

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

In the Matter of:	)	
	)	
CONSUMERS ENERGY COMPANY	)	
	)	
(Big Rock Point Facility)	)	Docket Nos.: 50-155
	)	72-043
	)	
	)	License No. DPR-06

ORDER APPROVING TRANSFER OF LICENSE
AND CONFORMING AMENDMENT

I.

Consumers Energy Company (Consumers) is the holder of Facility Operating License No. DPR-06, which authorizes the possession and use of the Big Rock Point site (Big Rock), and an onsite Independent Spent Fuel Storage Installation (ISFSI) under a general license, SFGL-16, granted pursuant to Title 10 of the Code of Federal Regulations (CFR), Part 72.210. Consumers is licensed by the U.S. Nuclear Regulatory Commission (NRC, the Commission) to operate the Big Rock ISFSI. The facility is located at the licensee's site in Charlevoix, Michigan. In 2006, Consumers completed decommissioning and decontamination of the majority of the land on the site. On April 3, 2006, Consumers informed the Commission of its intent to release approximately 475 acres of land from the operating license, in accordance with the Big Rock license termination plan. Consumers submitted its final status survey report on November 2006, and NRC approved the release of the land in a letter to the licensee dated January 8, 2007. The only asset remaining subject to the license is a parcel of land of

approximately 30 acres within which the ISFSI itself resides, and an additional parcel of approximately 75 acres adjacent to the ISFSI.

II.

By letter dated October 31, 2006, Consumers, Entergy Nuclear Palisades, LLC (ENP), and Entergy Nuclear Operations, Inc. (ENO) (collectively, "the applicants") submitted an application requesting approval of the direct transfer of Consumers' interest in Big Rock Facility Operating License DPR-06 and general ISFSI License No. SFGL-16 to ENP to possess and own, and ENO, to control and operate, the Big Rock ISFSI and certain additional lands.

Consumers, ENP, and ENO also requested approval of a conforming license amendment that would replace references to Consumers in the license with references to ENP and ENO to reflect the direct transfer of ownership, and revise paragraph 1.A in the license to be consistent with paragraph 2 regarding the disposition of the Facility Operating License. No physical changes to the facilities or operational changes were proposed in the application. After completion of the proposed transfer, ENP and ENO would be the owner and operator, respectively, of Big Rock and the ISFSI.

Approval of the transfer of the facility operating license and conforming license amendment is requested pursuant to 10 CFR 50.80 and 72.50. Notice of the request for approval and opportunity for a hearing were published in the *Federal Register* on January 30, 2007 (72 FR 4302-4303). A petition for leave to intervene pursuant to 10 CFR 2.309 was received from Nuclear Information and Resource Service, Do Not Waste Michigan, and Mr. Victor McManemy. The petition is under consideration by the Commission.

Pursuant to 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 Commission shall give its consent in writing. Pursuant to 10 CFR 72.50, no license or any part included in a license

issued under this part for an ISFSI shall be transferred, assigned, or in any matter disposed of, either voluntarily or involuntarily, directly or indirectly, through transfer of control of the license to any person, unless the Commission gives its consent in writing. Upon review of 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 ENP is qualified to hold the ownership interests in the facility previously held by Consumers, and ENO is qualified to hold the operating authority under the license, and that the transfers of ownership and operating interests in the facility to ENP and ENO, respectively, described in the application is otherwise consistent with applicable provisions of law, regulations, and orders issued by the Commission, subject to the condition set forth below. The NRC staff has further found that the application for the proposed license amendment 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. The facility will operate in conformity with the applications, 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 amendment can be conducted without endangering the health and safety of the public, or the environment, and that such activities will be conducted in compliance with the Commission's regulations; the issuance of the proposed license amendment will not be inimical to the common defense and security or to the health and safety of the public, or the environment; and the issuance of the proposed amendment 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 NRC's Safety Evaluation Report dated April 6, 2007.

III.

Accordingly, pursuant to Sections 161b, 161i, and 184 of the Act; 42 U.S.C. §§ 2201(b), 2201(i), and 2234; 10 CFR 50.80 and 10 CFR 72.50, IT IS HEREBY ORDERED that the direct transfer of the license, as described herein, to ENP and ENO is approved, subject to the following condition:

Prior to completion of the transfer of the license, Entergy shall provide the Directors of the Office of Nuclear Reactor Regulation and the Office of Federal and State Materials and Environmental Management Programs satisfactory documentary evidence that it has obtained the appropriate amount of insurance required of licensees under 10 CFR Part 140 of the Commission's regulations.

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

IT IS FURTHER ORDERED that ENP and ENO shall inform the Directors of the Office of Nuclear Reactor Regulation and the Office of Federal and State Materials and Environmental Management Programs in writing of the date of closing of the transfer of the Consumers interest in Big Rock to ENP and ENO, at least 1 business day prior to closing. Should the transfer of the license not be completed within one year of this Order's date of issuance, 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.

This Order is effective upon issuance.

For further details with respect to this Order, see the initial application dated October 31, 2006, and the Safety Evaluation Report dated April 6, 2007, which are available for public inspection at the Commission's Public Document Room (PDR), located at One White Flint North, Public File Area 01 F21, 11555 Rockville Pike (first floor), Rockville, Maryland and accessible electronically 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>. Persons who do not have access to ADAMS, or who encounter problems in accessing the documents located in ADAMS, should contact the NRC PDR Reference staff by telephone at 1-800-397-4209, 301-415-4737, or by e-mail to pdr@nrc.gov.

Dated at Rockville, Maryland this 6th day of April, 2007.

FOR THE NUCLEAR REGULATORY COMMISSION

/RA/

Charles L. Miller, Director
Office of Federal and State Materials
and Environmental Management Programs