

SAFETY EVALUATION BY THE OFFICE OF NUCLEAR REACTOR REGULATION

APPLICATION FOR INDIRECT TRANSFER OF FACILITY OPERATING LICENSES

DUE TO ENTERGY CORPORATION RESTRUCTURING

PILGRIM NUCLEAR POWER STATION; DOCKET NO. 50-293

INDIAN POINT NUCLEAR GENERATING UNIT NO.1; DOCKET NO. 50-003

INDIAN POINT NUCLEAR GENERATING UNIT NO. 2; DOCKET NOS. 50-247 & 72-51

INDIAN POINT NUCLEAR GENERATING UNIT NO. 3; DOCKET NO. 50-286

JAMES A. FITZPATRICK NUCLEAR POWER PLANT; DOCKET NOS. 50-333 & 72-12

VERMONT YANKEE NUCLEAR POWER STATION; DOCKET NOS. 50-271 & 72-59

PALISADES NUCLEAR PLANT; DOCKET NOS. 50-255 & 72-7

BIG ROCK POINT; DOCKET NOS. 50-155 & 72-43

1.0 INTRODUCTION

By application dated July 30, 2007 (Agencywide Documents Access and Management System (ADAMS) Accession No. ML072220219), as supplemented by letters dated October 31 (ADAMS Accession No. ML073100216) and December 5, 2007 (ADAMS Accession No. ML073440039), and January 24 (ADAMS Accession No. ML080670222), March 17 (ADAMS Accession No. ML080810285), April 22, (ADAMS Accession No. ML081230539), and May 2, 2008 (ADAMS Accession No. ML081420500), Entergy Nuclear Operations, Inc. (ENO) acting on behalf of itself and Entergy Nuclear Generation Company, Entergy Nuclear FitzPatrick, LLC, Entergy Nuclear Vermont Yankee, LLC, Entergy Nuclear Indian Point 2, LLC, Entergy Nuclear Indian Point 3, LLC, and Entergy Nuclear Palisades, LLC (together "Applicants"), pursuant to Section 184 of the Atomic Energy Act of 1954, as amended, and Title 10 of the *Code of Federal Regulations* (10 CFR) Section 50.80, "Transfer of licenses", requested that the Nuclear Regulatory Commission (NRC) consent to the indirect transfer of control of the above-captioned licenses.

The indirect transfer of control would result from certain planned restructuring transactions that will involve the creation of a new corporate holding company, Enexus Energy Corporation (Enexus), as well as changes to intermediary holding companies for the entities that hold the NRC licenses for the Pilgrim Nuclear Power Station (Pilgrim), Indian Point Nuclear Generating Unit Nos. 1, 2, and 3 (Indian Point) and its independent spent fuel storage installation (ISFSI), James A. FitzPatrick Nuclear Power Plant (FitzPatrick) and ISFSI, Vermont Yankee Nuclear Power Station (Vermont Yankee) and ISFSI, Palisades Nuclear Plant (Palisades) and ISFSI, and Big Rock Point ISFSI.

Notices of Consideration of Approval of Application Regarding Proposed Corporate Restructuring and Opportunity for a Hearing were published in the *Federal Register* (FR) on January 16, 2008 (73 FR 2948 – 2958). The letters dated January 24, March 17, April 22, and May 2, 2008, provided additional information that clarified the application and did not expand the scope of the application as originally published in the FR.

2.0 BACKGROUND

2.1 Overview

As stated in the application, Entergy Corporation (Entergy) is an integrated energy company engaged primarily in electric power production and retail distribution operations. Currently, Entergy indirectly owns and operates a number of nuclear power plants as an “electric utility” as defined in 10 CFR 50.2 where costs of generating or distributing electricity are recovered through rates established by a regulatory authority. In addition, Entergy also indirectly owns and operates a number of non-rate regulated nuclear power plants that generate electricity sold on the open market.

The licensee has proposed a separation of the non-rate regulated or non-utility nuclear business from Entergy’s regulated utility business through a tax-free spin-off of the non-utility nuclear business. Enexus will be created and will become a publicly traded nuclear-energy generating and marketing company. Enexus will own approximately 5,000 megawatts of nuclear power generation. Once the transaction is complete, Entergy’s shareholders will own 100 percent of the common equity in both Enexus and Entergy. Enexus will own the non-utility nuclear assets consisting of the Pilgrim Nuclear Power Station in Plymouth, Massachusetts, the James A. FitzPatrick Nuclear Power Plant in Oswego, New York, the Indian Point Nuclear Generating Unit Nos. 1, 2, and 3 in Buchanan, New York, the Palisades Nuclear Plant in Covert, Michigan, and the Vermont Yankee Nuclear Power Station in Vernon, Vermont. Enexus will also own various related nuclear businesses that are now part of Entergy including the ISFSIs at Big Rock Point, Indian Point, Fitzpatrick, Vermont Yankee, and Palisades.

In addition, it is proposed that Enexus and Entergy will jointly own ENO, the current NRC-licensed operator of the non-utility nuclear plants. ENO is currently a wholly owned subsidiary of Entergy. ENO, converted into a new legal form and with a new name, Equagen Nuclear LLC, will remain the operator of the non-utility plants after the restructuring.

2.2 Current Entergy Corporate Structure

Entergy is currently the indirect parent company holding 100 percent interest in the owners and 100 percent interest in the operator (i.e., ENO) of the above mentioned non-utility nuclear facilities. The following discussion provides the details of the current corporate structure.

2.2.1 Ownership of Palisades, Big Rock Point, Indian Point 1 and 2, and Vermont Yankee

Entergy Nuclear Holding Company, which is a direct subsidiary of Entergy, is the parent company of Entergy Nuclear Midwest Investment Company, LLC. Entergy Nuclear Palisades, LLC, the owner of Palisades and Big Rock Point, is a direct subsidiary of Entergy Nuclear Midwest Investment Company, LLC. Therefore, Entergy, through the above holding companies, is the indirect parent company of 100 percent of both Palisades and Big Rock Point.

Entergy Nuclear Holding Company is also the parent company of Entergy Nuclear Holding Company #3, LLC. Entergy Nuclear Indian Point 2, LLC, the owner of Indian Point 1 and 2, is a direct subsidiary of Entergy Nuclear Holding Company #3, LLC. In addition, Entergy Nuclear Vermont Yankee, LLC, the owner of Vermont Yankee, is a direct subsidiary of Entergy Nuclear Vermont Investment Company, LLC, which, in turn, is a direct subsidiary of Entergy Nuclear Holding Company #3, LLC. Therefore, Entergy, through the above holding companies, is the indirect parent company of 100 percent of Indian Point 1 and 2 and Vermont Yankee.

