and regulations of the Commission; there is reasonable assurance that the activities authorized by the proposed license amendments can be conducted without endangering the health and safety of the public and that such activities will be conducted in compliance with the Commission's regulations; the issuance of the proposed license amendments will not be inimical to the common defense and security or to the health and safety of the public; and the issuance of the proposed license amendments will be in accordance with 10 CFR Part 51 of the Commission's regulations and all applicable requirements have been satisfied. The findings set forth above are supported by the staff's safety evaluation dated August 27, 2001.

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 transfer of the licenses, as described herein and in the application, to Entergy Nuclear IP2 and ENO is approved, subject to the following conditions:

1. Before the completion of the transfer of the IP1 and IP2 licenses, Entergy Nuclear IP2 and ENO shall provide the Director of the Office of Nuclear Reactor Regulation satisfactory documentary evidence that they have obtained the appropriate amount of insurance required of licensees under 10 CFR Part 140 of the Commission's regulations.
2. On the closing date of the transfer of the licenses, Con Edison shall transfer to Entergy Nuclear IP2 all of the accumulated decommissioning trust funds for IP1 and IP2 and such additional funds to be deposited in the decommissioning trusts for IP1 and IP2 such that the total amount transferred is no less than \$430,000,000. Furthermore, Entergy Nuclear IP2 shall either (a) establish a provisional trust for decommissioning funding assurance for IP1 and IP2 in an amount no less than \$25,000,000 (to be updated as required under applicable NRC regulations, unless otherwise approved by the NRC) or (b) obtain a surety bond for an amount no less than \$25,000,000 (to be updated as required under applicable NRC regulations, unless otherwise approved by the NRC). The total decommissioning funding assurance provided for IP1 and IP2 by the combination of the decommissioning trusts and the provisional trust or surety bond at the time of transfer of the licenses shall be at a level no less than the amounts calculated pursuant to, and required under, 10 CFR 50.75. The decommissioning trusts, provisional trust, and surety bond shall be subject to or be consistent with the following requirements, as applicable:

(a) Decommissioning Trusts

- (i) The decommissioning trust agreement must be in a form acceptable to the NRC.
- (ii) With respect to the decommissioning trust funds, investments in the securities or other obligations of Entergy Corporation, or its affiliates, subsidiaries, successors, or assigns are and shall be prohibited. Except for investments tied to market indexes or other non-nuclear-sector mutual funds, investments in any entity owning one or more nuclear power plants are and shall be prohibited.
- (iii) No contribution to the funds that consists of property other than liquid assets shall be permitted.
- (iv) The decommissioning trust agreement must provide that no disbursements or payments from the trusts, other than for ordinary administrative expenses, shall be made by the trustee unless the trustee has first given the Director of the Office of Nuclear Reactor Regulation 30 days prior written notice of payment. The decommissioning trust agreement shall further contain a provision that no disbursements or payments from the trusts shall be made if the trustee receives prior written notice of objection from the NRC.
- (v) The decommissioning trust agreement must provide that the agreement cannot be amended in any material respect without 30 days prior written notification to the Director of the Office of Nuclear Reactor Regulation.
- (vi) The appropriate section of the decommissioning trust agreement shall state that the trustee, investment advisor, or anyone else directing the investments made in the trusts shall adhere to a "prudent investor"

standard, as specified in 18 CFR 35.32(a)(3) of the Federal Energy Regulatory Commission's regulations.

- (b) Provisional Trust:
 - (i) The provisional trust agreement must be in a form acceptable to the NRC.
 - (ii) Investments in the securities or other obligations of Entergy Corporation or its affiliates, subsidiaries, successors, or assigns are and shall be prohibited. Except for investments tied to market indexes or other non-nuclear-sector mutual funds, investments in any entity owning one or more nuclear power plants are and shall be prohibited.
 - (iii) The provisional trust agreement must provide that no disbursements or payments from the trust, other than for ordinary administrative expenses, shall be made by the trustee unless the trustee has first given the Director of the Office of Nuclear Reactor Regulation 30 days prior written notice of payment. The provisional trust agreement shall further contain a provision that no disbursements or payments from the trust shall be made if the trustee receives prior written notice of objection from the NRC.
 - (iv) The provisional trust agreement must provide that the agreement cannot be amended in any material respect, or terminated, without 30 days prior written notification to the Director of the Office of Nuclear Reactor Regulation.
 - (v) The appropriate section of the provisional trust agreement shall state that the trustee, investment advisor, or anyone else directing the investments made in the trust shall adhere to a "prudent investor" standard, as

specified in 18 CFR 35.32(a)(3) of the Federal Energy Regulatory Commission's regulations.

- (vi) Use of assets in the provisional trust, in the first instance, shall be limited to the expenses related to decommissioning IP1 and IP2 as defined by the NRC in its regulations and issuances, and as provided in the IP1 and IP2 licenses and any amendments thereto.

(c) Surety Bond

- (i) The surety bond agreement must be in a form acceptable to the NRC and be in accordance with all applicable NRC regulations.
- (ii) The surety company providing any surety bond obtained to comply with this Order shall be one of those listed by the U.S. Department of the Treasury in the most recent edition of Circular 570 and shall have a coverage limit sufficient to cover the amount of the surety bond.
- (iii) Entergy Nuclear IP2 shall establish a standby trust to receive funds from the surety bond, if a surety bond is obtained, in the event that Entergy Nuclear IP2 defaults on its funding obligations for the decommissioning of IP1 or IP2. The standby trust agreement must be in a form acceptable to the NRC, and shall conform with all conditions otherwise applicable to the decommissioning trust agreement, and with all conditions that would be applicable to the provisional trust above, if established.
- (iv) The surety agreement must provide that the agreement cannot be amended in any material respect, or terminated, without 30 days prior written notification to the Director of the Office of Nuclear Reactor Regulation.

3. Entergy Nuclear IP2 shall take all necessary steps to ensure that the decommissioning trusts are maintained in accordance with the application and the requirements of this Order, and consistent with the safety evaluation supporting this Order.
4. Entergy Nuclear IP2 and ENO shall take no action to cause Entergy Global Investments, Inc., or Entergy International Ltd. LLC or their parent companies to void, cancel, or modify the \$55 million contingency commitment to provide funding for the IP1 and IP2 plants as represented in the application without the prior written consent of the Director of the Office of Nuclear Reactor Regulation.
5. After receipt of all required approvals of the transfer of IP1 and IP2, Con Edison shall inform the Director of the Office of Nuclear Reactor Regulation, in writing, of such receipt within 5 business days, and of the date of the closing of the transfer no later than 7 business days prior to the date of the closing. Should the transfer of the licenses not be completed by August 27, 2002, this Order shall become null and void, provided, however, that upon written application and for good cause shown, such date may be extended by order.

IT IS FURTHER ORDERED that, consistent with 10 CFR 2.1315(b), license amendments that make changes, as indicated in Enclosure 2 to the cover letter forwarding this Order, to conform the licenses to reflect the subject license transfers are approved. The amendments shall be issued and made effective at the time the proposed license transfers are completed.

This Order is effective upon issuance.

For further details with respect to this Order, see the initial application submitted under cover letter dated December 12, 2000, and supplements dated April 12, 2001, submitted by Con Edison, and dated April 16, 2001, May 24, June 6, and June 8, 2001, submitted by Entergy Nuclear IP2 and ENO, and the safety evaluation dated August 27, 2001, which are available for

public inspection at the NRC's Public Document Room located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland, and are accessible electronically through the ADAMS Public Electronic Reading Room link at the NRC Web site (<http://www.nrc.gov>).

Dated at Rockville, Maryland, this 27th day of August 2001.

FOR THE NUCLEAR REGULATORY COMMISSION

/RA/

Samuel J. Collins, Director
Office of Nuclear Reactor Regulation

CONSOLIDATED EDISON COMPANY OF NEW YORK, INC.

DOCKET NO. 50-003

INDIAN POINT NUCLEAR GENERATING STATION, UNIT 1

AMENDMENT TO FACILITY OPERATING LICENSE

Amendment No.
License No. DPR-5

1. The Nuclear Regulatory Commission (the Commission) has found that:
 - A. The application for amendment by Consolidated Edison Company of New York, Inc. (the licensee) submitted under cover letter dated December 12, 2000, as supplemented by letters dated April 12 from the licensee and dated April 16, May 24, June 6, and June 8, 2001, from Entergy Nuclear Indian Point 2, LLC, and Entergy Nuclear Operations, Inc., complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act) and the Commission's rules and regulations set forth in 10 CFR Chapter I;
 - B. The facility will operate in conformity with the application, the provisions of the Act, and the rules and regulations of the Commission;
 - C. There is reasonable assurance (i) that the activities authorized by this amendment can be conducted without endangering the health and safety of the public, and (ii) that such activities will be conducted in compliance with the Commission's regulations;
 - D. The issuance of this amendment will not be inimical to the common defense and security or to the health and safety of the public; and
 - E. The issuance of this amendment is in accordance with 10 CFR Part 51 of the Commission's regulations, and all applicable requirements have been satisfied.

2. Accordingly, License No. DPR-5 is hereby amended as indicated in the attachment to this license amendment.
3. The license amendment is effective as of its date of issuance and shall be implemented within 30 days from the date of issuance.

FOR THE NUCLEAR REGULATORY COMMISSION

Samuel J. Collins, Director
Office of Nuclear Reactor Regulation

Attachment: Amended Operating License Pages 1 through 8
And Amended Technical Specifications

Date of Issuance:

ATTACHMENT TO LICENSE AMENDMENT NO.

TO FACILITY OPERATING LICENSE NO. DPR-5

DOCKET NO. 50-003

Replace the following pages of the License with the attached revised pages. The revised pages are identified by amendment number and contain marginal lines indicating the areas of change.

Remove Pages

1 through 6

Insert Pages

1 through 8

Replace the following pages of the Appendix A Technical Specifications with the attached revised pages. The revised pages are identified by amendment number and contain marginal lines indicating the areas of change.

Remove Pages

Cover page
Page 1
Page 2
Page 3
Page 11
Page 13

Insert Pages

Cover page
Page 1
Page 2
Page 3
Page 11
Page 13

Replace the following pages of the Appendix B Environmental Technical Specifications with the attached revised pages. The revised pages are identified by amendment number and contain marginal lines indicating the areas of change.

Remove Pages

Cover page

Insert Pages

Cover page

ENERGY NUCLEAR INDIAN POINT 2, LLC
AND ENERGY NUCLEAR OPERATIONS, INC.
DOCKET NO. 50-3
INDIAN POINT NUCLEAR GENERATING UNIT NO. 1
AMENDED PROVISIONAL OPERATING LICENSE

License No. DPR-5
Amendment No.

The Atomic Energy/Nuclear Regulatory Commission (the Commission) having found that:

- a. The application for amendment by the Consolidated Edison Company of New York, Inc. (Con Edison) and Entergy Nuclear Indian Point 2, LLC (ENIP2) and Entergy Nuclear Operations, Inc. (ENO) submitted under cover letter dated December 12, 2000, as supplemented by letters dated April 12, 2001, from Con Edison and dated April 16, May 24, June 6, and June 8, 2001, from ENIP2 and ENO complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations as set forth in 10 CFR Chapter I;
- b. There is reasonable assurance (i) that the facility can be operated at power levels not in excess of 615 Mw(t) in accordance with this license, as amended, without endangering the health and safety of the public and (ii) that such activities will be conducted in compliance with the rules and regulations of the Commission;
- c. ENO is technically and financially qualified and ENIP2 is financially qualified to engage in the activities authorized by this license, as amended, in accordance with the rules and regulations of the Commission;
- d. ENIP2 and ENO have furnished proof of financial protection to satisfy the requirements of 10 CFR, Part 140;
- e. The issuance of this amended license will not be inimical to the common defense and security or to the health and safety of the public;

Provisional Operating License No. DPR-5 is hereby amended in its entirety to read as follows:

1. This license applies to the utilization facility consisting of a pressurized water reactor (hereinafter referred to as 'the reactor'), and associated components and equipment hereinafter specified, which is owned by ENIP2, located in Westchester County, New York, and described in the amended and Substituted Application for Licenses dated November 30, 1960, as amended; in the Application for License amendment dated April 6, 1965, as

Amendment No.

supplemented May 6, 1965; and in the Application for License amendment dated December 3, 1965 (hereinafter referred to as 'the application'), and which is a part of the electric generating plant which has been designated by ENIP2 as the Indian Point Station Unit No. 1.

2. Subject to the conditions and requirements incorporated herein, the U.S. Nuclear Regulatory Commission (hereinafter referred to as "the Commission") hereby licenses: :
 - A. ENIP2 and ENO, pursuant to Section 104b. of the Act and Title 10 CFR Part 50, "Licensing of Production and Utilization Facilities," to possess but not operate the facility at the designated location in Westchester County, New York, in accordance with the procedures and limitations described in the application and this license; Amdt. 45 1-31-96
 - B. ENO, pursuant to the Act and 10 CFR Part 70, to receive and possess up to 1918 kilograms of contained uranium-235 previously received for reactor operation;
 - C. ENO, pursuant to the Act and Title 10, CFR, Chapter 1, Part 70, "Special Nuclear Material," to receive, possess and use six (6) grams of uranium-235 in fission counters;
 - D. ENO, pursuant to the Act and Title 10, CFR, Chapter 1, Part 30, "Licensing of Byproduct Material," to receive, possess and use six hundred (600) curies of Plutonium-210 encapsulated as Po-Be neutron star-up sources;
 - E. ENO, pursuant to the Act and 10 CFR Parts 30 and 70, to receive and possess, but not to separate, such byproduct and special materials as were produced by the prior operation of the facility; Amdt. 45 1-31-96
 - F. ENO, pursuant to the Act and Title 10, CFR, Parts 30 and 70, to possess and store the 1140.46 kilograms of special nuclear material and the byproduct materials contained in Core A.

3. This license shall be deemed to contain and is subject to the conditions specified in Sections 50.54 and 50.59 of Part 50, Section 70.32 of Part 70, Section 40.41 of Part 40, and Section 30.32 of Part 30 of the Commission's regulations; is subject to all applicable provisions of the Act and rules, regulations and orders of the Commission now and hereafter in effect; and is subject to the additional conditions specified below:
 - A. Maximum Power Level Amdt. 45 1-31-96
ENO is prohibited from taking the reactor to criticality, and the facility shall not be operated at any power level.

B. Technical Specifications

Amdt. 45
1-31-96

The Technical Specifications contained in Appendices A and B, as revised through Amendment No. , are hereby incorporated in the license. ENO shall maintain the facility in accordance with the Technical Specifications.

