

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

In the Matter of)	
)	Docket Nos. 50-247 and 50-286
ENTERGY NUCLEAR OPERATIONS, INC.)	
)	License Nos. DPR-26 and DPR-64
(Indian Point Nuclear Generating Unit)	
Nos. 2 and 3))	EA-05-190

CONFIRMATORY ORDER MODIFYING LICENSE
(EFFECTIVE IMMEDIATELY)

I

Entergy Nuclear Operations, Inc. (Licensee) is the holder of Facility Operating License Nos. DPR-26 and DPR-64 issued by the Nuclear Regulatory Commission (NRC or Commission) pursuant to 10 CFR Part 50. The licenses authorize the operation of Indian Point Nuclear Generating Unit Nos. 2 and 3, in accordance with the conditions specified therein. The facilities are located on the Licensee’s site in Buchanan, New York.

II

The Energy Policy Act of 2005 (Act) (see 42 U.S.C. 2210 et seq.) was enacted on August 8, 2005. Section 651(b) of the Act states:

“For any licensed nuclear power plants located where there is a permanent population, as determined by the 2000 decennial census, in excess of 15,000,000 within a 50-mile radius of the power plant, not later than 18 months after enactment of this Act, the Commission shall require that backup power to be available for the emergency notification system of the power plant, including the emergency siren warning system, if the alternating current supply within the 10-mile emergency planning zone of the power plant is lost.”

PL 109-58, 119 Stat 594. Indian Point Nuclear Generating Unit Nos. 2 and 3 meet the criteria of the Act.

Adequate backup power for the emergency notification system (ENS), as required by Section 651(b) of the Act, requires that: (a) the backup power supply for the Public Alerting System (PAS) must meet commonly-applicable standards, such as National Fire

Protection Association (NFPA) Standard 1221, Standard for the Installation, Maintenance, and Use of Emergency Communications Systems (2002) and Underwriters Laboratory (UL) 2017, Section 58.2; (b) each PAS and PAS Alerting Appliance (PASAA) must receive adequate power to perform their intended functions such that backup power is sufficient to allow operation in standby mode for a minimum of 24 hours and in alert mode for a minimum of 15 minutes; (c) batteries used for backup power must recharge to at least 80 percent of their capacity in no less than 24 hours; (d) except for those components that are in facilities staffed on a continuous basis (24 hours per day, 7 days per week) or otherwise monitored on a continuous basis, immediate automatic indication of a loss of power must be provided to the Licensee and appropriate government agencies; and (e) except for those components that are in facilities staffed on a continuous basis (24 hours per day, 7 days per week) or otherwise monitored on a continuous basis, an automatic notification of an unplanned loss of power must be made to the Licensee in sufficient time to take compensatory action before the backup power supply can not meet the requirements of Section IV, part II. A. 2.

III

In order to carry out the statutory mandate discussed above, the Commission has determined that the operating licenses for Indian Point Nuclear Generating Unit Nos. 2 and 3 must be modified to include provisions with respect to the measures identified in Section II of this Order. The requirements needed to effectuate the foregoing are set forth in Section IV below. On January 31, 2006, the Licensee consented to the license modifications set forth in Section IV below. The Licensee further agreed in its letter dated January 31, 2006, that it has waived its right to a hearing on this Order, and, therefore, that the terms of the Order are effective upon issuance.

I find that the license modifications set forth in Section IV are acceptable and necessary, and conclude that with these provisions the Licensee will be in compliance with the intent of the

Act. Based on the above and Licensee's consent, this Order is immediately effective upon issuance.