2.2.2 Ownership of FitzPatrick, Indian Point 3, and Pilgrim

Entergy Nuclear Holding Company #1, which is a subsidiary of Entergy (75 percent direct to Entergy and 25 percent to Entergy through Entergy Global, LLC and Entergy International Holdings LTD), is the parent company of Entergy Nuclear New York Investment Company 1. Entergy Nuclear FitzPatrick, LLC, the owner of FitzPatrick, and Entergy Nuclear Indian Point 3, LLC, the owner of Indian Point 3, are both direct subsidiaries of Entergy Nuclear New York Investment Company 1. In addition, Entergy Nuclear Generation Company, the owner of Pilgrim, is also a direct subsidiary of Entergy Nuclear Holding Company #1. Therefore, Entergy, through the above holding companies, is the indirect parent company of 100 percent of FitzPatrick, Indian Point 3, and Pilgrim.

2.2.3 Ownership of ENO

Entergy Nuclear Holding Company #2, which is a direct subsidiary of Entergy, is the parent company of ENO, the licensed operator of the non-utility nuclear facilities. Therefore, Entergy is the indirect parent company of 100 percent of ENO.

2.3 Proposed Entergy Corporate Structure

As previously discussed, Enexus Energy Corporation is being created as an independent entity. Both Entergy Nuclear Holding Company and Entergy Nuclear Holding Company #1 will become direct subsidiaries of Enexus. Therefore, Enexus will become the indirect parent company of 100 percent of the current owners. As a result of the proposed corporate restructuring, Entergy International Holdings LTD, Entergy Global, LLC, and Entergy Nuclear New York Investment Company 1 will be eliminated.

In addition, under the proposed corporate restructuring, Entergy Nuclear Holding Company #2 will be eliminated and ENO will become a direct subsidiary of a new parent company called Equagen LLC. Equagen LLC will be owned in equal shares by two new intermediate holding companies. One will be a direct subsidiary of Entergy and the other a direct subsidiary of Enexus. Entergy Equagen, Inc. is being created as a direct subsidiary of Entergy and will own 50 percent of Equagen LLC. Similarly, Enexus Equagen, LLC is being created as a direct

subsidiary of Enexus and will also own 50 percent of Equagen LLC. Accordingly, following the corporate restructuring, Entergy and Enexus will each have indirect control of 50 percent of ENO.

Finally, ENO will be converted from a corporation to a limited liability company and its name will be changed from Entergy Nuclear Operations, Inc. to Equagen Nuclear LLC. Under Delaware law, Equagen Nuclear LLC will assume all of the rights and responsibilities of ENO, and it will be the same company (legal entity) both before and after the conversion and name change. In addition, the names of other companies owned by Enexus that currently have "Entergy Nuclear" in their names will be revised to be aligned with the "Enexus" name (i.e., "Enexus Nuclear" will replace "Entergy Nuclear"). The NRC staff understands that ENO will submit requests for administrative license amendments to conform the affected licenses in the near future.

2.4 Minority Ownership

ENO has acknowledged that there is a possibility that an individual or group under common control may seek to purchase more than 5 percent of Enexus' shares and, in connection with this investment, this individual or group may potentially acquire rights in the management of the corporate affairs of Enexus. Such acquired rights may include the right to appoint one or more members of the Enexus Board of Directors. ENO recognizes that any such arrangements could have implications regarding whether such individual or group may be in a position to exert control of Enexus. Therefore, during the time that the indirect license transfer requests remain pending, ENO has volunteered to inform the NRC of any information it has that suggests that any individual or group under common control will acquire more than 5 percent of the shares of Enexus in connection with the proposed transaction.

3.0 REGULATORY FRAMEWORK

The applicants' request for approval of the indirect transfer of the licenses listed above, as discussed in this Safety Evaluation, is made pursuant to 10 CFR 50.80. Section 50.80(a) of 10 CFR states:

No license for a production or utilization facility, or any right thereunder, shall be transferred, assigned, or in any manner disposed of, either voluntarily or involuntarily, directly or indirectly, through transfer of control of the license to any person, unless the Commission shall give its consent in writing.

In addition, the requirements of 10 CFR 50.80(b) and (c) apply. Section 50.80(b) states that an application for a license transfer shall include as much information described in 10 CFR 50.33, "Contents of applications; general information," and 10 CFR 50.34, "Contents of applications; technical information," "with respect to the identity and technical and financial qualifications of the proposed transferee as would be required by those sections if the application were for an initial license." Section 50.80(c) states that "the Commission will approve an application for the transfer of a license, if the Commission determines: (1) that the proposed transferee is qualified to be the holder of the license; and (2) that the transfer of the license is otherwise consistent with applicable provisions of law, regulations, and orders issued by the Commission pursuant thereto." For indirect license transfers, the Commission has held, with respect to the first determination, that it will approve an application if the Commission determines that the

proposed indirect transfer of control of the license will not affect the qualifications of the licensee to hold the license.

4.0 FINANCIAL QUALIFICATIONS

In analyzing indirect transfers, the staff must assess whether the underlying transaction that will result in the indirect transfers will affect the financial qualifications of the holders of the licenses. The applicable financial qualification requirements are found in 10 CFR 50.33(f), which provides each application shall state “Except for an electric utility applicant for a license to operate a utilization facility of the type described in §50.21(b) or §50.22, information sufficient to demonstrate to the Commission the financial qualification[s] of the applicant to carry out, in accordance with the regulations in this chapter, the activities for which the permit or license is sought.”

Section 50.2, “Definitions,” of 10 CFR defines an electric utility as “any entity that generates or distributes electricity and which recovers the cost of this electricity, either directly or indirectly, through rates established by the entity itself or by a separate regulatory authority.”

4.0.1 Entergy Nuclear Generating Company - Pilgrim Nuclear Power Station

The application does not assert that Entergy Nuclear Generation Company, owner of the Pilgrim Nuclear Power Station, is an “electric utility” as defined in 10 CFR Section 50.2. Thus, Entergy Nuclear Generation Company must meet the financial qualifications requirements for a non-electric utility pursuant to 10 CFR 50.33(f). Accordingly, Entergy Nuclear Generation Company must provide information that demonstrates that, notwithstanding the indirect transfer of control, it possesses or has reasonable assurance of obtaining the necessary funds to cover estimated operating costs for the period of the license. In this regard, the applicant shall submit estimates for the total annual operating costs for each of the first 5 years of the facility operations following the proposed license transfer and indicate the source(s) of funds to cover these costs. Also, 10 CFR 50.33(k)(1) requires that Entergy Nuclear Generation Company provide information described in 10 CFR 50.75 indicating that there is reasonable assurance that funds will be available to decommission the facility.

According to the application, Entergy Nuclear Generation Company will continue to possess, or have reasonable assurance of obtaining the funds necessary to cover the estimated operating costs of the Pilgrim facility for the period of the license in accordance with 10 CFR 50.33(f)(2) and the Standard Review Plan on Power Reactor Licensee Financial Qualifications and Decommissioning Funding Assurance (NUREG-1577, Rev. 1).

The following is a summary of the projected income statement for Entergy Nuclear Generation Company submitted in the application.