C. Records

In addition to those otherwise required under this license and applicable regulations, ENO shall keep the following records:

- (1) Reactor operating records, including power levels and period of operation at each power level.
- (2) Records showing the radioactivity released or discharged into the air or water beyond the effective control of ENO as measured at or prior to the point of such release or discharge.
- (3) Records of scrams, including reasons therefor.
- (4) Records of principal maintenance operations involving substitution or replacement of facility equipment or components and the reasons therefor.
- (5) Records of radioactivity measurements at on-site and off-site monitoring stations.
- (6) Records of facility tests and measurements performed pursuant to the requirements of the Technical Specifications.

- D. ENO shall fully implement and maintain in effect all provisions of the physical security, guard training and qualification, and safeguards contingency plans previously approved by the Commission and all amendments and revisions to such plans made pursuant to the authority of 10 CFR 50.90 and 10 CFR 50.54(p). The plans, which contain Safeguards Information protected under 10 CFR 73.21, are entitled: "Indian Point Station, Units 1 and 2 Physical Security Plan," with revisions submitted through July 25, 1989; "Indian Point Station, Units 1 and 2, Security Guard Training and Qualification Plan," with revisions submitted through December 8, 1986; and "Indian Point Station, Units 1 and 2, Safeguards Contingency Plan," with revisions submitted through November 7, 1986.

Amdt. 41
1-2-90

Paragraphs 3.E and 3.F are hereby deleted.

Amdt. 39
7-6-88

4. Deleted by Amendment No. 7, dated 11-14-74.
5. Definitions - As used in this license the term "facility means the following systems and components as described in the application:
 - A. The site as designated in Exhibit H-14 (Rev. 2) to the application, excluding: oil and coal storage facilities; the railroad spur; road systems and dock facility; and , to the extent not otherwise covered in this derfinition, the electrical tranmissions lines and the Buchanan substation.
 - B. The reactor, including the reactor core, reactor vessel, support structure, instrumentation, and controls.
 - C. A primary coolant loop system, including piping, coolant pumps, nuclear boilers, pressurizer, auxiliary systems, instrumentation and controls.
 - D. A containment vessel to house the reactor and the primary loop system.
 - E. A cooling system for the containment vessel, including a system of pumps, piping, spray nozzles and heat exchangers.
 - F. A concrete radiation shield completely enclosing the containment vessel.
 - G. A system comprised of isolation valves and necessary operating controls to close penetrations of the containment vessel.
 - H. A ventilating system for the containment vessel, nuclear service building, chemical systems building, and fuel handling building.
 - I. A boron addition system, including mixing tanks, pumps, and piping.
 - J. Biological shielding, including water and concrete shields at the reactor vessel.
 - K. A decay heat cooling system, including heat interchangers, pumps and piping.
 - L. A closed, fresh-water coolant system, including heat interchangers, pumps and piping to provide cooling for the nuclear facility through heat interchangers where the heat in the fresh water is transferred to river water.
 - M. A chemical processing system, including ion exchangers, evaporators, heat interchangers, pumps, piping, and tanks to remove and dispose of gaseous, liquid and solid radioactive products from the primary coolant and waste liquids.
 - N. A fuel handling and storage system, including canals, transfer tube, stop valves, and fuel handling devices.

- O. An instrument system, including detectors, transmitters, amplifiers, receivers and controllers, panel boards and necessary circuitry to control the reactor and associated systems.
 - P. A radiation monitoring system, including detectors and measuring devices.
 - Q. Secondary coolant system.
 - R. Auxiliary steam system.
 - S. Condensate and make-up water storage facilities.
 - T. Circulating system.
 - U. Component drain system.
 - V. Sampling system.
 - W. Electrical system, excluding transmission lines and the Buchanan substation to the extent that they are not covered in the Technical Specifications.
6. On the closing date of the transfer of the license, Con Edison shall transfer to ENIP2 all of the accumulated decommissioning trust funds for Indian Point Nuclear Generating Unit No. 1 (IP1) and such additional funds to be deposited in the decommissioning trusts for IP1 such that the total amount transferred for IP1 and Indian Point Nuclear Generating Unit No. 2 (IP2) is no less than \$430,000,000. Furthermore, ENIP2 shall either (a) establish a provisional trust for decommissioning funding assurance for IP1 and IP2 in an amount no less than \$25,000,000 (to be updated as required under applicable NRC regulations, unless otherwise approved by the NRC) or (b) obtain a surety bond for an amount no less than \$25,000,000 (to be updated as required under applicable NRC regulations, unless otherwise approved by the NRC). The total decommissioning funding assurance provided for IP1 by the combination of the decommissioning trust and the provisional trust or surety bond at the time of transfer of the licenses shall be at a level no less than the amounts calculated pursuant to, and required under, 10 CFR 50.75. The decommissioning trust, provisional trust, and surety bond shall be subject to or be consistent with the following requirements, as applicable:
- (a) Decommissioning Trust
 - (i) The decommissioning trust agreement must be in a form acceptable to the NRC.
 - (ii) With respect to the decommissioning trust funds, investments in the securities or other obligations of Entergy Corporation, or its affiliates, subsidiaries, successors, or assigns are and shall be prohibited. Except for investments tied to market indexes or other non-nuclear-sector mutual

funds, investments in any entity owning one or more nuclear power plants are and shall be prohibited.

- (iii) No contribution to the funds that consists of property other than liquid assets shall be permitted.
 - (iv) The decommissioning trust agreement must provide that no disbursements or payments from the trusts, other than for ordinary administrative expenses, shall be made by the trustee unless the trustee has first given the Director of the Office of Nuclear Reactor Regulation 30 days prior written notice of payment. The decommissioning trust agreement shall further contain a provision that no disbursements or payments from the trusts shall be made if the trustee receives prior written notice of objection from the NRC.
 - (v) The decommissioning trust agreement must provide that the agreement cannot be amended in any material respect without 30 days prior written notification to the Director of the Office of Nuclear Reactor Regulation.
 - (vi) The appropriate section of the decommissioning trust agreement shall state that the trustee, investment advisor, or anyone else directing the investments made in the trusts shall adhere to a "prudent investor" standard, as specified in 18 CFR 35.32(a)(3) of the Federal Energy Regulatory Commission's regulations.
- (b) Provisional Trust:
- (i) The provisional trust agreement must be in a form acceptable to the NRC.
 - (ii) Investments in the securities or other obligations of Entergy Corporation or its affiliates, subsidiaries, successors, or assigns are and shall be prohibited. Except for investments tied to market indexes or other non-nuclear-sector mutual funds, investments in any entity owning one or more nuclear power plants are and shall be prohibited.
 - (iii) The provisional trust agreement must provide that no disbursements or payments from the trust, other than for ordinary administrative expenses, shall be made by the trustee unless the trustee has first given the Director of the Office of Nuclear Reactor Regulation 30 days prior written notice of payment. The provisional trust agreement shall further contain a provision that no disbursements or payments from the trust shall be made if the trustee receives prior written notice of objection from the NRC.
 - (iv) The provisional trust agreement must provide that the agreement cannot be amended in any material respect, or terminated, without 30 days prior written notification to the Director of the Office of Nuclear Reactor Regulation.

- (v) The appropriate section of the provisional trust agreement shall state that the trustee, investment advisor, or anyone else directing the investments made in the trust shall adhere to a “prudent investor” standard, as specified in 18 CFR 35.32(a)(3) of the Federal Energy Regulatory Commission’s regulations.
 - (vi) Use of assets in the provisional trust, in the first instance, shall be limited to the expenses related to decommissioning IP1 or IP2 as defined by the NRC in its regulations and issuances, and as provided in this license and any amendments thereto.
- (c) Surety Bond
- (i) The surety bond agreement must be in a form acceptable to the NRC and be in accordance with all applicable NRC regulations.
 - (ii) The surety company providing any surety bond obtained to comply with the requirements of the Order approving the transfer shall be one of those listed by the U.S. Department of the Treasury in the most recent edition of Circular 570 and shall have a coverage limit sufficient to cover the amount of the surety bond.
 - (iii) ENIP2 shall establish a standby trust to receive funds from the surety bond, if a surety bond is obtained, in the event that ENIP2 defaults on its funding obligations for the decommissioning of IP1. The standby trust agreement must be in a form acceptable to the NRC, and shall conform with all conditions otherwise applicable to the decommissioning trust agreement, and with all conditions that would be applicable to the provisional trust above, if established.
 - (iv) The surety agreement must provide that the agreement cannot be amended in any material respect, or terminated, without 30 days prior written notification to the Director of the Office of Nuclear Reactor Regulation.
7. ENIP2 shall take all necessary steps to ensure that the decommissioning trusts are maintained in accordance with the application for approval of the transfer of the IP1 and IP2 licenses to ENIP2 and ENO and the requirements of the Order approving the transfer, and consistent with the safety evaluation supporting that Order.
8. ENIP2 and ENO shall take no action to cause Entergy Global Investments, Inc., or Entergy International Ltd. LLC or their parent companies to void, cancel, or modify the \$55 million contingency commitment to provide funding for the IP1 and IP2 plants as represented in the application without the prior written consent of the Director of the Office of Nuclear Reactor Regulation.

9. This amended license is effective as of the date of issuance, shall be implemented within 30 days, and shall expire at midnight, October 14, 2006. Amdt. 45
1-31-96

FOR THE ATOMIC ENERGY COMMISSION

Original signed by
E. G. Case

R. L. Doan, Director
Division of Reactor Licensing

Date of Issuance: October 29, 1965

CONSOLIDATED EDISON COMPANY OF NEW YORK, INC.

DOCKET NO. 50-247

INDIAN POINT NUCLEAR GENERATING UNIT NO. 2

AMENDMENT TO FACILITY OPERATING LICENSE

Amendment No.
License No. DPR-26

1. The Nuclear Regulatory Commission (the Commission) has found that:
 - A. The application for amendment by Consolidated Edison Company of New York, Inc. (the licensee) submitted under cover letter dated December 12, 2000, as supplemented by letters dated April 12 from the licensee and dated April 16, May 24, June 6, and June 8, 2001, from Entergy Nuclear Indian Point 2, LLC, and Entergy Nuclear Operations, Inc., complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act) and the Commission's rules and regulations set forth in 10 CFR Chapter I;
 - B. The facility will operate in conformity with the application, the provisions of the Act, and the rules and regulations of the Commission;
 - C. There is reasonable assurance (i) that the activities authorized by this amendment can be conducted without endangering the health and safety of the public, and (ii) that such activities will be conducted in compliance with the Commission's regulations;
 - D. The issuance of this amendment will not be inimical to the common defense and security or to the health and safety of the public; and
 - E. The issuance of this amendment is in accordance with 10 CFR Part 51 of the Commission's regulations and all applicable requirements have been satisfied.

2. Accordingly, the license is hereby amended as indicated in the attachment to this license amendment.
3. This license amendment is effective as of the date of its issuance and shall be implemented within 30 days.

FOR THE NUCLEAR REGULATORY COMMISSION

Samuel J. Collins, Director
Office of Nuclear Reactor Regulation

Attachment: Amended Operating License Pages 1 through 8
And Amended Technical Specifications

Date of Issuance:

ATTACHMENT TO LICENSE AMENDMENT NO. _____

FACILITY OPERATING LICENSE NO. DPR-26

DOCKET NO. 50-247

Replace the following pages of the License with the attached revised pages. The revised pages are identified by amendment number and contain marginal lines indicating the areas of change.

Remove Pages

1 through 6b

Insert Pages

1 through 8

Replace the following pages of the Appendix A Technical Specifications with the attached revised pages. The revised pages are identified by amendment number and contain marginal lines indicating the areas of change.

Remove Pages

Cover page
1-7
Figure 5.1-1A
Figure 5.1-1B

Insert Pages

Cover page
1-7
Figure 5.1-1A
Figure 5.1-1B

Replace the following pages of the Appendix B Environmental Technical Specifications with the attached revised pages. The revised pages are identified by amendment number and contain marginal lines indicating the areas of change.

Remove Pages

Cover page

Insert Pages

Cover page

CONSOLIDATED EDISON COMPANY OF NEW YORK, INC.

DOCKET NO. 50-247

INDIAN POINT NUCLEAR GENERATING UNIT NO. 2

AMENDMENT TO FACILITY OPERATING LICENSE

Amendment No.
License No. DPR-26

1. The Nuclear Regulatory Commission (the Commission) has found that:
 - A. The application for amendment by Consolidated Edison Company of New York, Inc. (the licensee) submitted under cover letter dated December 12, 2000, as supplemented by letters dated April 12 from the licensee and dated April 16, May 24, June 6, and June 8, 2001, from Entergy Nuclear Indian Point 2, LLC, and Entergy Nuclear Operations, Inc., complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act) and the Commission's rules and regulations set forth in 10 CFR Chapter I;
 - B. The facility will operate in conformity with the application, the provisions of the Act, and the rules and regulations of the Commission;
 - C. There is reasonable assurance (i) that the activities authorized by this amendment can be conducted without endangering the health and safety of the public, and (ii) that such activities will be conducted in compliance with the Commission's regulations;
 - D. The issuance of this amendment will not be inimical to the common defense and security or to the health and safety of the public; and
 - E. The issuance of this amendment is in accordance with 10 CFR Part 51 of the Commission's regulations and all applicable requirements have been satisfied.

2. Accordingly, the license is hereby amended as indicated in the attachment to this license amendment.
3. This license amendment is effective as of the date of its issuance and shall be implemented within 30 days.

FOR THE NUCLEAR REGULATORY COMMISSION

Samuel J. Collins, Director
Office of Nuclear Reactor Regulation

Attachment: Amended Operating License Pages 1 through 8
And Amended Technical Specifications

Date of Issuance:

ATTACHMENT TO LICENSE AMENDMENT NO. _____

FACILITY OPERATING LICENSE NO. DPR-26

DOCKET NO. 50-247

Replace the following pages of the License with the attached revised pages. The revised pages are identified by amendment number and contain marginal lines indicating the areas of change.

Remove Pages

1 through 6b

Insert Pages

1 through 8

Replace the following pages of the Appendix A Technical Specifications with the attached revised pages. The revised pages are identified by amendment number and contain marginal lines indicating the areas of change.

Remove Pages

Cover page
1-7
Figure 5.1-1A
Figure 5.1-1B

Insert Pages

Cover page
1-7
Figure 5.1-1A
Figure 5.1-1B

Replace the following pages of the Appendix B Environmental Technical Specifications with the attached revised pages. The revised pages are identified by amendment number and contain marginal lines indicating the areas of change.

Remove Pages

Cover page

Insert Pages

Cover page

ENTERGY NUCLEAR INDIAN POINT 2, LLC
AND ENTERGY NUCLEAR OPERATIONS, INC.
DOCKET NO. 50-247
INDIAN POINT NUCLEAR GENERATING UNIT NO. 2
AMENDED FACILITY OPERATING LICENSE

License No. DPR-26
Amendment No.