IV

Accordingly, pursuant to Sections 104b, 161b, 161i, 161o, 182 and 186 of the Atomic Energy Act of 1954, as amended, Section 651(b) of the Energy Policy Act of 2005 (PL 109-58, 119 Stat 594), and the Commission's regulations in 10 CFR 2.202 and 10 CFR Part 50, IT IS HEREBY ORDERED, EFFECTIVE IMMEDIATELY, THAT LICENSE NOS. DPR-26 AND DPR-64 ARE MODIFIED AS FOLLOWS:

- I. The Licensee shall provide and maintain a backup power supply for the ENS for the Indian Point Nuclear Generating Unit Nos. 2 and 3, facilities. The ENS is the primary prompt notification system used to alert the public of an event at a nuclear power plant.
- II. The Licensee shall implement II.A, II.B, and II.C.1-3 by January 30, 2007. The backup power system for the ENS shall be declared operable by January 30, 2007. The backup power supply for the ENS shall include, as a minimum:

- A. 1. A backup power supply for the PAS and each PASAA which shall provide adequate power for each component to perform their design function. These functions include the following as examples: sound output, rotation, speech intelligibility, or brightness as applicable. This criterion includes the associated activation, control, monitoring, and testing components for the backup power supply to the ENS including, but not limited to: radio transceivers, testing circuits, sensors to monitor critical operating parameters of the PAS and PASAA.

The Licensee is required to meet all applicable standards, such as NFPA Standard 1221, Standard for the Installation, Maintenance, and Use of Emergency Communications Systems (2002) and UL 2017, Section 58.2;

2. The backup power supply for each PAS and PASAA shall be designed for operation in standby mode, including, but not limited to: radio transceivers, testing circuits, sensors fully operational and providing polling data to the activation, control, monitoring, and test system for at least 24 hours without AC supply power from the local electric distribution grid. The backup power supply then shall be capable of performing its intended function, without recharge, by operating the PAS and PASAA in its alerting mode at its full design capability for a period of at least 15 minutes. This sequence shall be assumed to occur at the most unfavorable environmental conditions including, but not limited to, temperature, wind, and precipitation specified for PAS and PASAA operation and assume that the batteries are approaching the end of their

design life (i.e., the ensuing recharge cycle will bring the batteries back to the minimum state that defines their design life).

3. In defining battery design life, automatic charging shall be sized such that batteries in the backup power are fully recharged to at least 80 percent of their maximum rated capacity from the fully discharged state in a period of not more than 24 hours.
 4. Battery design life and replacement frequency shall comply with vendor(s) recommendations.
 5. Except for those components that are in facilities staffed on a continuous basis (24 hours per day, 7 days per week) or otherwise monitored on a continuous basis, there shall be a feedback system(s) that provides immediate automatic indication of a loss of power to the Licensee and the appropriate government agencies, and an automatic notification of an unplanned loss of power must be made to the Licensee in sufficient time to take compensatory action before the backup power supply can not meet the requirements of Section IV, part II. A. 2.
 6. The Licensee shall implement a preventative maintenance and testing program of the ENS including, but not limited to: the equipment that activates and monitors the system, equipment that provides backup power, and the alerting device to ensure the ENS system performs to its design specifications.
- B.
1. The Licensee shall implement any new Department of Homeland Security (DHS) guidance pertaining to backup power for ENS that may affect the system requirements outlined in this Order that is issued prior to obtaining DHS approval of the alerting system design. The Licensee shall not implement any DHS guidance that reduces the effectiveness of the ENS as provided for in this Order without prior NRC approval.
 2. The Licensee shall document the evaluation of lessons learned from any evaluation of the current alert and notification system (ANS) and address resolution of identified concerns when designing the backup power system and such consideration shall be included in the design report.
 3. The final PAS design must be submitted to DHS for approval prior to May 1, 2006.
- C.
1. Within 60 days of the issuance of this Order, the Licensee shall submit a response to this Order to the NRC Document Control Desk providing a schedule of planned activities associated with the implementation of the Order including interactions with the Putnam, Rockland, Westchester, and Orange Counties, the State of New York, and DHS. In addition, the Licensee shall provide a progress report on or shortly before June 30, 2006.