ENTERGY NUCLEAR GENERATION COMPANY
SUMMARY OF PROJECTED INCOME STATEMENT
(In \$millions)

	<u>FY2008</u>	<u>FY2009</u>	<u>FY2010</u>	<u>FY2011</u>	<u>FY2012</u>
TOTAL REVENUE:	\$	\$	\$	\$	\$
Total O & M Expenses:	\$	\$	\$	\$	\$
Operating Income:	\$	\$	\$	\$	\$
Taxes & Other Income:	(\$)	(\$)	(\$)	(\$)	(\$)
NET INCOME:	\$	\$	\$	\$	\$

The NRC staff reviewed the information contained in the application and concludes that the assumptions and supporting data supplied as the basis for this Summary of Projected Income Statement appear to be reasonable. In addition, the NRC staff conducted two scenario analyses assuming a 10-percent decrease in the price of a megawatt-hour (MW-hr) of electricity, and separately, a 10-percent reduction in forecast capacity.

The NRC staff found that a 10-percent reduction in the price of electricity would reduce the average annual net income after taxes by \$ million. A 10-percent reduction in forecast capacity would reduce the average annual net income after taxes by \$ million. The staff finds that the potential reduction in revenue would still result in sufficient revenue to cover anticipated operating and maintenance expenses for Pilgrim.

Based upon the revenues and expenses provided above, the NRC staff finds that Entergy Nuclear Generation Company's anticipated revenues will exceed its anticipated operating and maintenance expenses for the Pilgrim facility during the 5-year period.

4.0.2 Entergy Nuclear Indian Point 2, LLC - Indian Point Nuclear Generating Unit No. 1
- Indian Point Nuclear Generating Unit No. 2
- Indian Point ISFSI

The application does not assert that Entergy Nuclear Indian Point 2, LLC, owner of the Indian Point Nuclear Generating Unit Nos. 1 and 2, is an "electric utility" as defined in 10 CFR 50.2. Thus, Entergy Nuclear Indian Point 2, LLC must meet the financial qualifications requirements for a non-electric utility pursuant to 10 CFR 50.33(f). Accordingly, Entergy Nuclear Indian Point 2, LLC must provide information that demonstrates that, notwithstanding the indirect transfer of control, it possesses or has reasonable assurance of obtaining the necessary funds to cover estimated operating costs for the period of the licenses. In this regard, the applicant shall submit estimates for the total annual operating costs for each of the first 5 years of the facility operations following the proposed license transfer and indicate the source(s) of funds to cover these costs. Also, 10 CFR 50.33(k)(1) requires that Entergy Nuclear Indian Point 2, LLC provide information described in 10 CFR 50.75 indicating that there is reasonable assurance that funds will be available to decommission the facility.

According to the application, Entergy Nuclear Indian Point 2, LLC will continue to possess, or have reasonable assurance of obtaining the funds necessary to cover the estimated operating and maintenance costs of the Indian Point Nuclear Generating Unit Nos. 1 and 2 for the period of the licenses in accordance with 10 CFR 50.33(f)(2) and the Standard Review Plan on Power Reactor Licensee Financial Qualifications and Decommissioning Funding Assurance (NUREG-1577, Rev. 1). The NRC staff notes that Entergy Nuclear Indian Point 2, LLC is the holder of a general license for the Indian Point ISFSI under 10 CFR 72.210.

The following is a summary of the projected income statement for Entergy Nuclear Indian Point 2, LLC submitted in the application. Costs associated with the ISFSI are included in the operating and maintenance expenses.

ENTERGY NUCLEAR INDIAN POINT 2, LLC
SUMMARY OF PROJECTED INCOME STATEMENT
(In \$millions)

	<u>FY2008</u>	<u>FY2009</u>	<u>FY2010</u>	<u>FY2011</u>	<u>FY2012</u>
TOTAL REVENUE:	\$	\$	\$	\$	\$
Total O & M Expenses:	\$	\$	\$	\$	\$
Operating Income:	\$	\$	\$	\$	\$
Taxes & Other Income:	(\$)	(\$)	(\$)	(\$)	(\$)
NET INCOME:	\$	\$	\$	\$	\$

Entergy Nuclear Indian Point 2, LLC, is also the license holder of Indian Point Nuclear Generating Unit No. 1, which is presently in SAFSTOR and will complete decommissioning at the time that Indian Point Nuclear Generating Unit No. 2, undergoes decommissioning. The NRC staff notes that in the Summary of Projected Income Statement for Entergy Nuclear Indian Point 2, LLC, Total Operating and Maintenance Expenses includes the expenses for maintaining Indian Point Nuclear Generating Unit No. 1 in SAFSTOR. The application states that \$ million is dedicated towards Indian Point Nuclear Generating Unit No. 1 SAFSTOR expenses in 2008, and that \$ million, \$ million, \$ million, and \$ million, will be expensed in years 2009 through 2012, respectively.

The NRC staff reviewed the information contained in the application and concludes that the assumptions and supporting data supplied as the basis for this Summary Projected Income Statement appear to be reasonable. In addition, the NRC staff conducted two scenario analyses assuming a 10-percent decrease in the price of an MW-hr of electricity, and separately, a 10-percent reduction in forecast capacity.

The NRC staff found that a 10-percent reduction in the price of electricity would reduce the average annual net income after taxes by \$ million. A 10-percent reduction in forecast capacity would reduce the average annual net income after taxes by \$ million. The staff finds that the potential reduction in revenue would still result in sufficient revenue to cover anticipated operating and maintenance expenses for Indian Point Nuclear Generating Unit No. 2, and maintenance expenses for Indian Point Nuclear Generating Unit No. 1 and the ISFSI.

Based upon the revenues and expenses provided above, the NRC staff finds that Entergy Nuclear Indian Point 2, LLC's anticipated revenues will exceed its anticipated operating and maintenance expenses, for Indian Point Nuclear Generating Unit No. 2, and for Indian Point Nuclear Generating Unit No. 1, during the 5-year period.

4.0.3 Entergy Nuclear Indian Point 3, LLC – Indian Point Nuclear Generating Unit No. 3

The application does not assert that Entergy Nuclear Indian Point 3, LLC, owner of the Indian Point Nuclear Generating Unit No. 3, is an "electric utility" as defined in 10 CFR 50.2. Thus, Entergy Nuclear Indian Point 3, LLC must meet the financial qualifications requirements for a non-electric utility pursuant to 10 CFR 50.33(f). Accordingly, Entergy Nuclear Indian Point 3, LLC must provide information that demonstrates that, notwithstanding the indirect transfer of control, it possesses or has reasonable assurance of obtaining the necessary funds to cover estimated operating costs for the period of the licenses. In this regard, the applicant shall submit estimates for the total annual operating costs for each of the first 5 years of the facility operations following the proposed license transfer and indicate the source(s) of funds to cover these costs. Also, 10 CFR 50.33(k)(1) requires that Entergy Nuclear Indian Point 3, LLC provide information described in 10 CFR 50.75 indicating that there is reasonable assurance that funds will be available to decommission the facility.