1. The Nuclear Regulatory Commission (the Commission) having found that:
 - A. The application for amendment by the Consolidated Edison Company of New York, Inc. (Con Edison), Entergy Nuclear Indian Point 2, LLC (ENIP2), and Entergy Nuclear Operations, Inc. (ENO) submitted under cover letter dated December 12, 2000, as supplemented by letters dated April 12, 2001, from Con Edison and dated April 16, May 24, June 6, and June 8, 2001, from ENIP2 and ENO complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations as set forth in 10 CFR Chapter I;
 - B. Construction of the Indian Point Nuclear Generating Unit No. 2 (IP2 or facility) has been substantially completed in conformity with provisional Construction Permit No. CPPR-21, as amended, and the application, as amended, the provisions of the Act and the rules and regulations of the Commission;
 - C. The facility will operate in conformity with the application, as amended, the provisions of the Act, and the rules and regulations of the Commission;
 - D. There is reasonable assurance: (i) that the activities authorized by this operating license can be conducted without endangering the health and safety of the public, and (ii) that such activities will be conducted in compliance with the rules and regulations of the Commission;
 - E. ENO is technically and financially qualified and ENIP2 is financially qualified to engage in the activities authorized by this amended license in accordance with the rules and regulations of the Commission;
 - F. ENIP2 and ENO have satisfied the applicable provisions of 10 CFR Part 140, "Financial Protection Requirements and Indemnity Agreements," of the Commission's regulations;

Amendment No.

- G. The issuance of this amended license will not be inimical to the common defense and security or to the health and safety of the public;
 - H. After weighing the environmental, economic, technical, and other benefits of the facility against environmental costs and considering available alternatives, the issuance of this amendment to Facility Operating License No. DPR-26, subject to the conditions for the protection of the environment set forth herein, is in accordance with 10 CFR Part 50, Appendix D, of the Commission's regulations and all applicable requirements of said Appendix D have been satisfied; and
 - I. The receipt, possession, and use of source, byproduct and special nuclear material as authorized by this amended license will be in accordance with the Commission's regulations in 10 CFR Part 30, 40 and 70, including 10 CFR Section 30.33, 40.32, 70.23, and 70.31.
2. Facility Operating License No. DPR-26, as amended, (previously issued to Con Edison) issued to ENIP2 and ENO, is hereby amended in its entirety to read as follows:
- A. This amended license applies to the Indian Point Nuclear Generating Unit No. 2, a pressurized water nuclear reactor and associated equipment (the facility), which is owned by ENIP2 and operated by ENO. The facility is located in Westchester County, New York, and is described in the "Final Facility Description and Safety Analysis Report", as supplemented and amended.
 - B. Subject to the conditions and requirements incorporated herein, the Commission hereby licenses:
 - (1) Pursuant to Section 104b of the Act and 10 CFR Part 50, "Licensing of Production and Utilization Facilities", (a) ENIP2 to possess and use, and (b) ENO to possess, use and operate, the facility at the designated location in Westchester County, New York, in accordance with the procedures and limitations set forth in this amended license;
 - (2) ENO pursuant to the Act and 10 CFR Part 70, to receive, possess, and use, at any time special nuclear material as reactor fuel, in accordance with the limitations for storage and amounts required for reactor operation, as described in the Final Facility Description and Safety Analysis Report, as supplemented and amended and as described in the Commission's authorization through Amendment No. 75 to this license. Amdt. 75
1-11-82
 - (3) ENO pursuant to the Act and 10 CFR Parts 30, 40, and 70, to receive, possess and use, at any time any byproduct, source and special nuclear material as sealed neutron sources for reactor startup, sealed sources for reactor Amdt. 42
10-17-78

instrumentation and radiation monitoring equipment calibration, and as fission detectors in amounts as required;

- (4) ENO pursuant to the Act and 10 CFR Parts 30, 40 and 70, to receive, possess, and use in amounts as required any byproduct, source or special nuclear material without restriction to chemical or physical form, for sample analysis or instrument calibration or associated with radioactive apparatus or components; Amdt. 42
10-17-78
- (5) ENO pursuant to the Act and 10 CFR Parts 30 and 70, to possess, but not separate, such byproduct and special nuclear materials as may be produced by the operation of the facility.

C. This amended license shall be deemed to contain and is subject to the conditions specified in the following Commission regulations in 10 CFR Chapter I: Part 20, Section 30.34 of Part 30, Section 40.41 of Part 40, Sections 50.54 and 50.59 of Part 50, and Section 70.32 of Part 70; is subject to all applicable provisions of the Act and to the rules, regulations, and orders of the Commission now or hereafter in effect; and is subject to the additional conditions specified or incorporated below:

(1) Maximum Power Level

ENO is authorized to operate the facility an steady state reactor core power levels not in excess of 3071.4 megawatts thermal. Amdt. 148
3-7-90

(2) Technical Specifications

The Technical Specifications contained in Appendices A and B, as revised through Amendment No. , are hereby incorporated in the license. ENO shall operate the facility in accordance with the Technical Specifications.

D. (1) Deleted per Amdt. 82, 12-11-82.

(2) Secondary Water Chemistry Monitoring Amdt. 60
1-28-80

ENO shall implement a secondary water chemistry monitoring program to inhibit steam generator tube degradation. The program shall include:

- (a) Identification of a sampling schedule for the critical parameters and control points for these parameters;

- (b) Identification of the procedures used to quantify parameters that are critical to control points;
 - (c) Identification of process sampling points;
 - (d) Procedure for the recording and management of data;
 - (e) Procedures defining corrective actions for off control point chemistry conditions; and
 - (f) A procedure identifying the authority responsible for the interpretation of the data, and the sequence and timing of administrative events required to initiate corrective action.
- E. Deleted per Amdt. 71, dated 8-5-81, effective 5-14-81.
- F. This amended license is also subject to appropriate conditions by the New York State Department of Environmental Conservation in its letter of September 24, 1973, to Consolidated Edison Company of New York, Inc., granting a Section 401 certification under the Federal Water Pollution Control Act amendments of 1972.
- G. Pursuant to Section 50.60 of 10 CFR Part 50, paragraph 4 of Provisional Construction Permit No. CPPR-21 allocating quantities of special nuclear material, together with the related estimated schedules contained in Appendix A attached to said provisional construction permit, shall remain in effect.
- H. ENO shall fully implement and maintain in effect all provisions of the physical security, guard training and qualification, and safeguards contingency plans previously approved by the Commission and all amendments and revisions to such plans made pursuant to the authority of 10 CFR 50.90 and 10 CFR 50.54(p). The plans, which contain Safeguards Information protected under 10 CFR 73.21, are entitled: "Indian Point Station, Units 1 and 2 Physical Security Plan," with revisions submitted through July 25, 1989; "Indian Point Station, Units 1 and 2, Security Guard Training and Qualification Plan," with revisions submitted through December 8, 1986; and "Indian Point Station, Units 1 and 2, Safeguards Contingency Plan," with revisions submitted through November 7, 1986. Amdt. 145 |
1-2-90
- I. Deleted per Amdt. 133, 7-6-88.
- J. Deleted per Amdt. 133, 7-6-88.

- K. ENO shall implement and maintain in effect all provisions of the NRC-approved fire protection program as described in the Updated Final Safety Analysis Report for the facility and as approved in Safety Evaluations Reports dated November 30, 1977, February 3, 1978, January 31, 1979, October 31, 1980, August 22, 1983, March 30, 1984, October 16, 1984, September 16, 1985, November 13, 1985, March 4, 1987, January 12, 1989, and March 26, 1996. ENO may make changes to the NRC-approved fire protection program without prior approval of the Commission only if those changes would not adversely affect the ability to achieve and maintain safe shutdown in the event of a fire.

- L. ENO shall implement a program to reduce leakage from systems outside containment that would or could contain highly radioactive fluids during a serious transient or accident to as low as practical levels. This program shall include the following.
 - 1. Provisions establishing preventive maintenance and periodic visual inspection requirements, and
 - 2. Integrated leak test requirements for each system at a frequency not to exceed refueling cycle intervals. (R##)

- M. ENO shall implement a program which will ensure the capability to accurately determine the airborne iodine concentration in vital areas under accident conditions. This program shall include the following:
 - 1. Training of personnel.
 - 2. Procedure for monitoring, and
 - 3. Provisions for maintenance of sampling and analysis equipment.

- 3. On the closing date of the transfer of the license, Con Edison shall transfer to ENIP2 all of the accumulated decommissioning trust funds for IP2 and such additional funds to be deposited in the decommissioning trust for IP2 such that the total amount transferred for Indian Point Nuclear Generating Unit No. 1 (IP1) and IP2 is no less than \$430,000,000. Furthermore, ENIP2 shall either (a) establish a provisional trust for decommissioning funding assurance for IP1 and IP2 in an amount no less than \$25,000,000 (to be updated as required under applicable NRC regulations, unless otherwise approved by the NRC) or (b) obtain a surety bond for an amount no less than \$25,000,000 (to be updated as required under applicable NRC regulations, unless otherwise approved by the NRC). The total decommissioning funding assurance provided for IP2 by the combination of the decommissioning trust and the provisional trust or surety bond at the time of transfer of the licenses shall be at a level no less than the amounts calculated pursuant to, and required under, 10 CFR 50.75. The decommissioning trust, provisional trust, and surety bond shall be subject to or be consistent with the following requirements, as applicable:

(a) Decommissioning Trust

- (i) The decommissioning trust agreement must be in a form acceptable to the NRC.
- (ii) With respect to the decommissioning trust funds, investments in the securities or other obligations of Entergy Corporation, or its affiliates, subsidiaries, successors, or assigns are and shall be prohibited. Except for investments tied to market indexes or other non-nuclear-sector mutual funds, investments in any entity owning one or more nuclear power plants are and shall be prohibited.
- (iii) No contribution to the funds that consists of property other than liquid assets shall be permitted.
- (iv) The decommissioning trust agreement must provide that no disbursements or payments from the trusts, other than for ordinary administrative expenses, shall be made by the trustee unless the trustee has first given the Director of the Office of Nuclear Reactor Regulation 30 days prior written notice of payment. The decommissioning trust agreement shall further contain a provision that no disbursements or payments from the trusts shall be made if the trustee receives prior written notice of objection from the NRC.
- (v) The decommissioning trust agreement must provide that the agreement cannot be amended in any material respect without 30 days prior written notification to the Director of the Office of Nuclear Reactor Regulation.
- (vi) The appropriate section of the decommissioning trust agreement shall state that the trustee, investment advisor, or anyone else directing the investments made in the trusts shall adhere to a "prudent investor" standard, as specified in 18 CFR 35.32(a)(3) of the Federal Energy Regulatory Commission's regulations.

(b) Provisional Trust:

- (i) The provisional trust agreement must be in a form acceptable to the NRC.
- (ii) Investments in the securities or other obligations of Entergy Corporation or its affiliates, subsidiaries, successors, or assigns are and shall be prohibited. Except for investments tied to market indexes or other non-nuclear-sector mutual funds, investments in any entity owning one or more nuclear power plants are and shall be prohibited.
- (iii) The provisional trust agreement must provide that no disbursements or payments from the trust, other than for ordinary administrative expenses, shall be made by the trustee unless the trustee has first given the Director of the Office of Nuclear Reactor Regulation 30 days prior written notice of payment. The provisional trust agreement shall further contain a provision that no disbursements or payments from the trust shall be made if the trustee receives prior written notice of objection from the NRC.

- (iv) The provisional trust agreement must provide that the agreement cannot be amended in any material respect, or terminated, without 30 days prior written notification to the Director of the Office of Nuclear Reactor Regulation.
 - (v) The appropriate section of the provisional trust agreement shall state that the trustee, investment advisor, or anyone else directing the investments made in the trust shall adhere to a “prudent investor” standard, as specified in 18 CFR 35.32(a)(3) of the Federal Energy Regulatory Commission’s regulations.
 - (vi) Use of assets in the provisional trust, in the first instance, shall be limited to the expenses related to decommissioning IP2 or IP1 as defined by the NRC in its regulations and issuances, and as provided in this license and any amendments thereto.
- (c) Surety Bond
- (i) The surety bond agreement must be in a form acceptable to the NRC and be in accordance with all applicable NRC regulations.
 - (ii) The surety company providing any surety bond obtained to comply with the requirements of the Order approving the transfer shall be one of those listed by the U.S. Department of the Treasury in the most recent edition of Circular 570 and shall have a coverage limit sufficient to cover the amount of the surety bond.
 - (iii) ENIP2 shall establish a standby trust to receive funds from the surety bond, if a surety bond is obtained, in the event that ENIP2 defaults on its funding obligations for the decommissioning of IP2. The standby trust agreement must be in a form acceptable to the NRC, and shall conform with all conditions otherwise applicable to the decommissioning trust agreement, and with all conditions that would be applicable to the provisional trust above, if established.
 - (iv) The surety agreement must provide that the agreement cannot be amended in any material respect, or terminated, without 30 days prior written notification to the Director of the Office of Nuclear Reactor Regulation.
4. ENIP2 shall take all necessary steps to ensure that the decommissioning trust is maintained in accordance with the application for approval of the transfer of the IP1 and IP2 licenses to ENIP2 and ENO and the requirements of the Order approving the transfer, and consistent with the safety evaluation supporting that Order.
5. ENIP2 and ENO shall take no action to cause Entergy Global Investments, Inc., or Entergy International Ltd. LLC or their parent companies to void, cancel, or modify the \$55 million contingency commitment to provide funding for the IP1 and IP2 plants as represented in the application without the prior written consent of the Director of the Office of Nuclear Reactor Regulation.