2. The Licensee shall submit a proposed revision to its emergency response plan to incorporate the implementation of items A.1–A.6, B.1–B.3, and C.4–C.5. This plan shall be submitted to the NRC for review and approval within 120 days from the issuance of the Order.
 3. Prior to declaring the ENS operable, the Licensee shall, in accordance with a test plan submitted to and approved by the NRC in conjunction with the design submittal, demonstrate satisfactory performance of all (100%) of the ENS components including the ability of the backup power supply to meet its design requirements.
 4. After declaring the ENS operable, the Licensee shall conduct periodic testing to demonstrate reliable ENS system performance.
 5. The results from testing as discussed in paragraph C.4 shall be reported, in writing, to the NRC Document Control Desk, with a copy to the Director of Nuclear Reactor Regulation, documenting the results of each test, until there are 3 consecutive tests testing the operability of all ENS components used during an actual activation), conducted no sooner than 25 days and no more than 45 days from the previous test with a 97% overall entire emergency planning zone success rate with no individual county failure rate greater than 10%. A false negative report from a feedback system will constitute a siren failure for the purposes of this test.
- III. The Licensee shall submit a written report to the NRC Document Control Desk, with a copy to the Director of Nuclear Reactor Regulation, when the ENS is declared operable.
- IV. The Licensee shall submit a written report to the NRC Document Control Desk and provide a copy to the Director of Nuclear Reactor Regulation when it has achieved full compliance with the requirements contained in this Order.
- V. The Licensee may use the criteria contained in 10 CFR 50.54(q) to make changes to the requirements contained in this Order without prior NRC approval provided that they do not reduce the effectiveness of the Order requirements or the approved emergency plan. The Licensee shall notify, in writing, the NRC Document Control Desk, with a copy to the Director, Division of Preparedness and Response, Office of Nuclear Security and Incident Response, 30 days in advance of implementing such a change. For other changes, the Licensee may submit a request, in writing, to the NRC Document Control Desk, with a copy to the Director, Office of Nuclear Reactor Regulation, to relax or rescind any of the above requirements upon a showing of good cause by the Licensee.

V

Any person adversely affected by this Confirmatory Order, other than the Licensee, may request a hearing within 20 days of its issuance. Where good cause is shown, consideration will be given to extending the time to request a hearing. A request for extension of time must

be made in writing to the Director, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, and include a statement of good cause for the extension. Any request for a hearing shall be submitted to the Secretary, U.S. Nuclear Regulatory Commission, ATTN: Chief, Rulemakings and Adjudications Staff, Washington, D.C. 20555. Copies of the hearing request shall also be sent to the Director, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555; to the Assistant General Counsel for Materials Litigation and Enforcement at the same address; to the Regional Administrator, NRC Region I, U.S. NRC Region I, 475 Allendale Road, King of Prussia, PA 19406-1415; and to the Licensee, Entergy Nuclear Operations, Inc., 440 Hamilton Avenue, White Plains, NY 10601. Because of continuing disruptions in delivery of mail to United States Government offices, it is requested that answers and requests for hearing or for time extensions be transmitted to the Secretary of the Commission either by means of facsimile transmission to 301-415-1101, or by e-mail to hearingdocket@nrc.gov, and also to the Office of the General Counsel either by means of facsimile transmission to 301-415-3725 or by e-mail to OGCMailCenter@nrc.gov. If a person other than the Licensee requests a hearing, that person shall set forth with particularity the manner in which his interest is adversely affected by this Order and shall address the criteria set forth in 10 CFR 2.309.

If the hearing is requested by a person whose interest is adversely affected, the Commission will issue an Order designating the time and place of any hearing. If a hearing is held, the issue to be considered at such hearing shall be whether this Confirmatory Order should be sustained.

In the absence of any request for hearing or written approval of an extension of time in which to request a hearing, the provisions specified in Section IV above shall be final 20 days from the date of this Order without further order or proceedings. If an extension of time for requesting a hearing has been approved, the provisions specified in Section IV shall be final

when the extension expires if a hearing request has not been received. AN ANSWER OR A REQUEST FOR HEARING SHALL NOT STAY THE IMMEDIATE EFFECTIVENESS OF THIS ORDER.

FOR THE NUCLEAR REGULATORY COMMISSION

/RA/

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

Dated this 31st day of January 2006