According to the application, Entergy Nuclear Indian Point 3, LLC will continue to possess, or have reasonable assurance of obtaining the funds necessary to cover the estimated operating costs of the Indian Point Nuclear Generating Unit No. 3 for the period of the license in accordance with 10 CFR 50.33(f)(2) and the Standard Review Plan on Power Reactor Licensee Financial Qualifications and Decommissioning Funding Assurance (NUREG-1577, Rev. 1).

The following is a summary of the projected income statement for Entergy Nuclear Indian Point 3, LLC submitted in the application.

ENTERGY NUCLEAR INDIAN POINT 3, LLC
SUMMARY OF PROJECTED INCOME STATEMENT
(In \$millions)

	<u>FY2008</u>	<u>FY2009</u>	<u>FY2010</u>	<u>FY2011</u>	<u>FY2012</u>
TOTAL REVENUE:	\$	\$	\$	\$	\$
Total O & M Expenses:	\$	\$	\$	\$	\$
Operating Income:	\$	\$	\$	\$	\$
Taxes & Other Income:	(\$)	(\$)	(\$)	(\$)	(\$)
NET INCOME:	\$	\$	\$	\$	\$

The NRC staff reviewed the information contained in the application and concludes that the assumptions and supporting data supplied as the basis for this Summary Projected Income Statement appear to be reasonable. In addition, the NRC staff conducted two scenario

analyses assuming a 10-percent decrease in the price of a MW-hr of electricity, and separately, a 10-percent reduction in forecast capacity.

The NRC staff found that a 10-percent reduction in the price of electricity would reduce the average annual net income after taxes by \$ million. A 10-percent reduction in forecast capacity would reduce the average annual net income after taxes by \$ million. The staff finds that the potential reduction in revenue would still result in sufficient revenue to cover anticipated operating and maintenance expenses for Indian Point Nuclear Generating Unit No. 3.

Based upon the revenues and expenses provided above, the NRC staff finds that Entergy Nuclear Indian Point 3, LLC's anticipated revenues will exceed its anticipated operating and maintenance expenses, for Indian Point Nuclear Generating Unit No. 3 during the 5-year period.

4.0.4 Entergy Nuclear FitzPatrick, LLC - James A. FitzPatrick Nuclear Power Plant James A. FitzPatrick Nuclear Power Plant ISFSI

The application does not assert that Entergy Nuclear FitzPatrick, LLC, owner of the FitzPatrick facility, is an "electric utility" as defined in 10 CFR 50.2. Thus, Entergy Nuclear FitzPatrick, LLC must meet the financial qualifications requirements for a non-electric utility pursuant to 10 CFR 50.33(f). Accordingly, Entergy Nuclear FitzPatrick, LLC must provide information that demonstrates that, notwithstanding the indirect transfer of control, it possesses or has reasonable assurance of obtaining the necessary funds to cover estimated operating costs for the period of the licenses. In this regard, the applicant shall submit estimates for the total annual operating costs for each of the first 5 years of the facility operations following the proposed license transfer and indicate the source(s) of funds to cover these costs. Also, 10 CFR 50.33(k)(1) requires that Entergy Nuclear FitzPatrick, LLC provide information described in 10 CFR 50.75 indicating that there is reasonable assurance that funds will be available to decommission the facility.

According to the application, Entergy Nuclear FitzPatrick, LLC will continue to possess, or have reasonable assurance of obtaining the funds necessary to cover the estimated operating costs of the FitzPatrick facility for the period of the license in accordance with 10 CFR 50.33(f)(2) and the Standard Review Plan on Power Reactor Licensee Financial Qualifications and Decommissioning Funding Assurance (NUREG-1577, Rev. 1). The NRC staff notes that Entergy Nuclear FitzPatrick, LLC is the holder of a general license for the FitzPatrick ISFSI, under 10 CFR 72.210.

The following is a summary of the projected income statement for Entergy Nuclear FitzPatrick, LLC submitted in the application. Costs associated with the ISFSI are included in the operating and maintenance expenses.

ENTERGY NUCLEAR FITZPATRICK, LLC
SUMMARY OF PROJECTED INCOME STATEMENT
(In \$millions)

	<u>FY2008</u>	<u>FY2009</u>	<u>FY2010</u>	<u>FY2011</u>	<u>FY2012</u>
TOTAL REVENUE:	\$	\$	\$	\$	\$
Total O & M Expenses:	\$	\$	\$	\$	\$
Operating Income:	\$	\$	\$	\$	\$
Taxes & Other Income:	(\$)	(\$)	(\$)	(\$)	(\$)
NET INCOME:	\$	\$	\$	\$	\$

The NRC staff reviewed the information contained in the application and concludes that the assumptions and supporting data supplied as the basis for this Summary of Projected Income Statement appear to be reasonable. In addition, the NRC staff conducted two scenario analyses assuming a 10-percent decrease in the price of a MWhr of electricity, and separately, a 10-percent reduction in forecast capacity.

The NRC staff found that a 10-percent reduction in the price of electricity would reduce the average annual net income after taxes by \$ million. A 10-percent reduction in forecast capacity would reduce the average annual net income after taxes by \$ million. The staff finds that the potential reduction in revenue would still result in sufficient revenue to cover anticipated operating and maintenance expenses for FitzPatrick.

Based upon the revenues and expenses provided above, the NRC staff finds that Entergy Nuclear FitzPatrick, LLC's anticipated revenues will exceed its anticipated operating and maintenance expenses, for the FitzPatrick facility during the 5-year period.

4.0.5 Entergy Nuclear Vermont Yankee, LLC - Vermont Yankee Nuclear Power Station
- Vermont Yankee Nuclear Power Station ISFSI

The application does not assert that Entergy Nuclear Vermont Yankee, LLC, owner of the Vermont Yankee facility, is an "electric utility" as defined in 10 CFR 50.2. Thus, Entergy Nuclear Vermont Yankee, LLC must meet the financial qualifications requirements for a non-electric utility pursuant to 10 CFR 50.33(f). Accordingly, Entergy Nuclear Vermont Yankee, LLC must provide information that demonstrates that, notwithstanding the indirect transfer of control, it possesses or has reasonable assurance of obtaining the necessary funds to cover estimated operating costs for the period of the license. In this regard, the applicant shall submit estimates for the total annual operating costs for each of the first 5 years of the facility operations following the proposed license transfer and indicate the source(s) of funds to cover these costs. Also, 10 CFR 50.33(k)(1) requires that Entergy Nuclear Vermont Yankee, LLC provide information described in 10 CFR 50.75 indicating that there is reasonable assurance that funds will be available to decommission the facility.