6. This amended license is effective as of the date of issuance, and shall expire at midnight September 28, 2013. Amdt. 118
4-21-87

FOR THE ATOMIC ENERGY COMMISSION

Original signed by
Roger S. Boyd

A. Giambusso, Deputy Director
for Reactor Projects
Directorate of Licensing

Date of Issuance: September 28, 1973

SAFETY EVALUATION BY THE OFFICE OF NUCLEAR REACTOR REGULATION
RELATED TO TRANSFER OF FACILITY OPERATING LICENSES NOS. DPR-5 AND DPR-26
FROM THE CONSOLIDATED EDISON COMPANY OF NEW YORK, INC. TO
ENTERGY NUCLEAR INDIAN POINT 2, LLC, AND ENTERGY NUCLEAR OPERATIONS, INC.
AND CONFORMING AMENDMENTS
INDIAN POINT NUCLEAR GENERATING UNIT NOS. 1 AND 2
DOCKET NOS. 50-003 AND 50-247

1.0 INTRODUCTION

By application submitted under cover of a letter dated December 12, 2000, the Consolidated Edison Company of New York, Inc. (Con Edison), Entergy Nuclear Indian Point 2, LLC (Entergy Nuclear IP2), and Entergy Nuclear Operations, Inc. (ENO), requested that the U.S. Nuclear Regulatory Commission (NRC) consent to the transfer of: (1) Facility Operating License No. DPR-5 for the Indian Point Nuclear Generating Unit No. 1 (IP1) from Con Edison to Entergy Nuclear IP2 to possess and use, and ENO to possess, use, and maintain IP1, and (2) Facility Operating License No. DPR-26 for the Indian Point Nuclear Generating Unit No. 2 (IP2) from Con Edison to Entergy Nuclear IP2 to possess and use, and ENO to possess, use, and operate IP2. The application was supplemented by letters from Con Edison, dated April 12, 2001, and Entergy Nuclear IP2 and ENO, dated April 16, May 24, June 6, and June 8, 2001. The application also requested the approval of conforming license amendments to reflect the proposed transfer.

The application was filed pursuant to Section 184 of the Atomic Energy Act of 1954, as amended (AEA), and Sections 50.80 and 50.90 of Title 10 of the Code of Federal Regulations. The supplements to the initial application that were not specifically referenced in the Federal Register notice of the transfer and amendment request did not expand the application beyond the scope of the notice.

2.0 BACKGROUND

IP1 is a retired single unit 615 MWt pressurized-water reactor (PWR) owned by Con Edison that has been shut down and defueled since 1974. The IP1 decommissioning plan that was accepted by the NRC in 1996, calls for the IP1 facility to be maintained in a safe storage condition until the adjacent IP2 unit is also decommissioned. IP2 is a single unit 3071 MWt, Westinghouse, four-loop, PWR owned and operated by Con Edison that was built by Con Edison and began commercial operations in 1974. After completion of the proposed transfers,

Entergy Nuclear IP2 will own both IP1 and IP2, while ENO will maintain IP1, and operate and maintain IP2 as agent for Entergy Nuclear IP2 pursuant to an operating agreement between the parties (see Enclosure 5 of the December 12, 2000, application).

Entergy Nuclear IP2 is a newly formed entity that will be engaged principally in the business of owning all or part of one or more generating facilities and selling electric energy in the wholesale market. ENO was formed in February 2000, and is engaged principally in the business of operating eligible nuclear facilities; it currently operates the Indian Point 3, and James A. FitzPatrick Nuclear Power Stations. Entergy Nuclear IP2 is an indirect wholly owned subsidiary of Entergy Corporation, and an indirect wholly owned subsidiary of Entergy Nuclear Holding Company #3, with its principal office located in the Village of Buchanan, New York. ENO is an indirect wholly owned subsidiary of Entergy Corporation, and a direct wholly owned subsidiary of Entergy Nuclear Holding Company #2, with its principal place of business in White Plains, New York. Organization charts describing Entergy Corporation's corporate structure are shown in Enclosure 6 of the December 12, 2000, application.

Entergy Corporation, with its headquarters located in New Orleans, Louisiana, is a global energy company that owns, manages, or invests in power plants generating approximately 30,000 megawatts of electricity worldwide. Through its subsidiaries Entergy Corporation owns and operates eight nuclear power plants at seven sites - Arkansas Nuclear One Units 1 and 2 (ANO 1 & 2), Grand Gulf Nuclear Station (GGNS), River Bend Station (RB), Waterford 3 Steam Electric Station (W3), Pilgrim, James A. FitzPatrick (JAF), and the Indian Point 3 (IP3) Nuclear Power Stations.

The application states that, at the closing of the transfer, IP1, IP2, the associated gas turbines, and the Toddville Training Facility will be the only assets of Entergy Nuclear IP2. Of these, only the IP2 unit will be a revenue generating asset for Entergy Nuclear IP2.

The applicants state that upon closing of the transaction, the following events will occur, as disclosed in the Purchase and Sale Agreement (Enclosure 4 of the December 12, 2000, application), and the June 6, and June 8, 2001, supplemental submittals:

- (1) Entergy Nuclear IP2 will: (a) assume title to the IP1 and IP2 facilities (including all equipment, spare parts, fixtures, inventory, and other property necessary for the maintenance of IP1, and operation and maintenance of IP2); (b) take title to all used and spent nuclear fuel and other licensed materials at IP1 and IP2; (c) assume all responsibility for the maintenance of IP1 through its authorized agent, ENO; and, (d) assume all responsibility for operation and maintenance of IP2, also through ENO. (Enclosure 5 of the December 12, 2000, application, which is the proposed operating agreement between Entergy Nuclear IP2 and ENO, clarifies that the immediately preceding statements (c) and (d) encompass a proposed arrangement under which ENO, rather than Entergy Nuclear IP2, would actually operate or maintain the facilities, and ENO would have "sole authority" as the operator to make decisions relating to public health and safety.)
- (2) All employees within Con Edison's Nuclear Power Department, and certain other employees supporting the Nuclear Power Department, will become employees of ENO.

- (3) Con Edison will begin purchasing capacity and energy from IP2 at pre-established rates and schedules in accordance with a Power Purchase Agreement (PPA) between Con Edison and Entergy Nuclear IP2.
- (4) As of closing, Con Edison will transfer \$430 million from the IP1 and IP2 decommissioning trust funds and other sources to trust fund(s) to be held by Entergy Nuclear IP2. Additionally, Entergy will provide a provisional trust or surety bond in the amount of \$25 million for the radiological decommissioning of the IP1 and IP2 facilities.

Pursuant to 10 CFR 50.80, no license shall be transferred, directly or indirectly, through the transfer of control of the license, unless the Commission shall give its consent in writing. Such action is contingent upon the Commission's determination that the transferee is qualified to hold the license, and that the transfer is otherwise consistent with applicable provisions of law, regulations, and orders of the Commission.

3.0 FINANCIAL QUALIFICATIONS ANALYSIS

Entergy Nuclear IP2 and ENO do not qualify as electric utilities under 10 CFR 50.2. In accordance with 10 CFR 50.33(f), a non-electric utility applicant must provide information sufficient to demonstrate its financial qualifications to carry out the activities for which the license is being sought. The information must show the following:

- (1) The applicant possesses, or has reasonable assurance of obtaining, the funds necessary to cover estimated operating costs for the period of the license. The applicant must submit estimated total annual operating costs for the first 5 years of facility operations and indicate the source of funds to cover these costs.
- (2) In the case of a newly formed entity organized primarily for the purpose of operating nuclear power plants, the information must show: (a) the legal and financial relationships the applicant has or proposes to have with its stockholders or owners; (b) its financial ability to meet any contractual obligation to the entity which they have incurred or propose to incur; and (c) any information considered necessary by the Commission to enable it to determine the applicant's financial qualification.

Also, 10 CFR 50.33(k)(1) requires that Entergy Nuclear IP2 and ENO must provide information as described in 10 CFR 50.75 indicating there is reasonable assurance that funds will be available to decommission both IP1 and IP2. The applicants' proposal for decommissioning funding assurance is discussed in Section 4.0 of this safety evaluation (SE).

ENO is not seeking any ownership interests in IP1 or IP2. The proposed license transfers would result in ENO maintaining IP1, and operating and maintaining IP2, as agent for Entergy Nuclear IP2 pursuant to a proposed Operating Agreement between Entergy Nuclear IP2 and ENO (Enclosure 5 of the December 12, 2000, application). Under the terms of this agreement, Entergy Nuclear IP2 will assume full financial responsibility and will pay for all costs of maintenance and operation, including decontamination, decommissioning, and taxes, of IP1

and IP2. Additionally, Entergy Nuclear IP2 will at all times be the owner of, and shall be entitled to, all of the capacity and energy from IP2, which Entergy Nuclear IP2 will then sell.

In the application, Entergy Nuclear IP2 and ENO state that they have reasonable assurance of obtaining the funds necessary to cover estimated maintenance costs of IP1 and estimated operation and maintenance costs of IP2 for the period of the licenses. Entergy Nuclear IP2 and Con Edison signed a PPA (see April 12, 2001, supplemental letter) on November 9, 2000, under which Con Edison will purchase 100% of the total output from IP2 at fixed prices, “take or pay,” through 2004. After 2004, Entergy Nuclear IP2 will pursue other firm contracts or sell any uncommitted power on the market in New York.

Tables 1 through 3 below provide a summary of information regarding revenue and expense projections for Entergy Nuclear IP2 as represented in the application. The NRC staff’s analysis of this information follows.

TABLE 1
Expected Market Prices for Uncommitted Power

Year	Output to Contract %	Contract Price (\$/Mwh)	Market Price (\$/Mwh)
2001	100	39.00	N/A
2002	100	39.00	N/A
2003	100	39.00	N/A
2004	100	39.00	N/A
2005	0	N/A	[]
2006	0	N/A	[]

(Shaded areas contain proprietary information.)

The application states that IP2 is expected to operate at an average annual capacity factor¹ of 85%, with the sale of power expected to cover the expected operating costs with a margin of additional income over and above operating costs.

In support of the claim that there is reasonable assurance of obtaining the necessary funds to maintain IP1, and operate and maintain IP2 following the sale to Entergy Nuclear IP2, the applicants have provided a proprietary Entergy Nuclear IP2 projected income and expenses statement for the period from 2001 through 2006. (In this discussion, the term “applicants” is used to refer to the transferees, and not Con Edison, when future financial information is analyzed.)

¹Capacity factor is the ratio of the net electricity generated, for the period of time concerned, to the electricity that could have been generated at continuous full-power operation during the same time period.

TABLE 2
 Projected Income and Expenses 2001 - 2006

(\$000)*	2001	2002	2003	2004	2005	2006
Projected MW Output						
Capacity Factor						
Contract Revenue						
Capacity Revenue:						
Market Power Sales						
Total Revenue:						
O & M						
Fuel						
Depreciation & Amortization						
Admin & Other						
Total Oper. Expenses:						
Operating Profit/(Loss):						
Interest Expense:						
Income Taxes:						
Net Income/(Loss):						

Note: Assumes 7/1/01 Close (Shaded areas contain proprietary information.)

* Subject to rounding

The applicants have also included the following estimate of total and fixed operating expenses:

TABLE 3
Estimate of Total and Fixed Operating Expenses

(\$000s)	2001	2002	2003	2004	2005	2006
Total Op. Expenses						
Fixed Op. Expenses						
(6 months)						

Note: Assumes 07/01/01 Close (Shaded areas contain proprietary information.)

3.1 Evaluation

The NRC staff’s review of the application sought to evaluate and address the applicants’ financial qualifications in a manner that is consistent with the guidance provided in NUREG-1577, Rev. 1, “Standard Review Plan on Power Reactor Licensee Financial Qualifications and Decommissioning Funding Assurance,” dated March 1999 (SRP).

The NRC staff reviewed the financial projections provided in the application for:

- reasonableness of estimated operating costs;
- reasonableness of assumptions used in financial projections;
- sensitivity of revenue projections to:
 - (1) the capacity factor assumptions used by the applicants, and
 - (2) market price pressure and fluctuations

3.1.1 Estimated Operating Costs

Section III.1 of the SRP states, in part, that, “the reviewer will evaluate ... information for reasonableness and will compare it to plants of similar size, design, and location.” The NRC staff compared the estimated operating costs provided in the application with historical data contained in NUREG-6577, Supplement 1, “U.S. Nuclear Power Plant Operating Cost and Experience Summaries,” dated January 2001. Other Westinghouse, four-loop, PWRs, located in the northeast, that were used for this comparison were IP3, and Millstone, Unit 3 (MP3). Additionally, the estimated operating costs provided in the application were compared with the historical data for IP2 that are provided in NUREG-6577. Since the data provided in NUREG-6577 are in constant 1999 dollars, the NRC staff adjusted the estimated operating expenses for inflation in order to make these comparisons; for the sake of consistency, the same inflation rate that was assumed in the applicant’s decommissioning funding calculations, 3.09%, was used for these inflation adjustments.

Table 4 summarizes the approximate production costs for these facilities as provided in NUREG-6577, and provides the inflation adjusted estimated operating costs of IP2 for the years 2001 through 2006.

TABLE 4
Approximate Historical Operating Expenses
of IP2 and of Similar Units, and Inflation Adjusted
Estimated Operating Costs for IP2
(\$M - 1999)

	1994	1995	1996	1997	1998	1999	2000	2001	2002	2003	2004	2005	2006
IP2	124	180	138	187	227	163	n/a*	[]
IP3	148	130	145	232	154	178	n/a*						
MP3	162	168	234	280	186	195	n/a*						

(Shaded areas contain proprietary information.)

* year 2000 data not available in NUREG-6577.

** this value is Entergy Nuclear IP2's estimated operating expense for 6 months, assuming a closing date of 07/01/01.

As discussed in NUREG-6577, MP3 experienced an extended outage from March 1996, to July 1998; IP3 experienced an extended outage in 1997; and, IP2 experienced an extended outage in 1998. Thus, the operating expenses for these years were abnormally high.

Entergy Nuclear IP2's projected expenses reflect the assumptions that implementation of performance improvement initiatives will result in consistent and reliable operation of the unit, shortened outage durations, and reduced operating costs over time. These assumptions are consistent with the actual experience, also shown by the data provided in NUREG-6577 at facilities, such as ANO - 1 & 2, GGNS, RB, and W3, that have been acquired by other Entergy subsidiaries. Based on this review, the NRC staff believes that the applicants' expense projections are in line with historical trends, and are reasonable.

3.1.2 Assumptions Used in Financial Projections

3.1.2.1 Capacity Factor

The application states that Entergy Nuclear IP2 and ENO expect to operate IP2 at an average annual capacity factor of 85%. The NRC staff compared this assumption to historical capacity factor data contained in NUREG-1350, Volume 12, "NRC: Information Digest," dated June 2000. Based on data provided in this NUREG, the average annual capacity factor for IP2 from 1994 - 1999, was 66.15%. Therefore, in light of the difference between the assumed average capacity factor and the plant's operating history, the NRC staff issued a request for additional information (RAI), dated March 1, 2001, that asked Entergy Nuclear IP2 and ENO to provide a justification for use of an 85% average capacity factor in their financial projections.

In an April 16, 2001, response to the March 1, 2001, RAI, the applicants stated that, "Entergy is an experienced nuclear operator with ...significant successful experience in improving the operation of nuclear power stations. Under Entergy management, the operations of Indian Point 2 would be expected to improve to a level approximating Entergy's performance unless there was a technological ... or operational restriction which prevented improvement." This response also noted that Con Edison has already made many capital improvements to the facility, including steam generator replacement, that will help to improve the plant's performance. Additionally, this response stated that low capacity factors in 1995, 1997, and 1998, were the result of lengthy refueling outages and an extended outage, which began in 1997 and continued through most of 1998 to correct, "... a backlog of equipment problems, as well as programmatic and performance concerns" The response concluded that, "having addressed these issues, there is no reason why IP2 should not operate as well as Indian Point 3 once Entergy practices are established at the site."

