

May 20, 2005

Mr. David Lochbaum  
Union of Concerned Scientists  
1707 H Street NW, Suite 600  
Washington, DC 20006

Dear Mr. Lochbaum:

Your petition dated April 12, 2005, addressed to Mr. Luis A. Reyes, Executive Director for Operations for the Nuclear Regulatory Commission (NRC or Commission) has been referred to me pursuant to Title 10 of the *Code of Federal Regulations* (10 CFR), Section 2.206 of the Commission's regulations. Your petition seeks enforcement action against FirstEnergy Nuclear Operating Company (FENOC or the licensee) and imposition of a civil penalty of at least \$55,000 or as an alternative, movement of the license renewal application for Beaver Valley Nuclear Power Station, Unit Nos. 1 and 2 to the end of the current queue. As the basis for your request, you state that the licensee's February 9, 2005, submittal was not complete and accurate in all material respects and that this is a violation of 10 CFR 50.9, paragraph (a) which requires in part, that information provided to the Commission by a licensee shall be complete and accurate in all material respects. As basis for the alternative sanction of moving the license renewal application to the end of the current queue, you state that moving the application to the end of the current queue would allow time for the licensee to ensure the resubmittal is complete and accurate. It would also allow the NRC to review the application without requiring additional resources to recheck the resubmittal concurrent with other license renewal reviews which you state could compromise the quality of the NRC review. I appreciate your effort in bringing these matters to the attention of the NRC.

You declined the NRC staff's invitation to meet with or discuss your petition with our Petition Review Board (PRB), stating that all of the details concerning the issues were contained within your petition. You requested no immediate action in your petition and this has been taken into consideration in establishing a schedule for review of your petition. The PRB determined that your alternative sanction request does not fit the guidelines for consideration pursuant to 10 CFR 2.206. However, your request for enforcement action does fit those guidelines and is therefore, being considered as a petition pursuant to 10 CFR 2.206.

As provided by 10 CFR 2.206, we will take action on your request within a reasonable time. I have assigned Mr. Timothy G. Colburn to be the petition manager for your petition. Mr. Colburn can be reached at 301-415-1402. Your petition is being reviewed by the staff of the Division of Regulatory Improvement Programs and the staff of the Division of Licensing Project

D. Lochbaum

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Management within the Office of Nuclear Reactor Regulation and by the staff of the Office of Enforcement. I have enclosed for your information, a copy of the notice that is being filed with the Office of the Federal Register for publication.

Sincerely,

***/RA/***

J. E. Dyer, Director  
Office of Nuclear Reactor Regulation

Docket Nos. 50-334 and 50-412

Enclosure: *Federal Register* Notice

cc w/encl: See next page

D. Lochbaum

-2-

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J. E. Dyer, Director  
Office of Nuclear Reactor Regulation

Docket Nos. 50-334 and 50-412

Enclosure: *Federal Register* Notice

cc w/encl: See next page

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Package: ML051240059

Response and Enclosure: ML051240014

Incoming: ML051100297

OFFICE	PDI-1/PM	PDI-1/LA	PDI-1/SC	PDI/D	DLPM/D	NRR/OD
NAME	TColburn	MO'Brien (SLittle for)	RLaufer	CHolden	TMarsh (JLyons for)	JDyer
DATE	05/09/05	05/09/05	05/09/05	05/06/05	05/20/05	05/20/05

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PDI-1 R/F

LReyes

WKane

MVirgilio

JSilber

WDean

SBurns

JDyer/WBorchardt, NRR

BSheron, NRR/ADPT

OGC

KCyr, OGC

OPA

OCA

NRR Mail Room

KGrimes

LCox

CHolden

RLaufer

TColburn

SLee, EDO

DSkay

MO'Brien

SCollins, RI

CAnderson, RI

ABurritt, RI

Beaver Valley Power Station, Unit Nos. 1 and 2

cc:

Mary O'Reilly, Attorney  
FirstEnergy Nuclear Operating Company  
FirstEnergy Corporation  
76 South Main Street  
Akron, OH 44308

FirstEnergy Nuclear Operating Company  
Regulatory Affairs/Performance  
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Larry R. Freeland, Manager  
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Shippingport, PA 15077

Commissioner James R. Lewis  
West Virginia Division of Labor  
749-B, Building No. 6  
Capitol Complex  
Charleston, WV 25305

Director, Utilities Department  
Public Utilities Commission  
180 East Broad Street  
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Director, Pennsylvania Emergency  
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Harrisburg, PA 17110-9364

Ohio EPA-DERR  
ATTN: Zack A. Clayton  
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Columbus, OH 43266-0149

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

J. H. Lash, Plant Manager (BV-IPAB)  
FirstEnergy Nuclear Operating Company  
Beaver Valley Power Station  
Post Office Box 4

Shippingport, PA 15077  
Rich Janati, Chief  
Division of Nuclear Safety  
Bureau of Radiation Protection  
Department of Environmental Protection  
Rachel Carson State Office Building  
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Harrisburg, PA 17105-8469

Mayor of the Borough of Shippingport  
P O Box 3  
Shippingport, PA 15077

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

Resident Inspector  
U.S. Nuclear Regulatory Commission  
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Shippingport, PA 15077

FirstEnergy Nuclear Operating Company  
Beaver Valley Power Station  
ATTN: R. G. Mende, Director  
Work Management (BV-IPAB)  
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Mr. B. F. Sepelak  
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Mr. L. William Pearce  
Vice President  
FirstEnergy Nuclear Operating Company  
Beaver Valley Power Station  
Post Office Box 4  
Shippingport, PA 15077

U.S. NUCLEAR REGULATORY COMMISSION

DOCKET NOS. 50-334 AND 50-412

LICENSE NOS. DPR-66 AND NPF-73

FIRSTENERGY NUCLEAR OPERATING COMPANY (FENOC)

RECEIPT OF REQUEST FOR ACTION UNDER 10 CFR 2.206

Notice is hereby given that by petition dated April 12, 2005, Mr. David Lochbaum of the Union of Concerned Scientists requested that the Nuclear Regulatory Commission (NRC) take action with regard to Beaver Valley Power Station, Unit Nos. 1 and 2. The petitioner requests that the NRC take enforcement action against FENOC and impose a civil penalty of at least \$55,000.

As the basis for this request, the petitioner states that the licensee's February 9, 2005, license renewal submittal was not complete and accurate in all material respects and that this is a violation of 10 CFR 50.9, paragraph (a) which requires in part, that information provided to the Commission by a licensee shall be complete and accurate in all material respects.

The petition is being treated pursuant to 10 CFR 2.206 of the Commission's regulations. The petition has been referred to the Director of the Office of Nuclear Reactor Regulation. As provided by Section 2.206, appropriate action will be taken on this petition within a reasonable time. Mr. Lochbaum declined to meet with or participate in a telephone conference with the Petition Review Board on this matter stating that all pertinent facts were contained within his petition. Copies of the petition are available for inspection at the Commission's Public Document Room, located at One White Flint North, Public File Area O-1F21, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available records will be accessible from the

Agencywide Documents Access and Management System (ADAMS) Public Electronic Reading Room on the Internet at the NRC Web site, <http://www.nrc.gov/reading-rm/adams.html> (Accession No. ML051100297). Persons who do not have access to ADAMS, should contact the NRC PDR Reference staff by telephone at 1-800-397-4209 or 301-415-4737, or by e-mail to [pdr@nrc.gov](mailto:pdr@nrc.gov).

FOR THE NUCLEAR REGULATORY COMMISSION

*/RA/*

J. E. Dyer, Director  
Office of Nuclear Reactor Regulation

Dated at Rockville, Maryland  
this 20th day of May 2005