According to the application, Entergy Nuclear Vermont Yankee, LLC will continue to possess, or have reasonable assurance of obtaining the funds necessary to cover the estimated operating costs of the Vermont Yankee facility for the period of the license in accordance with 10 CFR 50.33(f)(2) and the Standard Review Plan on Power Reactor Licensee Financial Qualifications and Decommissioning Funding Assurance (NUREG-1577, Rev. 1). The NRC staff notes that Entergy Nuclear Vermont Yankee, LLC is the holder of a general license for the Vermont Yankee ISFSI, under 10 CFR 72.210.

The following is a summary of the projected income statement for Entergy Nuclear Vermont Yankee, LLC submitted in the application. Costs associated with the ISFSI are included in the operating and maintenance expenses.

ENTERGY NUCLEAR VERMONT YANKEE, LLC
SUMMARY OF PROJECTED INCOME STATEMENT
(In \$millions)

	<u>FY2008</u>	<u>FY2009</u>	<u>FY2010</u>	<u>FY2011</u>	<u>FY2012</u>
TOTAL REVENUE:	\$	\$	\$	\$	\$
Total O& M Expenses:	\$	\$	\$	\$	\$
Operating Income:	(\$)	(\$)	(\$)	(\$)	(\$)
Taxes & Other Income:	\$	\$	\$	\$	\$
NET INCOME:	(\$)	(\$)	(\$)	(\$)	(\$)

The negative net income reflects a number of non-cash items such as depreciation and decommissioning charges, as well as expenses for operations and maintenance. However, according to the application, a positive cash flow, which does not take into account non-cash items, is expected to be generated during the 2008 thru 2012 timeframe. In addition, Entergy Nuclear Vermont Yankee, LLC, will have access to funds from its ultimate parent company, Enexus, which is executing a Support Agreement in connection with the proposed corporate restructuring, discussed in greater detail in Section 4.0.8. In 2012, Entergy Nuclear Vermont Yankee, LLC's net income is projected to turn positive upon the expiration of an existing "below market" long-term power purchase agreement. The Power Purchase Agreement became effective on July 31, 2002, and will expire on March 21, 2012.

The NRC staff reviewed the information contained in the application and concludes that the assumptions and supporting data supplied as the basis for this Summary of Projected Income Statement appear to be reasonable. In addition, the NRC staff conducted two scenario analyses assuming a 10-percent decrease in the price of a MWhr of electricity, and separately, a 10-percent reduction in forecast capacity.

The NRC staff conducted two sensitivity analyses, and found that a 10-percent reduction in the price of electricity would reduce the average annual net income after taxes by an additional \$ million. A 10-percent reduction in forecast capacity would further reduce the average annual net income after taxes by \$ million. The NRC staff uses these sensitivity analyses to determine whether there is reasonable assurance of financial qualification if further erosion in

total revenue were to occur. Based on the Projected Income Statement above, Entergy Nuclear Vermont Yankee, LLC, would not have demonstrated its financial qualifications under 10 CFR 50.33(f) without the assurance provided by the Support Agreement discussed in Section 4.0.8 in this Safety Evaluation. The Support Agreement will provide Entergy Nuclear Vermont Yankee, LLC with the funds necessary to cover any shortfall in net income, and therefore Entergy Nuclear Vermont Yankee, LLC has demonstrated that it is financially qualified to hold the license, notwithstanding the proposed restructuring. The NRC staff finds that if total revenue is reduced as described in the sensitivity analyses, the Support Agreement will provide sufficient funds to cover anticipated operating and maintenance expenses for the Vermont Yankee Nuclear Power Station and ISFSI.

Based upon the revenues and expenses discussed above, the NRC staff finds that Entergy Nuclear Vermont Yankee, LLC's anticipated revenues, along with funds supplied through a support agreement with Enexus, will meet its anticipated operating and maintenance expenses for the Vermont Yankee facility during the 5-year period.

4.0.6 Entergy Nuclear Palisades, LLC - Palisades Nuclear Plant
- Palisades Nuclear Plant ISFSI
- Big Rock Point ISFSI

The application does not assert that Entergy Nuclear Palisades, LLC, owner of the Palisades facility, is an "electric utility" as defined in 10 CFR 50.2. Thus, Entergy Nuclear Palisades, LLC must meet the financial qualifications requirements for a non-electric utility pursuant to 10 CFR 50.33(f). Accordingly, Entergy Nuclear Palisades, LLC must provide information that demonstrates that, notwithstanding the indirect transfer of control, it possesses or has reasonable assurance of obtaining the necessary funds to cover estimated operating costs for the period of the licenses. In this regard, the applicant shall submit estimates for the total annual operating costs for each of the first 5 years of the facility operations following the proposed license transfer and indicate the source(s) of funds to cover these costs. Also, 10 CFR 50.33(k)(1) requires that Entergy Nuclear Palisades, LLC provide information described in 10 CFR 50.75 indicating that there is reasonable assurance that funds will be available to decommission the facility.

According to the application, Entergy Nuclear Palisades, LLC will continue to possess, or have reasonable assurance of obtaining the funds necessary to cover the estimated operating costs of Palisades for the period of the license in accordance with 10 CFR 50.33(f)(2) and the Standard Review Plan on Power Reactor Licensee Financial Qualifications and Decommissioning Funding Assurance (NUREG-1577, Rev. 1).

Entergy Nuclear Palisades, LLC is the holder of a general license for the Palisades ISFSI under 10 CFR 72.210. In addition, Entergy Nuclear Palisades, LLC is also the holder of the Part 50 license for Big Rock Point and a general license for the Big Rock Point ISFSI under 10 CFR 72.210.

The following is a summary of the projected income statement for Entergy Nuclear Palisades, LLC submitted in the application. Costs associated with both ISFSI's are included in the operating and maintenance expenses listed.

ENTERGY NUCLEAR PALISADES, LLC
SUMMARY OF PROJECTED INCOME STATEMENT
(In \$millions)

	<u>FY2008</u>	<u>FY2009</u>	<u>FY2010</u>	<u>FY2011</u>	<u>FY2012</u>
TOTAL REVENUE:	\$	\$	\$	\$	\$
Total O& M Expenses:	\$	\$	\$	\$	\$
Operating Income:	\$	\$	\$	\$	(\$)
Taxes & Other Income:	(\$)	(\$)	(\$)	(\$)	\$
NET INCOME:	\$	\$	\$	\$	(\$)

The NRC staff reviewed the information contained in the application and concludes that the assumptions and supporting data supplied as the basis for this Summary of Projected Income Statement appear to be reasonable. In addition, the NRC staff conducted two scenario analyses assuming a 10-percent decrease in the price of a MW-hr of electricity, and separately, a 10-percent reduction in forecast capacity.

The NRC staff found that a 10-percent reduction in the price of electricity would reduce the average annual net income after taxes by \$ million. A 10-percent reduction in forecast capacity would reduce the average annual net income after taxes by \$ million. The staff finds that the potential reduction in revenue would still result in sufficient revenue to cover anticipated operating and maintenance expenses for the Palisades facility, the Palisades ISFSI, and the Big Rock Point ISFSI.