The NRC staff's financial qualifications review for this proposed license transfer is limited to the qualifications of Entergy Nuclear IP2 and ENO, which have little or no history, and is not, for the most part, a review of the qualifications of Entergy Corporation or other Entergy Corporation subsidiaries. Therefore, in a second RAI, dated May 4, 2001, the NRC staff requested the applicants to, "provide specific information regarding the intended management practices, which Entergy Corporation subsidiary licensees have applied successfully at other facilities, that Entergy Nuclear IP2 and ENO intend to apply at IP2 to achieve the assumed performance improvement. Provide any other reasons why the record and/or experience of other Entergy Corporation subsidiaries owning and operating other plants, but which are not the proposed transferees for IP2, are relevant to establishing a basis for the expected capacity factor for IP2."

In the May 24, and June 8, 2001, responses, the applicants stated that, "even though Entergy Nuclear IP2 and ENO are relatively new companies, key management personnel in these companies have served with [other] Entergy Corporation subsidiaries and have extensive experience with and knowledge of Entergy programs, procedures, philosophies, management styles, and expectations. We expect IP2 to improve performance and increase capacity over its historical capacity factors as a result of (1) improved material condition from recent capital improvements made by Con Edison, (2) the incorporation of management practices which have been successful at other plants operated by Entergy, and (3) the infusion of key managers with experience at Entergy operated plants." This response provided a detailed listing of key ENO management positions that have been, or are expected to be, filled by personnel who have nuclear management experience with Entergy Operations, Inc. (EOI). Additionally, brief discussions were included regarding: the organizational structure that ENO will implement at the Indian Point site; management practices that will be implemented; an outage improvement initiative that will be implemented to incorporate standardized business practices, which are used by all Entergy Corporation subsidiaries that operate nuclear plants, for outage activities; and, the development and implementation of a "Near Term Performance Improvement Plan" and "Long Term Performance Improvement Plan" in a manner similar to that which was successfully performed at RB.

With regard to the outage improvement initiative that Entergy Nuclear IP2 and ENO intend to implement at IP2, the RAI response notes that implementation of the Entergy model of standard practices has resulted in improved outage performance at plants owned and operated by other Entergy subsidiaries. For example, this response reports recent outage durations of 22 days at ANO-1; 21 days at GGNS; 35 days at W3; 28 days at Pilgrim; and 26 days at IP3. This

response also provided data to demonstrate that there have been improvements in outage durations (i.e. shorter outages) at plants owned and operated by Entergy Corporation subsidiaries since 1990.

To further support their claim that an assumed 85% capacity factor for IP2 is reasonable, the applicants provided historical information regarding the capacity factors achieved at the eight other plants owned and operated by Entergy Corporation subsidiaries, ostensibly through the application of the same management and business practices that Entergy Nuclear IP2 and ENO intend to implement at IP2. Since the Pilgrim facility has only been part of the Entergy fleet since mid-1999, and the IP3 and James A. FitzPatrick Nuclear Power Plant (JAF) facilities have each been part of the fleet for less than a year, the NRC staff considers that the experience Entergy subsidiaries have with these sites is not particularly meaningful for this justification. However, the historical experience that Entergy subsidiaries have at the other five plants is more meaningful.

In reviewing the historical capacity factor information provided for ANO1 & 2, GGNS, RB, and W3, the NRC staff noted that, except for RB, no data was provided for the time period before the plants were acquired by Entergy Corporation subsidiaries. Therefore, in order to more thoroughly assess the validity of the applicants' claims that the capacity factors had improved under EOI management and that ENO has the management experience to achieve the assumed improvements, the NRC staff reviewed information provided in the docketed December monthly operating reports for the 6 years prior to EOI becoming the licensed operator for each of these five facilities (the December reports were used because they provide cumulative information for the entire year). For each facility, the average annual capacity factor for the 6 "before" years was then compared to the average annual capacity factor, determined from data provided in the RAI response, for all of the "after" years under EOI management. The results of this comparison are provided in Table 5 below.

TABLE 5
 Historical Capacity Factors (%)
 for other Entergy Subsidiary Plants.

	ANO1	ANO2	GGNS	RB	W3
1985	70.90	63.50	54.20		68.80
1986	48.80	70.60	42.20		77.50
1987	65.00	87.90	77.90		78.90
1988	53.80	65.60	95.60	88.20	69.20
1989	46.10	72.80	78.40	58.40	80.80
1990	56.30	94.90	74.00	68.20	91.40
1991	89.31	81.47	91.15	81.56	77.25
1992	79.43	73.04	81.39	33.60	80.72
1993	83.66	97.72	78.88	64.13	97.05
1994	98.30	89.47	96.03	59.59	84.23
1995	81.63	75.76	77.32	96.72	82.44
1996	85.61	93.73	89.38	83.44	94.54
1997	99.01	92.56	102.91	83.21	71.37
1998	84.89	91.50	87.43	95.54	91.54
1999	91.69	82.85	79.91	69.58	79.02
2000	87.29	69.86	100.79	89.43	89.78
Ave. Before EOI	56.82	75.88	70.38	65.68	77.77
Ave. After EOI	88.08	84.80	88.52	82.50	84.79

NOTE: Data listed above the double line are for years prior to the facilities being operated by EOI. Although EOI became the operator for ANO 1 & 2, GGNS, and W3 in 1990, the NRC staff considers the performance of these plants for that year to be predominantly influenced by the management practices of the previous owners.

Based on:

1. recent capital improvements made by Con Edison,
2. the applicants' representations that:
 - (a) personnel who have nuclear management experience with EOI have been, or will be, placed in key management positions within ENO,
 - (b) management practices which have been successful at other plants operated by Entergy subsidiaries, including an outage improvement initiative as well as "Near Term Performance Improvement," and "Long Term Performance Improvement" plans, will be implemented at IP2; and,
3. the review of the above outage duration and historical capacity factor information,

the NRC staff accepts that it is reasonable for the applicants to assume an 85% capacity factor for the IP2 unit in their financial projections. The NRC staff recognizes, however, that capacity factor projections are not without uncertainty. Therefore, the staff considers it prudent to conduct sensitivity analyses to evaluate the effects of lower than projected capacity factors on the applicants' ability to adequately fund the safe operation and maintenance of IP1 and IP2. These sensitivity analyses are discussed further in Section 3.1.3 of this SE.

To avoid any potential confusion, the NRC staff notes that its review and acceptance of the information presented in the application to justify the use of an 85% capacity factor specifically does not constitute a review or approval of any changes to the IP2 Quality Assurance (QA) Plan that might be required in order to implement the organizational structure that Entergy Nuclear IP2 and ENO described in the May 24, and June 8, 2001, supplemental submittals. If any such changes to the IP2 QA Plan require NRC review and approval, the applicants must submit a request for approval in accordance with 10 CFR 50.54(a)(3).

3.1.2.2 Average Contract Price and Projected MW Output

In addition to the assumed capacity factor, the NRC staff reviewed the applicants' assumptions for average contract price and projected MW output of the IP2 unit used in the financial projections. Review of the PPA that was provided in Con Edison's April 12, 2001, RAI response shows that actual contract prices for the power to be purchased by Con Edison under the terms of the PPA during the years 2001-2004, will be \$46.80 per MWh during the months of June, July and August, and \$36.40 per MWh during the remainder of the year. The \$39.00 per MWh listed in the application, and shown in Table 1 above, represents a weighted average price that appears to be a reasonable simplifying assumption used by Entergy Nuclear IP2 in their financial projections.

With regard to the projected MW output of the unit, as shown in Table 2 above, Entergy Nuclear IP2 assumed a single value in each year of the financial projections. However, the NRC staff notes that main generator output is subject to seasonal variations (main turbine efficiencies are higher during cold months when ultimate heat sink temperatures are relatively cold; conversely, main turbine efficiencies are low during warm months when the ultimate heat

sink temperatures are relatively warm). A review of docketed monthly operating reports from 1999, before the steam generators were replaced in 2000, shows that unit output was generally around 980 MWe-Net during cold months, and decreased to around 911 MWe-Net during the hottest summer months. In light of this, the NRC staff evaluated whether or not this actual operating experience invalidates the applicants' simplifying assumption of using a single value for the unit's MW output in each year of the projections.

The NRC staff used a simple modeling technique in order to evaluate the combined effects of the average contract price and projected MW output assumptions on the financial projections. The docketed monthly operating reports of IP2 for all of 1999, which provide average daily power levels for each day, were used to simulate, day for day, an average generation profile (note: the capacity factor achieved for 1999, of 88.5% is close to the assumed annual average of 85%). Using the actual contract prices contained within the PPA and the average generation profile, hypothetical annual revenue was determined. This result was then compared to the revenue obtained using the applicants' simplifying assumptions in a manner similar to that provided in the applicants' April 16, 2001, RAI response. The results of these two techniques were within approximately 2% of each other.

Thus, the NRC staff believes that, in terms of the overall effect on revenue, the higher contract prices during June, July and August adequately compensate for the lower plant outputs during these months. After the expiration of the PPA, when Entergy Nuclear IP2 may be selling power on the New York market, the NRC staff expects that market prices will experience upward pressure during peak summer demand periods such that there will be a similar compensating effect.

The NRC staff notes that this simple modeling technique is conservative because it uses IP2 plant operating data from the period prior to the steam generator replacement. A plant with new, clean, steam generators will tend to produce higher outputs. Since the IP2 unit did not return to service following steam generator replacement until January 2001, a complete year of operating data is not available for use in this evaluation. However, a review of the docketed monthly operating reports that have been submitted thus far in 2001, shows that, when operating at 100% power, unit output for the colder months was generally between 990 MWe-Net and 1000 MWe-Net, and often in the upper end of this band. The NRC staff expects that, during warm summer months, IP2 output will be similarly higher than the outputs achieved with the previous steam generators.

Based on the reviews described above, the NRC staff believes that the simplifying assumptions regarding average contract price and projected MW output for the years 2001 through 2004 are reasonable. The NRC staff notes, however, that the applicants assumed facility output levels in years 2005 and 2006 that appear to be above the IP2 facility's current capability. The post-steam generator replacement operating experience has yet to demonstrate the ability of the plant to produce the assumed [] output. Additionally, the NRC has not approved any power uprates for IP2 since 1990, and there is no power uprate application currently under review by the NRC staff for the IP2 facility. Therefore, only the facility's current generation capability was assumed for the purposes of other sensitivity analyses performed by the NRC staff. The question of whether or not this optimistic output assumption is unreasonable for years beyond 2004 is discussed further in Section 3.1.3 of this SE.

3.1.2.3 Market Price Assumptions

With respect to the financial projections for the years 2005, and 2006, the NRC staff assessed how reasonable the applicants' assumptions for market prices may be. As part of this assessment, the staff reviewed information contained in: The North American Electric Reliability Council's Reliability Assessment for 2000 through 2009 (NERC assessment), dated October 2000; The New York Independent System Operator's (NYISO) March 2001, report entitled, "Power Alert: New York's Energy Crossroads," (NYISO report); data on U.S. retail electricity prices from the Energy Information Administration (EIA data); and, year 2000, and 2001, data on market prices within the NYISO system.

Forecasts of electric rates in competitive markets are subject to many factors that make such predictions speculative; however, the reasonableness of various growth rates may be assessed by considering various factors that could provide some indication of future electricity prices. Like any other competitively traded commodity, the price of electricity in a deregulated market will be largely influenced by the available supply relative to demand. Prices will increase if demand is high, or if supply is limited; and, they will fall if demand is low relative to supply.

The regional bulk electrical power authority in the area where IP2 is located is the NYISO. NYISO itself is part of the Northeast Power Coordinating Council (NPCC-US), which, in turn, is part of the Eastern Interconnection. The NERC assessment predicts that, with the addition of new merchant capacity that has been announced, the NPCC-US will see generating capacity margins increase from 15.3 percent in the summer of 2000, to approximately 29.7 percent by the summer of 2004, and then declining after 2004 (capacity margin is the difference between net capacity resources and net internal demand within the system, expressed as a percentage of net capacity resources). During this same time period, the NERC assessment predicts that, with the same new capacity additions, the NPCC-US reserve margin (capacity above peak firm system demand required to accommodate equipment forced outages, scheduled outages, and transmission capability limitations) will increase from 18 percent to around 42 percent. These figures, however, do not account for the fact that not all announced capacity additions will actually be completed for various business reasons, or for plant retirements that could occur.

Recent events in the California electricity market clearly demonstrate that supply and demand variations, as well as price fluctuations, within the boundaries of a particular ISO may be significantly different than those of its associated region, or interconnection, as a whole. The NYISO report states that reserve margins of 18 percent are required to maintain minimum electric system reliability standards, and that this value does not account for more stringent requirements of the information economy. That report notes that New York has been unable to meet the reserve requirements with in-state capacity sources since 1999. If no new in-state generation capacity is added to the NYISO system in the next 5 years, the in-state reserve margin will decline from a current value of 14.9 percent to around 8.4 percent. The NYISO report notes further that transmission capability limitations prevent importation of large amounts of electric energy to cover the reserve requirements. Furthermore, only one major addition to the transmission system, which will import approximately 300 MW from Connecticut to Long Island, is planned. Thus, according to the NYISO report, additional in-state supplies of at least 8,600 MW are needed in order to meet expected demand growth and minimum reliability requirements. The NERC assessment states that around 5,400 MW of new merchant capacity is currently under study in New York. Based on the NERC assessment and the NYISO report, the NRC staff believes that, in the near to mid term, Entergy Nuclear IP2 and ENO are unlikely

to encounter market conditions in which there will be no need for the output of IP2 in the NYISO system, or in which they will have to sell the output at a loss, because of an overabundance of supply (i.e. a buyer's market).

Recent trends in electricity prices can provide inferences on how such prices may continue to change in the more competitive environment expected in the electric power industry. EIA data on U.S. retail electricity prices indicate that the overall price (all sales categories) has declined from its highest level in 1993, 6.93 cents per kWh, to 6.81 cents per kWh by 1998. The average retail price for the industrial category declined from 4.85 cents per kWh in 1993 to 4.48 cents per kWh in 1998. Considering this recent downward trend in retail prices and increasing competition in the electric power industry, the general trend of electricity prices at the retail level may continue downward in the near future. The EIA outlook data, which contains retail electricity price projections, predicts that the average retail industrial price will decline to around 3.8 cents per kWh by 2013 (the IP2 license currently is set to expire on September 28, 2013). The NRC staff recognizes that the EIA data cannot be directly compared to the applicants' price projections because the EIA data provide retail prices, whereas the applicants' projections are for wholesale prices. The staff, however, expects that wholesale prices would follow the same general trend as the EIA projections. The NRC staff reviewed historical wholesale market price data for the NYISO day-ahead market (DAM) from year 2000, and available data for 2001. From that data, the NRC staff approximated an average DAM price for IP2 of nearly 4.37 cents per kWh for 2000, and 4.56 cents per kWh for 2001, year to date.² cursory review of real-time (spot market) prices shows that, as expected, those prices tend to be higher than DAM prices.

