

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

[NRC-2009-0336]

In the Matter of	)	
	)	
ENERGY NUCLEAR OPERATIONS, INC.	)	
	)	
ENERGY NUCLEAR GENERATION CO.	)	
	)	
(Pilgrim Nuclear Power Station)	)	Docket No. 50-293
	)	License No. DPR-35
	)	
ENERGY NUCLEAR INDIAN POINT 2, LLC	)	
	)	
(Indian Point Nuclear Generating Unit Nos. 1 and 2)	)	Docket Nos. 50-003, 50-247,
	)	and 72-51
	)	License Nos. DPR-5, DPR-26
	)	
ENERGY NUCLEAR INDIAN POINT 3, LLC	)	
	)	
(Indian Point Nuclear Generating Unit No. 3)	)	Docket No. 50-286
	)	License No. DPR-64
	)	
ENERGY NUCLEAR FITZPATRICK, LLC	)	
	)	
(James A. FitzPatrick Nuclear Power Plant)	)	Docket Nos. 50-333 and 72-12
	)	License No. DPR-59
	)	
ENERGY NUCLEAR VERMONT YANKEE, LLC	)	
	)	
(Vermont Yankee Nuclear Power Station)	)	Docket Nos. 50-271 and 72-59
	)	License No. DPR-28
	)	
ENERGY NUCLEAR PALISADES, LLC	)	
	)	
(Palisades Nuclear Plant)	)	Docket Nos. 50-255 and 72-7
	)	License No. DPR-20
	)	
(Big Rock Point)	)	Docket Nos. 50-155 and 72-43
	)	License No. DPR-6

ORDER EXTENDING THE EFFECTIVENESS OF THE APPROVAL OF THE  
INDIRECT TRANSFER OF FACILITY OPERATING LICENSES

I

Entergy Nuclear Operations, Inc. (ENO) and Entergy Nuclear Generation Company (Entergy Nuclear) are co-holders of the Facility Operating License, No. DPR-35, which authorizes the possession, use, and operation of the Pilgrim Nuclear Power Station (Pilgrim). Pilgrim is a boiling water nuclear reactor that is owned by Entergy Nuclear and operated by ENO. The facility is located on the western shore of Cape Cod in the town of Plymouth on the Entergy Nuclear site in Plymouth County, Massachusetts.

ENO and Entergy Nuclear Indian Point 2, LLC (ENIP2) are co-holders of the Facility Operating License, No. DPR-5, which authorizes the possession of the Indian Point Nuclear Generating Unit No. 1 (IP1). IP1 is a pressurized water nuclear reactor that is owned by ENIP2 and maintained by ENO. IP1 was permanently shut down in 1974 and placed in a safe storage condition pending decommissioning. The facility is located in Westchester County, New York.

ENO and ENIP2 are co-holders of the Facility Operating License, No. DPR-26, which authorizes the possession, use, and operation of the Indian Point Nuclear Generating Unit No. 2 (IP2). ENO and Entergy Nuclear Indian Point 3, LLC (ENIP3) are co-holders of the Facility Operating License, No. DPR-64, which authorizes the possession, use, and operation of the Indian Point Nuclear Generating Unit No. 3 (IP3). IP2 and IP3 are both pressurized water nuclear reactors that are owned by ENIP2 and ENIP3, respectively, and operated by ENO. The facilities are located in Westchester County, New York.

ENO and Entergy Nuclear FitzPatrick, LLC (EN-FitzPatrick) are co-holders of the Facility Operating License, No. DPR-59, which authorizes the possession, use, and operation of the James A. FitzPatrick Nuclear Power Plant (FitzPatrick). FitzPatrick is a boiling water nuclear

reactor that is owned by EN-FitzPatrick and operated by ENO. The facility is located in Scriba, Oswego County, New York.

ENO and Entergy Nuclear Vermont Yankee, LLC (EN-Vermont Yankee) are co-holders of the Facility Operating License, No. DPR-28, which authorizes the possession, use, and operation of the Vermont Yankee Nuclear Power Station (Vermont Yankee). Vermont Yankee is a boiling water nuclear reactor that is owned by EN-Vermont Yankee and operated by ENO. The facility is located in the town of Vernon, Windham County, Vermont.