Based upon the revenues and expenses provided above, the NRC staff finds that Entergy Nuclear Palisades, LLC's anticipated revenues will exceed its anticipated operating and maintenance expenses for the Palisades facility and the two ISFSIs during the 5-year period.

4.0.7 Entergy Nuclear Operations, Inc.

ENO will remain the licensed operator of the facilities listed above, and will be owned by a parent company, Equagen LLC, which in turn will be indirectly owned in equal 50 percent shares by Entergy Corporation and Enexus. Each of these 50 percent interests will be held by wholly owned subsidiaries of Entergy Corporation and Enexus. These companies are Entergy Equagen, Inc. and Enexus Equagen, LLC, respectively. Under the existing operating agreements and any amended operating agreement with the individual plant owners, ENO will operate and make capital improvements at the plants in accordance with the operating licenses and applicable laws and regulatory requirements.

ENO will receive the revenue necessary to operate and maintain all the facilities, including decommissioning funds to pay for such expenses, from the entities licensed to own the facilities pursuant to current operating agreements and intra-corporate arrangements. Thus, ENO will rely upon the financial qualifications of the licensed owners of the facilities, because these entities will be financially responsible for the operation and decommissioning of the units. To the extent the owners' financial qualifications will not be affected by the proposed restructuring,

ENO's financial qualifications will not be affected. The application states that any changes to the existing arrangements and any new agreements are expected to be consistent with current arrangements. Any new agreements will be made available for inspection by NRC.

4.0.8 Enexus Energy Corporation

During the course of the staff's review, the proposed corporate restructuring along with the proposed names of the holding companies underwent significant changes. The name Enexus Energy Corporation should be substituted for the name Entergy Nuclear Finance Holding, LLC for all purposes where Entergy Nuclear Finance Holding, LLC is discussed in the application of July 30, 2007. In addition, the name Enexus Energy Corporation should be substituted for the name NewCo for all purposes where NewCo is discussed in the supplemental letter dated December 5, 2007, along with subsequent supplemental letters.

Enexus will execute a single Financial Support Agreement with the applicants, including each of the entities licensed to own the facilities, in the total amount of \$700 million, to pay for the operating costs for all six operating facilities and associated ISFSIs. In addition, as stated in the application, Enexus is expected to have access to a line of credit of at least \$1 billion, which provides additional assurance of its ability, on an ongoing basis, to provide funds for the licensed entities. Therefore, the order approving the transfer will be conditioned as follows:

- 1.) ENIP2 and ENIP3 shall enter into the \$700 million Support Agreement with Enexus Energy Corporation as described in the application, no later than the time the proposed transactions and indirect license transfer occurs. ENIP2 and ENIP3 shall take no action to cause Enexus Energy Corporation, or its successors and assigns, to void, cancel, or modify the Support Agreement or cause it to fail to perform, or impair its performance under the Support Agreement, without prior written consent of the NRC. The Support Agreement may not be amended or modified without 30 days prior written notice to the Director of the Office of Nuclear Reactor Regulation or his designee. An executed copy of the Support Agreement shall be submitted to the NRC no later than 30 days after the completion of the proposed transactions and the indirect license transfer. ENIP2 and ENIP3 shall inform the NRC in writing anytime it draws upon the Support Agreement.

- 2.) The ten separate support guarantees from various Entergy subsidiaries which total \$315 million may be revoked when, and conditioned upon, implementation of the new \$700 million Support Agreement at the time the proposed restructuring and indirect license transfer are completed.

The following is a summary of the projected income statement for Enexus submitted in the application.

ENEXUS
SUMMARY OF PROJECTED INCOME STATEMENT

(In \$millions)

	<u>FY2008</u>	<u>FY2009</u>	<u>FY2010</u>	<u>FY2011</u>	<u>FY2012</u>
TOTAL REVENUE:	\$	\$	\$	\$	\$
Total O& M Expenses:	\$	\$	\$	\$	\$
Operating Income:	\$	\$	\$	\$	\$
Taxes & Other Income:	(\$)	(\$)	(\$)	(\$)	(\$)
NET INCOME:	\$	\$	\$	\$	\$

Pursuant to the Financial Support Agreement, the licensed owners will have access to funds sufficient to pay the fixed operating and maintenance expenses in the event of any unanticipated plant shutdowns, or shortfalls in revenue.

According to the application, Enexus will make up to an aggregate amount of \$700 million in funding available to any and all of the Applicants to meet their obligations to the NRC relating to the facilities. This arrangement replaces the prior support agreements under which funds were available to each licensed owner individually in limited amounts.

The prior arrangements for financial support of the licensed entities consisted of ten separate guarantees from various Entergy subsidiaries which totaled \$315 million. Under the new Support Agreement, created in connection with the proposed indirect license transfers, the licensed entities will have access to up to an aggregate total of \$700 million, to the extent not previously utilized, for any single plant's operating expenses or for multiple plant operating expenses should circumstances necessitate access to such funds.

The applicants are requesting NRC's prior written approval of the revocation of the prior arrangements through NRC's approval of the new Support Agreement, which rescinds the prior arrangements under the terms of Section 7 of the Support Agreement. The NRC staff finds the revocation of the prior arrangements to be acceptable, conditioned upon implementation of the new Support Agreement at the time the proposed restructuring and indirect license transfers are completed. This condition has been expressly incorporated into the Order approving the proposed restructuring and indirect transfer of the subject licenses.

4.1 Conclusion of Financial Qualifications

In consideration of the foregoing, the NRC staff has determined that the financial qualifications of the holders of the licenses for the subject units and ISFSIs will not be adversely affected by the proposed restructuring and indirect license transfers.

5.0 DECOMMISSIONING FUNDING ASSURANCE

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), as determined to be acceptable by the NRC. The NRC has determined that the requirement to provide reasonable assurance of decommissioning funding is necessary to ensure the adequate protection of public health and safety.

According to the application, the entities that will remain as owners after the proposed corporate restructuring will continue to provide decommissioning funding assurance in accordance with 10 CFR 50.75(e)(1). Details regarding the status of the decommissioning funding assurance maintained by the licensees for the facilities were provided in the March 29, 2007, decommissioning funding status report submitted by ENO in accordance with 10 CFR 50.75(f) for all of its plants (except for Palisades and Big Rock Point, which were not operated by ENO at that time). This report was found by the NRC staff to demonstrate that there was reasonable assurance of adequate decommissioning funding assurance as of December 31, 2006, for Pilgrim Nuclear Power Station, Indian Point Nuclear Generating Unit Nos. 1, 2, and 3, James A. FitzPatrick Nuclear Power Plant, and the Vermont Yankee Nuclear Power Station. The decommissioning funds are maintained in external trusts, outside of the licensee's administrative control in accordance with the requirements of 10 CFR 50.75(e)(1)(i). As the proposed corporate restructuring will result in the indirect transfer of control of the licensees only within the Entergy Corporation corporate structure as outlined before, the methods for maintaining decommissioning funding assurance that existed before the indirect transfer are expected to remain the same after the indirect transfer.