While recent dramatic price increases in some U.S. electricity markets suggest that future prices might increase rather than continue a declining trend, the NRC staff notes that, although the applicants' assumed market prices show a small increase from 2005 to 2006, the assumed market prices conservatively reflect an overall continuation of the declining trend to levels below current wholesale market prices for the NYISO IP2 location. Additionally, the NRC staff notes that Entergy Nuclear IP2 and ENO will have the option of selling some of the unit's output on the spot market, which would tend to increase the average market price received. Thus, the NRC staff considers the applicants' assumptions for market prices in the years 2005 and 2006 to be reasonable. The NRC staff recognizes, however, that attempting to forecast growth rates, or even direction of change, for market-based prices in the IP2 market area is speculative and subject to uncertainty. Therefore, the staff considers it prudent to conduct sensitivity analyses to evaluate the effects of lower than predicted market prices on the applicants' ability to adequately fund the safe operation and maintenance of IP1 and IP2. This sensitivity analysis is discussed further in the following section.

²The NYISO uses a Locational Based Marginal Pricing (LBMP) model under which generators selling into the markets are paid prices that vary from one location to another in order to account for transmission constraints or limitations. Thus, the price received by the seller may differ from the average price quoted in the ISO's summary level data reports.

3.1.3 Sensitivity Analyses

The NRC staff conducted sensitivity analyses on the projected income statement provided by the applicants in order to judge the financial resiliency of Entergy Nuclear IP2 to weaker than projected revenue. Specifically, these analyses evaluated the effects that variation in capacity factor and market prices might have on the revenue projections. For all of these analyses, the NRC staff conservatively assumed that plant outputs remain constant at the maximum dependable capacity (MDC)³, 951 MWe-Net, listed in NUREG-1350.

One set of sensitivity analyses adopted the assumption that capacity factors dropped by 10 percentage points below those assumed by the applicants. With all other assumptions held constant, the staff found that Entergy Nuclear IP2, notwithstanding such assumed reduced revenues over the 5½-year projection period submitted (2001 to 2006), would have the financial capability of maintaining the units in a safe manner. Further analysis, with all other assumptions held constant, show that minimum capacity factors required for Entergy Nuclear IP2 to break even would all be at least 14 percentage points, and as much as 27 percentage points, lower than those assumed by the applicants. The results of this analysis are summarized in Table 6 shown on the following page.

³Net maximum dependable capacity (MDC) is the gross electrical output as measured at the output terminals of the turbine generator during the most restrictive seasonal conditions minus the normal station service loads.

TABLE 6
Sensitivity Analysis for Effects of
Lower Than Assumed Capacity Factors on Revenue

(\$000)* unless otherwise noted	2001	2002	2003	2004	2005	2006
Output (MW)	951	951	951	951	951	951
Capacity Factor (%MDC)	[]
Contract Price (\$)	39.00	39.00	39.00	39.00	N/A	N/A
Contract Revenue						
Market Price - Capacity (\$/kw-month)						
Capacity Revenue						
Market Price (\$/MWh)						
Market Power Sales						
Total Revenue						
Est. Operating Expenses						
Operating Profit/(Loss)						
Interest Expense						
Income Taxes						
Net Income/(Loss)						
Break-even Capacity Factor (%)	[]

Note: Assumes 7/1/01 Close (Shaded areas contain proprietary information.)

* Subject to rounding

Another set of sensitivity analyses projected revenues from power sales for the years 2005 and 2006 if there were a hypothetical decline in market prices below the prices projected by the applicants (this was not evaluated for the 2001 through 2004 time period because those contract prices for power sales are already set by the PPA). With all other assumptions held constant, the results showed that Entergy Nuclear IP2 would be capable of sustaining a drop of

more than 25% in the projected market price and still break even. The results of this analysis are summarized below in Table 7.

TABLE 7
Sensitivity Analysis for Effects of
Lower Than Assumed Market Price on Revenue

(\$000)* unless otherwise noted	2005	2006
Output (MW)	951	951
Capacity Factor (%MDC)		
Contract Price (\$/MWh)		
Contract Revenue		
Market Price - Capacity (\$/kw-month)		
Capacity Revenue		
Market Price (\$/MWh)		
Market Power Sales		
Total Revenue		
Est. Operating Expenses		
Operating Profit/(Loss)		
Interest Expense		
Income Taxes		
Net Income/(Loss)		
Break-even Market Price (\$/MWh)		

(Shaded areas contain proprietary information.)

* Subject to rounding

These sensitivity analyses indicate that, even if Entergy Nuclear IP2 were to experience lower earnings due to lower outputs, lower capacity factors, or lower market prices than forecast, it would not necessarily preclude Entergy Nuclear IP2 from maintaining IP1 or operating and

maintaining IP2 in a manner that would protect the public health and safety. Furthermore, Entergy Nuclear IP2 would have the use of retained earnings or certain credit lines, discussed in the following section, to provide additional assurance of financial qualifications.

As discussed earlier, the applicants assumed MW outputs for the IP2 unit in 2005 and 2006 appear to be above the facility's current capability. However, based on the results of these sensitivity analyses in which the NRC staff assumed outputs at only the current MDC of 951 MW listed in NUREG-1350, the staff finds that these optimistic assumptions regarding plant output in 2005 and beyond do not significantly diminish the applicants' showing of the necessary financial qualifications.

3.1.4 Other Issues Regarding Financial Qualifications

3.1.4.1 Retained Earnings and Lines of Credit

The application states that, in the event of an extended shutdown, fixed operating expenses will be paid from retained earnings, as available, or by lines of credit, for a total of \$55 million, established with Entergy Global Investments, Inc. and Entergy International Ltd. LLC. The applicants have provided retained earnings projections for two different scenarios: one in which all earnings are retained by Entergy Nuclear IP2; and, one in which earnings are distributed as dividends to the parent company. In the case where all earnings are retained by Entergy Nuclear IP2, the application clearly shows that the combination of the retained earnings and lines of credit are sufficient to pay the fixed operating costs of an extended outage of about 6 months or longer. With regard to the second scenario, the applicants stated in their April 16, 2001, RAI response, that, in the event of an extended shutdown, a decision regarding whether the plant will be permanently shut down or returned to service would be made early in order for Entergy Nuclear IP2 and ENO to respond to the competitive demands of a deregulated environment. This response also notes that, if the decision is made to permanently cease operations, the funds from the lines of credit are sufficient to pay fixed operating costs for about 4 months or longer while the plant is placed in a safe shut down condition.

The NRC's regulations do not require that licensees retain all earnings, and the NRC staff recognizes that licensees have flexibility to adjust their business plans regarding payment of dividends if circumstances arise which require funds to be retained in order to safely maintain and operate their facilities. Having accepted that the assumptions and results of the applicants' financial projections are reasonable, the NRC staff sees no need to question the adequacy of retained earnings any further.

At the closing of the IP1 and IP2 purchase, Entergy Nuclear IP2 and ENO will have access to an established line of credit of \$20 million from an affiliate, Entergy Global Investments, Inc. This line of credit will provide working capital, if necessary, for the operation and maintenance of IP1 and IP2. In addition, up to \$35 million will be provided through a line of credit from another affiliate, Entergy International Ltd. LLC. Entergy Nuclear IP2 and ENO have represented in the application that they will notify the NRC if any of this \$35 million line of credit is called upon to pay for costs associated with the safe maintenance of IP1 or safe operation and maintenance of IP2, including the costs of nuclear property damage insurance and any retrospective premium pursuant to 10 CFR 140.21. Enclosure 8 of the application provides financial statements for Entergy International, Ltd. LLC and Entergy Global Investments, Inc. The NRC staff has reviewed these financial statements and concludes that these companies

are reasonably likely to be capable financially of meeting their commitments to Entergy Nuclear IP2 and ENO as specified in the application.

To ensure that these additional funds are available as might be necessary, the staff believes that the commitments stated in the application of lines of credit of up to \$55 million for IP1 and IP2 should be the subject of a condition of approval of the transfer of the operating licenses and corresponding condition in the operating licenses, essentially as follows:

Entergy Nuclear IP2 and ENO shall take no action to cause Entergy Global Investments, Inc., or Entergy International Ltd. LLC or their parent companies to void, cancel, or modify the \$55 million contingency commitment to provide funding for the IP1 and IP2 plants as represented in the application without the prior written consent of the Director of the Office of Nuclear Reactor Regulation.

3.1.4.2 Spent Fuel Storage Limitations

On April 30, 2001, Con Edison submitted to the NRC a business plan, for years 2001 - 2005, that addresses many of the current and future challenges to the operation of the IP2 facility. In the business plan, Con Edison made the following statement:

At present, Indian Point is licensed to operate until 2013. However, the plant's spent fuel pool can hold assemblies only until 2002. This issue has been exacerbated by the degradation of the spent fuel storage rack liner boron (Boraflex). Therefore, additional fuel storage is needed earlier than anticipated last year. Even premature shutdown of the plant would entail the continued operation of the Spent Fuel Pool at a cost of approximately xx million or more per year until the pool is emptied. All utilities operating nuclear plants have paid fees to the Department of Energy (DOE) for the development of a spent fuel storage facility. Unfortunately, for a variety of reasons, the DOE will not be able to receive spent fuel until 2010, at the earliest.

In addition, the unique nature of the Unit 1 spent fuel requires that a special cask be designed to store this fuel. Since 1994, a consortium of nuclear utilities, including Con Edison, has been working on the development of a centralized independent Spent Fuel Storage Installation to be located on Indian Lands in the Western United States. The facility is expected to be built on the Skull Valley Indian Reservation. However, the facility could run into a number of political obstacles. Therefore, a secondary plan is being evaluated.

Con Edison has begun an engineering and licensing campaign to enable it to build an on-site Independent Spent Fuel Storage Installation, possibly within Unit 1. This plan, if approved, will negate the need for an off-site spent fuel storage facility until operation of the DOE facility.

A license transfer proceeding is not a forum for a full-scale review of all aspects of current plant operation. GPU Nuclear, Inc., et al. (Oyster Creek Nuclear Generating Station), CLI-00-06, 51 NRC 193, 214 (2000); and Vermont Yankee Nuclear Power Corp., et al. (Vermont Yankee Nuclear Power Station), CLI-00-20, 52 NRC 151, 169 (2000). However, the NRC staff notes that the Commission has stated that, "funding plans that rely on assumptions seriously at odds

with governing realities will not be deemed acceptable simply because their form matches plans described in the regulations.” North Atlantic Energy Service Corp., et al. (Seabrook Station, Unit 1), CLI-99-06, 49 NRC 201, 222 (1999). Taken at face value, the representation regarding spent fuel storage made by Con Edison in the business plan indicates that the licensee of IP2 would not be able to conduct a refueling outage after 2002, because there would be no room in the spent fuel pool (SFP) to off-load the core. Thus, it calls into question Entergy Nuclear IP2 and ENO’s financial projections, which assume the continued ability to operate the plant. Although this issue will remain the same whether or not the license is transferred, the NRC staff notes that, unlike Con Edison, Entergy Nuclear IP2 will have only one source of revenue for the near term: operation of the IP2 unit.

Because this issue challenges a fundamental underlying assumption of the financial projections and because this representation was made on the docket by the current owner, an applicant for this transfer, the NRC staff considered it appropriate to seek additional information from Entergy Nuclear IP2 and ENO, as allowed by 10 CFR 50.33(f)(4) and consistent with previous Commission positions⁴, on why this would not invalidate their financial projections. In a telephone conference call, the NRC staff requested the applicants to submit, on the docket, information regarding: (1) how Entergy Nuclear IP2 and ENO intend to address the spent fuel storage issue at IP2 in the context of the continued operation of the plant and the effect, if any, on the financial projections of Entergy Nuclear IP2 and ENO; and, (2) whether the anticipated costs associated with resolving this issue have been included in the Entergy Nuclear IP2 and ENO financial projections. For the purposes of this review, the NRC staff is seeking reasonable assurance, not absolute certainty, that Entergy Nuclear IP2 and ENO will be able to address this issue such that operation of IP2 beyond 2002, would not be seriously in doubt. The NRC staff did not seek additional information regarding spent fuel storage at IP1 because, although a unique dry fuel storage canister might be required for the IP1 fuel, the status of the IP1 SFP does not affect the ability of the licensee to operate IP2.

Entergy Nuclear IP2, and ENO responded to this request in a letter dated June 6, 2001. In their response, the applicants noted that Con Edison is already in the process of addressing the Boraflex issue and evaluating potential solutions in order to regain storage locations within the SFP that are now considered to be unusable. Among the options being reviewed are: taking credit for soluble boron in the SFP water; and, taking credit for pre-discharge burn-up of the fuel stored in the SFP⁵. The response states that the ongoing activities to address spent fuel storage at IP2 are expected to provide sufficient storage capacity to retain full core off-load capability until just before the 2006 refueling outage. Entergy Nuclear IP2 and ENO also stated that, after closing, they will, “implement appropriate actions to regain the storage spaces

⁴Seabrook, CLI-99-06, 49 NRC at 221.

⁵Design analyses for spent fuel storage typically make the conservative assumptions that (1) the fuel within the SFP is all new fuel, which is more reactive than used (burned) fuel; and, (2) the water in the SFP is pure water. These assumptions lead to SFP rack designs that will, through their own inherent design features, prevent criticality in the SFP (Boraflex is one of those design features). In reality, except for just prior to, and during, a refueling outage, the fuel in the SFP has typically all experienced some burn-up and, thus, is less reactive. Additionally, the water in the SFP contains dissolved boron (soluble boron), a neutron absorber, that provides additional margin in preventing criticality in the SFP.

affected by Boraflex degradation and will pursue both on-site and off-site storage options.” The applicants stated further that the costs of dry cask storage have been accounted for in the financial projections provided to the NRC in the application.