ENO and Entergy Nuclear Palisades, LLC (EN-Palisades) are co-holders of the Renewed Facility Operating License, No. DPR-20, which authorizes the possession, use, and operation of the Palisades Nuclear Plant (Palisades). Palisades is a pressurized water nuclear reactor that is owned by EN-Palisades and operated by ENO. The facility is located in Van Buren County, Michigan.

ENO and EN-Palisades are co-holders of the Facility Operating License, No. DPR-06, which authorizes the possession of Big Rock Point. Big Rock Point is an independent spent fuel storage installation (ISFSI) that is owned by EN-Palisades and operated by ENO. The facility is located in Charlevoix County, Michigan.

## II

The NRC's Orders dated July 28, 2008, consented to the indirect transfer of control of the licenses of the above facilities pursuant to Section 50.80 of Title 10 of the *Code of Federal Regulations* in connection with a proposed corporate restructuring and establishment of Enexus Energy Corporation. By its terms, the Orders of July 28, 2008, become null and void if the license transfers are not completed by July 28, 2009, unless upon application and for good cause shown, such date is extended by the Commission.

III

By letter dated May 15, 2009, as supplemented by letter dated May 29, 2009, ENO, acting on behalf of itself, Entergy Nuclear, ENIP2, ENIP3, EN-FitzPatrick, EN-Vermont Yankee, and EN-Palisades, submitted a request for an extension of the effectiveness of the Orders of July 28, 2008, such that they would remain effective until January 28, 2010. According to the submittal, diligent efforts have been made to obtain the required State and Federal regulatory approvals, and many of the required approvals have been obtained. However, proceedings are ongoing before the New York State Public Service Commission and the State of Vermont Public Service Board and these two State agencies may not complete their regulatory approval processes in time to complete the restructuring and establishment of Enexus Energy Corporation prior to July 28, 2009, as required by the NRC Orders consenting to the proposed restructuring and associated indirect license transfers.

In addition, according to the submittal, considerable progress has been made in securing financing to support the proposed transactions. However, uncertainties in the current financial markets and the need to obtain required State regulatory approvals have slowed the process of obtaining all of the requisite financing necessary to complete the transactions, making it difficult for the licensees to conclude that all of the necessary arrangements will be complete in time to support a closing of the transactions by July 28, 2009.

Finally, the licensee has concluded that there has been no material change in the technical and financial qualifications presented in the original application and relied upon by the NRC staff under which the NRC issued the Orders. According to the submittal, the technical qualifications of the new organization and other bases for approving the transfers remain intact, and the various inter-company contractual arrangements and the financial support arrangements, as described in the original application and supplemental information, remain valid and fully support the NRC staff's findings.

On June 3, 2009, Mr. Sherwood Martinelli submitted a request for hearing regarding the extension, which is currently pending before the Commission.

The NRC staff has considered the submittal of May 15, 2009, as supplemented by letter dated May 29, 2009, and has determined that good cause has been shown to extend the effectiveness of the Orders of July 28, 2008, as requested.

IV

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 effectiveness of the Orders of July 28, 2008, described herein are extended such that if the proposed corporate restructuring and establishment of Enexus Energy Corporation is not consummated by January 28, 2010, the Orders of July 28, 2008, shall become null and void, unless upon application and for good cause shown, such date is further extended by Order.

This Order is effective upon issuance.

For further details with respect to this Order, see the submittal dated May 15, 2009 (Agencywide Documents Access and Management System (ADAMS) Accession No. ML091420271), as supplemented by letter dated May 29, 2009 (ADAMS Accession No. ML091600059), which may be examined, and/or copied for a fee, at the NRC's Public Document Room, located at One White Flint North, 11555 Rockville Pike (first floor), Rockville,

MD, and accessible electronically through the ADAMS Public Electronic Reading Room link at the NRC Web site: <http://www.nrc.gov>.

Dated at Rockville, Maryland, this 24<sup>th</sup> day of July 2009.

FOR THE NUCLEAR REGULATORY COMMISSION

*/RA/*

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

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Joseph G. Gitter, Director  
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Michael F. Weber, Director  
Office of Nuclear Material Safety  
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