With respect to Palisades, the trust fund balance as of April 30, 2007, was approximately \$252.9 million. The existing trust fund balances, maintained by Entergy Nuclear Palisades, LLC as assets in an external trust fund segregated from the licensee's other assets and administrative control, provide decommissioning funding assurance in accordance with the requirements of 10 CFR 50.75(e)(1)(i). The previous owner of the Palisades Nuclear Plant was Consumers Energy. The ownership transfer of Palisades Nuclear Plant to Entergy Nuclear Palisades, LLC took place after the December 31, 2006, closing date for the period required for Biennial Decommissioning Funding Reports under 10 CFR 50.75(f). Thus, the Palisades trust fund was not included in ENO's decommissioning funding status report

With respect to Big Rock Point, the NRC acknowledged in its recent approval of the transfer of this facility to Entergy Nuclear Palisades, LLC that NRC has approved the release of most of the Big Rock Point site, and that the remaining decommissioning obligation for the decommissioning of the ISFSI is approximately \$2.8 million. At the time of the transfer of Big Rock Point from Consumers Energy to Entergy Nuclear Palisades, LLC, Entergy Corporation committed to provide a Parent Company Guarantee of \$5 million. According to the application, prior to this indirect transfer of the Big Rock Point license, the Parent Company Guarantee will be terminated and replaced by an alternative financial assurance mechanism acceptable under the terms of 10 CFR 50.75(e)(1). The transfer Order for Big Rock Point will contain the following condition relating to decommissioning funding:

The Parent Company Guarantee may be terminated when, and conditioned upon, replacement with an alternative financial assurance mechanism that is acceptable under the terms of 10 CFR 50.75(e)(1) at the time the proposed restructuring and indirect license transfer are completed.

Other than the changes to the Parent Company Guarantee for Big Rock Point described above, the Applicants do not anticipate any changes in the existing decommissioning funding assurance in connection with the proposed indirect transfers of control. Applicants also do not anticipate any changes or amendments to any nuclear decommissioning trust fund agreements. In addition, any existing NRC license conditions governing these trust agreements will remain in effect and unchanged.

In consideration of the above, the NRC staff finds the proposed restructuring and indirect license transfers will not affect the provisions of adequate decommissioning funding assurance.

6.0 ANTITRUST REVIEW

The Atomic Energy Act of 1954 as amended 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). The application here postdates the issuance of the operating licenses for units under consideration in this Safety Evaluation, and therefore, no antitrust review is required or authorized.

7.0 FOREIGN OWNERSHIP, CONTROL, OR DOMINATION

Sections 103d and 104d of the Atomic Energy Act of 1954 as amended, prohibit the NRC 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 NRC’s regulation, 10 CFR 50.38, “Ineligibility of certain applicants,” contains language to implement this prohibition.

The current and proposed directors and executive officers of Enexus and the Enexus subsidiaries that will directly or indirectly own the licensees as a result of the proposed restructuring are United States citizens. Existing shareholders of Entergy Corporation will exchange some of their Entergy shares for Enexus shares, thus the existing shareholders immediately before the exchange will be the same shareholders immediately after the exchange. Enexus will be a 50-percent indirect owner of ENO, the licensed operator for eight Part 50 licenses, through its wholly owned subsidiary Enexus Equagen, LLC, which will own the 50-percent share of Equagen LLC. Equagen LLC will be the parent company of ENO.

Enexus will establish two direct wholly owned subsidiaries, Entergy Nuclear Holding Company, and Entergy Nuclear Holding Company #1. Entergy Nuclear Holding Company will be the direct owner of Entergy Nuclear Holding Co. #3, LLC, which will be the direct owner of Entergy Nuclear Indian Point 2, LLC, the licensed owner of Indian Point Nuclear Generating Unit Nos. 1 and 2. Entergy Nuclear Holding Co. #3, LLC will be the direct owner of Entergy Nuclear Vermont Investment Co., LLC, which will be the direct owner of Entergy Nuclear Vermont Yankee, LLC, the licensed owner of Vermont Yankee.

Entergy Nuclear Holding Company’s other directly wholly owned subsidiary will be Entergy Nuclear Midwest Investment Co., LLC, which owns Entergy Nuclear Palisades, LLC, the licensed owner of Palisades and Big Rock Point.

Entergy Nuclear Holding Company #1, will control Entergy Nuclear Generating Company, the licensed owner of Pilgrim; Entergy Nuclear FitzPatrick, LLC, the licensed owner of FitzPatrick; and Entergy Nuclear Indian Point 3, LLC, the licensed owner of Indian Point Nuclear Generating Unit No. 3.

The NRC staff does not know or have reason to believe that the current licensees will be owned, controlled, or dominated by any alien, foreign corporation, or foreign government, within the meaning of the Atomic Energy Act of 1954, as amended, by reason of the proposed restructuring.

8.0 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 will continue to reflect that the licensees, Entergy Nuclear Operations, Inc., Entergy Nuclear Generation Company, Entergy Nuclear FitzPatrick, LLC, Entergy Nuclear Vermont Yankee, LLC, Entergy Nuclear Indian Point 2, LLC, Entergy Nuclear Indian Point 3, LLC, and Entergy Nuclear Palisades, LLC, will remain the licensees after the proposed restructuring takes affect.

In accordance with the Price-Anderson Act, Entergy Nuclear Operations, Inc., Entergy Nuclear Generation Company, Entergy Nuclear FitzPatrick, LLC, Entergy Nuclear Vermont Yankee, LLC, Entergy Nuclear Indian Point 2, LLC, Entergy Nuclear Indian Point 3, LLC, and Entergy Nuclear Palisades, LLC, will be required to continue providing primary insurance after the proposed restructuring. Entergy Nuclear Operations, Inc., Entergy Nuclear Generation Company, Entergy Nuclear FitzPatrick, LLC, Entergy Nuclear Vermont Yankee, LLC, Entergy Nuclear Indian Point 2, LLC, Entergy Nuclear Indian Point 3, LLC, and Entergy Nuclear Palisades, LLC, will also be required to continue maintaining property insurance as specified in 10 CFR 50.54(w). Information provided in the application demonstrates that Entergy Nuclear Operations, Inc., Entergy Nuclear Generation Company, Entergy Nuclear FitzPatrick, LLC, Entergy Nuclear Vermont Yankee, LLC, Entergy Nuclear Indian Point 2, LLC, Entergy Nuclear Indian Point 3, LLC, and Entergy Nuclear Palisades, LLC will continue to be able to satisfy applicable insurance requirements of the NRC and the Price-Anderson Act.

The current indemnity agreements required by the Price Anderson Act will continue unchanged after the proposed restructuring.