The NRC staff is aware that licensees have various options for addressing spent fuel storage issues such as those faced by the owners and operators of IP2. Having reviewed the response of the applicants to this RAI, the NRC staff believes that there are a sufficient number of realistic options and a sufficient amount of time available to the applicants for them to implement measures that would allow the continued operation of the IP2 unit. This, in addition to the fact that the applicants have budgeted for these activities in the financial projections, leads the NRC staff to conclude that there is sufficient reasonable assurance that Entergy Nuclear IP2 and ENO will be able to operate IP2 beyond 2002, and that this issue does not invalidate the financial projections provided in the application.

To avoid any potential confusion, the NRC staff notes that its review and acceptance of the information presented in the June 6, 2001, RAI response specifically does not constitute a review or approval of any changes to the IP2 License that would be required in order to: take credit for soluble boron in the SFP water; take credit for pre-discharge burn-up of fuel stored in the SFP; construct and use any spent fuel storage installation that requires prior NRC approval; or implement any other measures regarding spent fuel storage that would require prior NRC review and approval. Any NRC approvals required for such activities must be applied for separately in accordance with 10 CFR 50.90, 10 CFR Part 72, or other applicable governing regulations.

3.2 NRC Staff's Conclusions Regarding Financial Qualifications

On the basis of information contained in the application as cited above providing 5-year cost estimates and indicating the source of funds to cover these costs, the NRC staff concludes that Entergy Nuclear IP2 has provided reasonable assurance of being able to obtain the funds necessary to cover the estimated operating costs for the period of the IP1 and IP2 licenses in accordance with 10 CFR 50.33(f)(2). The staff also finds that Entergy Nuclear IP2, as a newly-formed entity, has provided the information required by 10 CFR 50.33(f)(3), and, in summary, has demonstrated that it is financially qualified to hold the licenses for IP1 and IP2.

ENO, the proposed operator (maintenance only) of IP1 and proposed operator (operation and maintenance) of IP2, is not seeking any ownership interest in the facilities. According to the application, Entergy Nuclear IP2, as the proposed owner of IP1 and IP2, has committed to assume full financial responsibility for funding the safe operation and maintenance of the plants. The application states that ENO will maintain/operate the plants at cost and Entergy Nuclear IP2 will reimburse ENO for its costs of operation under the terms of an Operating Agreement (see draft agreement included as Enclosure 5 to the application).

Since the NRC staff has determined above that Entergy Nuclear IP2 is financially qualified under 10 CFR 50.33(f) to hold the licenses for the IP1 and IP2 units, the NRC staff concludes that ENO has satisfied applicable financial qualifications requirements and that there is no problematical financial qualifications issue with regard to ENO.

4.0 DECOMMISSIONING FUNDING ASSURANCE

The NRC has determined that the requirements to provide assurance of decommissioning funding and provision of an adequate amount of decommissioning funding are necessary to ensure the adequate protection of public health and safety. Section 50.33(k) of 10 CFR requires that an application for an operating license for a utilization facility contain information indicating how reasonable assurance will be provided that funds will be available to decommission the facility. Pursuant to 10 CFR 50.75(b), each power reactor licensee must certify that it will provide decommissioning funding assurance in an amount that may be more, but not less, than the amount determined under the formulas in 10 CFR 50.75(c)(1) and (2). These formulas are based on the size and type of the reactor and on cost escalation factors for labor, energy, and low-level waste (LLW) disposal costs. The labor and energy cost escalation factors are to be taken from regional data of U.S. Department of Labor Bureau of Labor Statistics, and the LLW escalation factor is to be derived from the latest version of NUREG-1307, "Report on Waste Burial Charges," which is currently Revision 9. Revision 9 allows licensees a variety of methods by which they may estimate costs of LLW disposal, including disposition by waste vendors.

Con Edison currently maintains two decommissioning trusts for IP1 and IP2: a trust qualified for tax treatment under Section 468A of the Internal Revenue Code (qualified decommissioning trust); and, a decommissioning trust that is not qualified under Section 468A of the Internal Revenue Code (nonqualified decommissioning trust). The application states that Con Edison will transfer the qualified decommissioning trust, or all of its assets, to Entergy Nuclear IP2 at closing. Pursuant to the Sale and Purchase agreement between Con Edison and Entergy Nuclear IP2, if the fair market value of the transferred assets exceeds \$430 million, the purchase price will be adjusted. However, if the fair market value of the qualified trust is less than \$430 million, Con Edison will transfer assets of the nonqualified decommissioning trust such that the aggregate fair market value of the transferred funds equals \$430 million. These funds will be held in an external trust fund (decommissioning trust) segregated from Entergy Nuclear IP2's other assets and outside its administrative control. The trustee will manage investment of the funds in accordance with applicable requirements and license conditions.

The June 8, 2001, supplemental submittal, also states that Entergy Nuclear IP2 will establish a provisional trust with assets of \$25 million or provide a surety bond for an amount up to \$25 million to provide a total decommissioning funding assurance level sufficient to meet the minimum requirements of 10 CFR 50.75. This supplemental submittal states further that, if a provisional trust is used:

The provisional trust will provide that the trust may terminate and the funds held in the trust may be paid to Entergy Corp., its affiliates, subsidiaries, or assigns, upon the earlier date on which:

- (1) The funds in the decommissioning trust established by Entergy Nuclear IP2 to hold the \$430 million in funds transferred from Con Edison to Entergy Nuclear IP2 at closing ("the Decommissioning Trust") satisfy the minimum amount required by NRC regulations for the decommissioning of IP1 and IP2 at the end of license of IP2; or

- (2) The NRC, through order, regulation, letter, or other agency action, allows the funds in the Decommissioning Trust to satisfy the Commission's requirements for adequate assurance of decommissioning funding for IP1 and IP2.

If a surety bond is used, it would contain similar provisions for earlier termination.

4.1 Amount of Decommissioning Funds

The December 21, 2000, application did not provide sufficient information, regarding the assumptions the applicants had used in their decommissioning funding calculations, for the NRC staff to independently verify the adequacy of the proposed decommissioning fund prepayment. The NRC staff's March 1, 2001, RAI requested a copy of the detailed calculations, including assumptions used, which demonstrate that the proposed \$430 million fund transfer will meet the requirements of 10 CFR 50.75 for both IP1 and IP2.

In its April 16, 2001, RAI response, Entergy Nuclear IP2 provided some, but not all, information needed by the NRC staff regarding how the applicants had determined the amount of funding to be pre-paid for decommissioning funding assurance for both IP1 and IP2. However, the NRC staff noted that the applicants had assumed a 2% real growth of the funds through the end of calendar year 2015, the expiration of the Indian Point 3 license, in doing their calculations. The requirements of 10 CFR 50.75(e)(1)(i) specifically state that financial assurance for decommissioning by prepayment be "such that the amount of funds would be sufficient to pay decommissioning costs at the time termination of operation is expected," which, for IP2, is September 28, 2013. Similarly for IP1, the decommissioning plan that has been accepted by the NRC calls for the IP1 facility to be decommissioned along with IP2. Therefore, in a May 4, 2001, RAI the NRC staff requested the applicants to demonstrate that the proposed \$430 million decommissioning fund transfer will meet the requirements of 10 CFR 50.75 if earnings growth in the funding calculations is not credited beyond the end of the third quarter of 2013. In its response to the May 4, 2001, RAI, Entergy Nuclear IP2 provided a copy of the detailed calculations, including assumptions, that used the end of the third quarter in year 2013, as the end point for the fund growth period. The NRC staff's review of these calculations noted that several mathematical errors had been made. Additionally, to account for a 1990 power uprate for IP2, the applicants had used a weighted average power level in determining the minimum decommissioning funding requirement for IP2 per the formula provided in 10 CFR 50.75(c)(1)(i). It is the NRC staff's position that the regulations in 10 CFR 50.75 do not contain provisions that allow for prorating the funding requirement in this manner, and that the calculations are to be done using only the current licensed power level. In a supplemental submittal dated June 8, 2001, the applicants provided corrected calculations for the decommissioning funding requirements that used the end of the third quarter in year 2013, as the end point for the fund growth period, and that used the current licensed power level of IP2 without an attempt to prorate for the previous licensed power level.

As provided in the application, as supplemented, the total decommissioning funding assurance for both IP1 and IP2 would consist of the \$430 million decommissioning trust and either a \$25 million provisional trust or a \$25 million surety bond.

4.1.1 NRC Staff's Conclusion on Amount of Decommissioning Funds

Based on its review of the June 8, 2001, supplemental submittal and independent confirmatory calculations, the NRC staff concludes that Entergy Nuclear IP2 has complied with the requirements of 10 CFR 50.75(b) with respect to the amount of decommissioning funding it must certify that it will provide. The amount that Con Edison proposes to have placed in Entergy Nuclear IP2's decommissioning trust funds combined with the provisional trust or surety, and earnings on the trust funds calculated at a real rate of 2% annually, is sufficient to cover the approximately \$579.8 million (yr 2001 \$) that is required for decommissioning both IP1 and IP2 under the generic formulas in 10 CFR 50.75(c).

The NRC staff notes that, as reported in Con Edison's Decommissioning Funding Status Report for IP1 and IP2, dated April 2, 2001, the total amount of funds accumulated in both the qualified and nonqualified funds to the end of calendar year 2000 for the nuclear decommissioning of the plants is \$330.6 million. Thus, Con Edison will need to transfer all of the funds collected for nuclear decommissioning in both funds as well as provide additional funds in order to meet the total of \$430 million to be transferred at closing.

To reflect Entergy Nuclear IP2's commitment for decommissioning funds as stated in the application, the NRC staff concludes that the following should be a condition of approval of the transfer and a conforming license condition:

- (1) On the closing date of the transfer of the licenses, Con Edison shall transfer to Entergy Nuclear IP2 all of the accumulated decommissioning trust funds for IP1 and IP2 and such additional funds to be deposited in the decommissioning trusts for IP1 and IP2 such that the total amount transferred is no less than \$430,000,000. Furthermore, Entergy Nuclear IP2 shall either (a) establish a provisional trust for decommissioning assurance for IP1 and IP2 in an amount no less than \$25,000,000 (to be updated as required under applicable NRC regulations, unless otherwise approved by the NRC) or (b) obtain a surety bond for an amount no less than \$25,000,000 (to be updated as required under applicable NRC regulations, unless otherwise approved by the NRC). The total decommissioning funding assurance provided for IP1 and IP2 by the combination of the decommissioning trusts and the provisional trust or surety bond at the time of the transfer of the licenses shall be at a level no less than the amounts calculated pursuant to, and required under, 10 CFR 50.75.

4.2 Decommissioning Funding Assurance Mechanism

Pursuant to 10 CFR 50.75(b), a reactor licensee is required to provide decommissioning funding assurance by one or more of the methods described in 10 CFR 50.75(e), determined to be acceptable by the NRC. Entergy Nuclear IP2 has selected the prepayment method, in accordance with 10 CFR 50.75(e)(1)(i), combined with a provisional trust or surety bond to assure the decommissioning funding for IP1 and IP2. The decommissioning trust funds will be transferred to Entergy Nuclear IP2 at closing, and the provisional trust or surety bond will be established at or by the time of the closing.

Entergy Nuclear IP2 will not be regulated by the New York State Public Service Commission, or any other rate regulator, with the result that there will be no rate regulatory oversight over the

terms and provisions of the decommissioning trust funds. Consequently, the NRC staff concludes that, to provide additional assurance regarding the decommissioning trusts, essentially the following provisions shall be made conditions to approving the transfer of the licenses for IP1 and IP2 and incorporated into the licenses as conforming conditions.

- (a) The decommissioning trust agreement must be in a form acceptable to the NRC.
- (b) With respect to the decommissioning trust funds, investments in the securities or other obligations of Entergy Corporation, or its affiliates, subsidiaries, successors, or assigns are and shall be prohibited. Except for investments tied to market indexes or other non-nuclear-sector mutual funds, investments in any entity owning one or more nuclear power plants are and shall be prohibited.
- (c) No contribution to the funds that consists of property other than liquid assets shall be permitted.
- (d) The decommissioning trust agreement must provide that no disbursements or payments from the trusts, other than for ordinary administrative expenses, shall be made by the trustee unless the trustee has first given the Director of the Office of Nuclear Reactor Regulation 30 days prior written notice of payment. The decommissioning trust agreement shall further contain a provision that no disbursements or payments from the trusts shall be made if the trustee receives prior written notice of objection from the NRC.
- (e) The decommissioning trust agreement must provide that the agreement cannot be amended in any material respect without 30 days prior written notification to the Director of the Office of Nuclear Reactor Regulation.
- (f) The appropriate section of the decommissioning trust agreement shall state that the trustee, investment advisor, or anyone else directing the investments made in the trusts shall adhere to a "prudent investor" standard, as specified in 18 CFR 35.32(a)(3) of the Federal Energy Regulatory Commission's regulations.

The NRC staff notes that Section 6.08 of the Sale and Transfer Agreement (enclosure 4 of the December 12, 2000, application) contains a provision under which a portion of any excess decommissioning funds would be paid to Con Edison on the date that the IP2 license expires, provided NRC regulations and the trust agreements permit such transfer of funds. The NRC staff considers that the requirement of 10 CFR 50.82(a)(8)(i)(A) that, "... withdrawals are for legitimate decommissioning activities consistent with the definition of decommissioning in [Section] 50.2" prohibits such a payment of excess funds prior to completion of decommissioning activities. In any event, condition (d) listed immediately above will provide additional assurance that no inappropriate payments to Con Ed under Section 6.08 of the Sale and Transfer Agreement will be made.

The provisional trust or surety bond that Entergy Nuclear IP2 provides shall be subject to the following provisions, as appropriate, which shall be made conditions to approving the transfer of the licenses for IP1 and IP2 and incorporated into the licenses as conforming conditions.

1. Provisional Trust:

- (a) The provisional trust agreement must be in a form acceptable to the NRC.
- (b) Investments in the securities or other obligations of Entergy Corporation or its affiliates, subsidiaries, successors, or assigns are and shall be prohibited. Except for investments tied to market indexes or other non-nuclear-sector mutual funds, investments in any entity owning one or more nuclear power plants are and shall be prohibited.
- (c) The provisional trust agreement must provide that no disbursements or payments from the trust, other than for ordinary administrative expenses, shall be made by the trustee unless the trustee has first given the Director of the Office of Nuclear Reactor Regulation 30 days prior written notice of payment. The provisional trust agreement shall further contain a provision that no disbursements or payments from the trusts shall be made if the trustee receives prior written notice of objection from the NRC.
- (d) The provisional trust agreement must provide that the agreement cannot be amended in any material respect, or terminated, without 30 days prior written notification to the Director of the Office of Nuclear Reactor Regulation.
- (e) The appropriate section of the provisional trust agreement shall state that the trustee, investment advisor, or anyone else directing the investments made in the trust shall adhere to a "prudent investor" standard, as specified in 18 CFR 35.32(a)(3) of the Federal Energy Regulatory Commission's regulations.
- (f) Use of assets in the provisional trust, in the first instance, shall be limited to the expenses related to decommissioning IP1 and IP2 as defined by the NRC in its regulations and issuances, and as provided in the IP1 and IP2 licenses and any amendments thereto.

2. Surety Bond

- (a) The surety bond agreement must be in a form acceptable to the NRC and must be in accordance with all applicable NRC regulations.
- (b) The surety company providing any surety bond obtained to comply with the order shall be one of those listed by the U.S. Department of the Treasury in the most recent edition of Circular 570 and shall have a coverage limit sufficient to cover the amount of the surety bond.
- (c) Entergy Nuclear IP2 shall establish a standby trust to receive funds from the surety bond, if a surety bond is obtained, in the event that Entergy Nuclear IP2 defaults on its funding obligations for the decommissioning of

IP1 or IP2. The standby trust agreement must be in a form acceptable to the NRC, and shall conform with all conditions otherwise applicable to the decommissioning trust agreement, and with all conditions that would be applicable to the provisional trust above, if established.

- (d) The surety agreement must provide that the agreement cannot be amended in any material respect, or terminated, without 30 days prior written notification to the Director of the Office of Nuclear Reactor Regulation.

4.2.1 NRC Staff's Conclusion on the Decommissioning Funding Assurance Mechanism

The NRC staff concludes that, given the considerations discussed above and subject to the trust or bond agreements containing provisions as previously discussed, Entergy Nuclear IP2's proposed decommissioning funding assurance mechanisms meet the requirements of 10 CFR 50.75(e). The NRC staff further concludes that in order to ensure that the decommissioning trusts are maintained consistent with the staff's action on the application, essentially the following should be included as a condition of the transfer approval and as a condition in the licenses:

Entergy Nuclear IP2 shall take all necessary steps to ensure that the decommissioning trusts are maintained in accordance with the application and the requirements of the relevant approval Order, and consistent with the safety evaluation supporting that Order.

5.0 ANTITRUST REVIEW

The Atomic Energy Act does not require or authorize antitrust reviews of post-operating license transfer applications. Kansas Gas and Electric Co., et. al. (Wolf Creek Generating Station, Unit 1), CLI-99-19, 49 NRC 441 (1999). Therefore, since the transfer application postdates the issuance of the operating licenses for IP1 and IP2, no antitrust review is required or authorized.

6.0 FOREIGN OWNERSHIP, CONTROL, OR DOMINATION

Sections 103d and 104d of the Atomic Energy Act prohibit the Commission from issuing a license for a nuclear power plant to "any corporation or other entity if the Commission knows or has reason to believe it is owned, controlled, or dominated by an alien, a foreign corporation, or a foreign government." The Commission's regulations at 10 CFR 50.38 contain virtually identical language to implement this prohibition.

The December 12, 2000, application states that both Entergy Nuclear IP2, a Delaware limited liability company, and ENO, a Delaware corporation, are newly formed companies, have principal offices in the Village of Buchanan, New York, and White Plains, New York, respectively and are indirect wholly owned subsidiaries of Entergy Corporation. Entergy Nuclear IP2 is a wholly owned indirect subsidiary of Entergy Nuclear Holding Company #3 (under Entergy Nuclear New York Investment Company #3). ENO is a direct wholly owned subsidiary of Entergy Nuclear Holding Company #2. Entergy Corporation's stock will continue to be widely held and traded on the New York Stock Exchange.

The application gives the names of the principal officers and directors of Entergy Nuclear IP2 and the principal officers and sole management committee member of ENO and represents that all are citizens of the United States. The application also states that neither Entergy Nuclear IP2 nor ENO are owned, controlled, or dominated by an alien, a foreign corporation, or a foreign government. The NRC staff does not know or have reason to believe otherwise.

7.0 NUCLEAR INSURANCE AND INDEMNITY

The provisions of the Price-Anderson Act (Section 170 of the AEA) and the Commission's regulations at 10 CFR Part 140 require that the current indemnity agreement be modified to reflect Entergy Nuclear IP2 and ENO as the new licensees of IP1 and IP2.

In accordance with the Price-Anderson Act, the new licensees will also be required to provide primary insurance and participate in the secondary retrospective insurance pool. They will also be required to maintain property insurance as specified in 10 CFR 50.54(w). The information provided in the application concerning financial qualifications demonstrates that Entergy Nuclear IP2, the owner, will be able to satisfy applicable insurance requirements for itself and ENO.

Consistent with NRC practice, the staff will require Entergy Nuclear IP2 and ENO to provide satisfactory documentary evidence that they have obtained the appropriate amount of insurance required of licensees under 10 CFR Part 140 of the Commission's regulations, prior to the issuance of the amended licenses reflecting the new licensees. Because the issuance of the amended licenses is directly tied to the consummation of the proposed transfer, the order approving the transfer will be conditioned essentially as follows:

Before the completion of the transfer of the IP1 and IP2 licenses, Entergy Nuclear IP2 and ENO shall provide the Director of the Office of Nuclear Reactor Regulation satisfactory documentary evidence that they have obtained the appropriate amount of insurance required of licensees under 10 CFR Part 140 of the Commission's regulations.

8.0 TECHNICAL QUALIFICATIONS

8.1 Management and Organization

The staff used the following regulations and guidance to complete its evaluation: 10 CFR 50.40(b), "Common Standards;" 10 CFR 50.80, "Transfer of licenses;" the Standard Review Plan (SRP) NUREG-0800, Chapter 13, "Conduct of Operations;" SRP Section 13.1.1, "Management and Technical Support Organization;" SRP Section 13.1.2-13.1.3, "Operating Organization;" and the American National Standards Institute/American Nuclear Society (ANSI/ANS) Standard 18. 1-1971, "Selection and Training of Nuclear Power Plant Personnel," as endorsed by Regulatory Guide 1.8, Revision 2, April, 1987, "Qualification and Training of Personnel for Nuclear Power Plants."

The purpose of this evaluation was to: (1) ensure that the applicant's corporate management is involved with, informed of, and dedicated to the safe operation of the plant and that sufficient, qualified technical resources will be provided to support safe plant operation and maintenance,

and (2) evaluate changes to the applicant's operating organization that may occur as a result of the license transfer.⁶

8.1.1 Management and Technical Support Organization

The NRC staff reviewed the application to determine the acceptability of the corporate management and technical support organization of ENO, which will exclusively operate and maintain the units. The staff evaluated the application using the applicable acceptance criteria contained in SRP Chapter 13, "Conduct of Operations," Section 13.1.1, "Management and Technical Support Organization."

Attachment C (No Significant Hazards Consideration Determination) to Enclosure 1 of the December 12, 2000 submittal states that, "[t]he technical qualifications of Entergy Nuclear Indian Point 2, LLC ("Entergy Nuclear IP2") and Entergy Nuclear Operations ("ENO") to carry out its responsibilities under the IP1 and IP2 Facility Operating Licenses, as amended, will be at least equivalent to the present technical qualifications of Con Edison. ... Upon the effective date of the transfer of licenses, ENO will operate, manage, and maintain IP1 and IP2 in accordance with conditions and requirements established by the NRC as defined in the Facility Operating Licenses." The application stated that, "[s]ufficient experience and availability of personnel exist to implement the responsibility for technical support of IP1 and IP2. The ENO officers who will be assigned these responsibilities in the ENO corporate structure have sufficient experience and nuclear knowledge to implement their responsibilities for technical support for the operation of IP2. Additionally, they meet the required qualifications as per ANSI-18.1-1971, 'Selection and Training of Nuclear Power Plant Personnel.'" Existing licensing documents, which will not change as a result of the proposed transfer, will help ensure that any new IP1 and IP2 managers, "will have experience in day-to-day operation and maintenance of nuclear plants and will meet all applicable technical specifications." Attachment C to Enclosure 1 of the December 12 submittal states that "... the qualifications of the personnel engaged in the nuclear business activities of the plants' operation, maintenance, engineering, training, and other related services are either unchanged or not changed significantly by the change in ownership."

The application indicated that "[p]ersonnel currently responsible for providing technical support for the plants will continue to do so after the transfer." It further stated that "[t]he position currently held by the Senior Vice President and Chief Nuclear Officer will be renamed, Vice President, Operations, Indian Point 2, and will report to the Senior Vice President and Chief Operating Officer (COO) of ENO The Senior Vice President and COO of ENO will report to the President and CEO of ENO ... who will also serve as the Chief Nuclear Officer. ... The only

⁶While this technical qualifications evaluation is based on the information provided in the application and the standards and guidance cited above, the staff is also cognizant of the various ongoing performance issues at IP2. See, e.g., letter from H. Miller (NRC) to J. Groth (Con Edison), dated May 31, 2001. Although certain performance problems have existed and continue to exist at this time, an improvement plan is being implemented. As stated in the May 31 letter referenced above, the NRC has concluded that IP2 is currently being operated safely, notwithstanding the existing performance issues. These issues do not alter the staff's technical qualifications evaluation and conclusions reached in this safety evaluation.

change will be that the senior officer at the site will report to the Senior Vice President and Chief Operating Officer of ENO rather than the President of Con Edison.”

The application also states that the CNO will be the officer ultimately responsible for implementing all activities associated with the overall safe and reliable maintenance and operation of IP1 and IP2. Part B of Enclosure 1 to the application states that “[t]he Chief Nuclear Officer will be clearly responsible for nuclear activities and will be free of ambiguous assignments of primary responsibility without ancillary responsibilities that might detract from nuclear matters.” Enclosure 6 to the December 12 application also included an organization chart showing the Entergy nuclear organizational structure that will support the maintenance of IP1 and operation and maintenance of IP2.

Based on the December 12 submittal, the NRC staff concludes that the application has described ENO’s organization for managing and its means of providing technical support to the plant staff for operation of the plants after the license transfer. The staff concludes that ENO has an acceptable organization and adequate resources to provide offsite technical support for the operation of IP1 and IP2 under both normal and off-normal conditions in accordance with Section 13.1.1 of the SRP.

8.1.2 Operating Organization

The staff reviewed the application using the applicable acceptance criteria contained in SRP, Chapter 13, “Conduct of Operations,” Section 13.1.2-1.3, “Operating Organization,” to determine the acceptability of the proposed operating organization, focusing on evaluating changes to the operating organization proposed as a result of the license transfer. The initial operating organization was determined to be acceptable by the initial licensing review. Subsequent safety-related changes to the operating organization were required to have been evaluated with an appropriate methodology. Therefore, the existing operating organization remains acceptable.⁷

The December 12 submittal indicated that, “[t]he application does not involve a request for any change in the design or operation of IP1 or IP2. The proposed transfer of the Nuclear Power Department employees and ownership/operation of IP1 and IP2 to Entergy IP2 and ENO has been planned to assure there is no disruption to the operation of either plant.” The application indicated that, “All of the existing IP1 and IP2 employees will be offered employment with ENO upon completion of the sale/purchase of the plants. Any new management employees placed at IP1 or IP2 will have experience in the day to day operation of nuclear power plants and will meet all applicable technical qualifications required by the existing IP1 and IP2 licensing documents.” The application further indicated that, “The proposed transfer will not impact compliance with the quality assurance requirements of 10 CFR 50 Appendix B nor will it reduce the commitments in the NRC accepted quality assurance program description for IP1 and IP2,” and will not affect compliance with responsibilities such as physical security and safeguards.

⁷The May 31, 2001, letter to Con Edison did note that some weaknesses exist in the areas of human performance and training. However, corrective actions are in progress and, as mentioned earlier in the immediately preceding footnote, the plant is being operated safely by the existing organization. Con Edison described its actions in a letter dated May 7, 2001, responding to NRC Inspection Report No. 2001-002, dated April 10, 2001.

Based on the information in the December 12 submittal, the NRC staff concludes that the application has adequately described changes to the operating organization proposed as a result of the transfer in accordance with Section 13.1.2-1.3 of the SRP.

The NRC staff finds that the application adequately addresses the relevant requirements of 10 CFR 50.40(b) and 10 CFR 50.80. The application has described ENO's corporate level management and technical support organization and the onsite operating organizations responsible for the maintenance of IP1 and operation and maintenance of IP2 plants after the license transfer. Thus, the staff concludes that ENO will have an acceptable corporate organization, onsite organization, and adequate resources to provide technical support for the safe maintenance of the IP1 plant and safe operation and maintenance of the IP2 plant under both normal and off-normal conditions after the license transfer.

In consideration of the foregoing, the staff finds that ENO will be technically qualified to hold the IP1 and IP2 licenses.

9.0 CONFORMING AMENDMENTS

In connection with the application for license transfer, Con Edison requested conforming amendments to the licenses, including the TSs, that would remove references to Con Edison and replace them with Entergy Nuclear IP2 or ENO, as appropriate. No physical or operating changes to IP2 were requested. Supplemental information received that was not specifically referenced in the Federal Register notice did not affect the applicability of the Commission's generic no significant hazards consideration determination set forth in 10 CFR 2.1315.

The changes to be made to the operating licenses and TSs do no more than accurately reflect the approved transfer action, which is subject to certain conditions set forth in the Order approving the transfer that were identified and discussed earlier in this safety evaluation. The staff made modifications to the amendments as proposed to replace references to Con Edison with the names of the transferees and to clarify the qualifications of the transferees and their authorizations stated in the operating licenses. The amendments involve no safety questions and are administrative in nature. Accordingly, the proposed amendments are acceptable.

9.1 Conclusion with Respect to the Conforming Amendments

The Commission has concluded, based on the considerations discussed above, that: (1) there is reasonable assurance that the health and safety of the public will not be endangered by operation in the proposed manner, (2) such activities will be conducted in compliance with the Commission's regulations, and (3) the issuance of the amendments will not be inimical to the common defense and security or to the health and safety of the public.

9.2 State Consultation

In accordance with the Commission's regulations, the New York State official was notified of the proposed issuance of the amendments. The State official had no comments.

10.0 ENVIRONMENTAL CONSIDERATION

The subject application is for approval of the transfer of licenses issued by the NRC and approval of conforming amendments. Accordingly, the actions involved meet the eligibility criteria for categorical exclusion set forth in 10 CFR 51.22(c)(21). Pursuant to 10 CFR 51.22(b) no environmental impact statement or environmental assessment need be prepared in connection with the approval of the application.

11.0 CONCLUSION

The Commission has concluded, based upon the information and representations contained in the application and on the considerations in the foregoing discussion, that with the appropriate conditions discussed above, Entergy Nuclear IP2 and ENO are qualified to be the license holders for IP1 and IP2 to the extent requested, and that the transfer of the licenses to Entergy Nuclear IP2 and ENO is otherwise consistent with the applicable provisions of law, regulations, and orders issued by the Commission pursuant thereto.

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