9.0 TECHNICAL EVALUATION

The NRC staff reviewed the applicants' submittal to determine whether the proposed partial indirect transfer of control of the licenses held by ENO, the operator of the reactor facilities, to Enexus would affect the qualifications of ENO to hold the operating licenses. The staff evaluated the submittal using the applicable acceptance criteria contained in Standard Review Plan (SRP) Section 13.1.1, "Management and Technical Support Organization," and Sections 13.1.2 - 13.1.3, "Operating Organizations."

9.1 Management and Technical Support Organization

The Board of Directors of Entergy Corporation and its management have decided to create a subsidiary, Enexus, a holding company that will be the indirect owner of Entergy's wholesale nuclear business. In its submittal, ENO stated that it will remain the licensed operator of the facilities. ENO will be owned by a parent company, EquaGen LLC, which in turn will be owned 50-percent by Entergy Corporation and 50-percent by Enexus. Each of these 50% interests will be held by wholly owned subsidiaries of Entergy Corporation and Enexus. ENO also stated that there would be no physical changes to the facilities and no changes in the officers, personnel, or day-to-day operations of the facilities in connection with the indirect transfer of control. In the case of permanently shutdown reactors, ENO will remain the entity licensed to maintain the facilities.

Entergy Corporation and Enexus will have equal rights with respect to the governance of ENO. This arrangement creates the possibility of a deadlock with respect to decisions that could affect the facilities. Under any amended operating agreements with the individual plant owners, ENO will operate and make capital improvements at the plants in accordance with the operating licenses and applicable regulatory requirements. The submittal further stated that ENO shall have sole authority as the operator of the plants to protect the public health and safety and comply with NRC orders and requirements. ENO will establish clear lines of authority to carry out its duties as operator and dispute resolution mechanisms will be established in the event of any deadlock among Entergy Corporation and Enexus. ENO described the relationship of the nuclear-oriented parts of the organization to the rest of the corporate organization and identified the corporate officer responsible for nuclear activities as the Chief Nuclear Officer and stated that he/she would have no ancillary responsibilities that would take their attention away from nuclear safety matters.

The supplemental letter of March 17, 2008, provided a description of the dispute resolution process for significant matters. This submittal stated that notwithstanding any disagreement, the Chief Nuclear Officer of ENO shall have the authority at all times to take any actions necessary to carry out ENO's responsibilities as the operator under the NRC Operating Licenses, including any actions and/or expenditure of funds necessary to protect the public health and safety, to maintain safe operating or shutdown conditions at each plant, and to comply with NRC orders and requirements.

ENO has described its organization for managing and its means for providing technical support to the facilities staff that will be equivalent to the current qualifications of facilities' management and technical support organization, regarding which the NRC staff is aware of no deficiencies. Additionally, ENO's submittal described the management organization for dispute resolution between Entergy Corporation and Enexus. Accordingly, the NRC staff concludes that the proposed organization for managing and its means of providing technical support for the continued operation of the facilities under both normal and off-normal conditions remains in accordance with SRP Section 13.1.1.

9.2 Operating Organization

The ENO operating organization has previously been determined by the NRC staff to be acceptable. The staff's review focused on evaluating any changes to the operating organization as a result of the indirect license transfer. The staff evaluated the applicant's submittal using the applicable acceptance criteria contained in SRP Section 13.1.2 - 13.1.3.

ENO's submittal indicated that the personnel presently employed by ENO will not be affected by the proposed corporate restructuring and it will have no impact on their ability to continue to safely operate the facilities. The submittal stated that the proposed indirect license transfer will not involve any changes in the officers, personnel, or day-to-day operations of the facilities. Therefore, the technical qualifications of ENO to carry out their responsibilities will remain unchanged and will not be adversely affected by the proposed restructuring.

Since the operating organizations and personnel now responsible for the operation and maintenance of the facilities will not be affected by the indirect license transfer, the NRC staff concludes that ENO's onsite organizations established to operate and maintain the facilities under both normal and off-normal conditions remain in accordance with SRP Section 13.1.2 – 13.1.3.

9.3 Conclusion of Technical Qualifications

ENO has described the corporate level management, the technical support organization, and the onsite operating organization that will be responsible for the operation and maintenance of the facilities after the partial indirect license transfer. The NRC staff concludes that the organization for managing and its means of providing technical support for the continued operation of the facilities under both normal and off-normal conditions remains unchanged and continues to be in accordance with SRP Section 13.1.1. The staff also concludes that the established dispute resolution mechanisms following the proposed partial indirect license transfer are acceptable.

The operating organizations and personnel responsible for the operation and maintenance of the facilities will not be affected by the partial indirect transfer to Enexus. The NRC staff concludes that ENO's onsite organizations established to operate and maintain the facilities under both normal and off-normal conditions remains unchanged and continues to be in accordance with SRP Section 13.1.2 – 13.1.3.

The NRC staff concludes that the proposed partial indirect transfer of control of the license held by ENO, the operator of the facilities, to Enexus as described herein will not affect the technical qualifications of ENO to hold the licenses.

10.0 INTERVENORS

On September 18, 2007, the NRC received a petition to intervene and request for hearings by Local 369 of the Utility Workers Union of America in the proceedings initiated by the July 30, 2007, "Application for Order Approving Indirect Transfer of Control of Licenses" submitted by Entergy Nuclear Operations, Inc. The NRC staff returned the petition on October 1, 2007, because it was premature, in that the FR notice had not yet been published and, therefore, a proceeding had not been initiated. The Commission issued FR Notices providing an opportunity for a hearing on January 16, 2008, which, under 10 CFR 2.318(a), marked the commencement of a proceeding. By letter dated February 5, 2008, Locals 369 and 590 of the Utility Workers Union of America resubmitted their petition requesting a hearing and leave to intervene as a party in each proceeding. On June 12, 2008, Local 369 filed a notice of withdrawal of its petition to intervene. Local 590's petition is still pending before the Commission.

On February 5, 2008, the Westchester Citizen's Awareness Network, Rockland County Conservation Association, Promoting Health and Sustainable Energy, Sierra Club – North East Chapter, and Richard Brodsky collectively objected to the proposed restructuring, and filed a request for hearing and leave to intervene as a party to the proceeding for Indian Point Generating Unit Nos. 1, 2, and 3. This petition is currently pending before the Commission.

The NRC received two letters from an intervenor in Oswego, New York, which were both dated January 21, 2008. The letters did not provide any information additional to that in the application, nor did they provide any information contradictory to that provided in the application.

11.0 CONCLUSION

Based on the foregoing, the NRC staff finds that the proposed restructuring and indirect transfer of control of the licensees will not affect the qualifications of the licensees to hold the licenses, and that the indirect transfers of the licenses, to the extent effected by the proposed restructuring, are otherwise consistent with applicable provisions of the laws, regulations and orders issued by the Commission pursuant thereto, subject to the conditions described herein.

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Date: July 28, 2008