UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D.C. 20555-0001

January 22, 2010

Mr. Michael R. Kansler
President & CEO/CNO
Entergy Nuclear Operations, Inc.
1340 Echelon Parkway
Jackson, MS 39213

SUBJECT: ORDER EXTENDING THE EFFECTIVENESS OF THE APPROVAL OF THE INDIRECT TRANSFER OF FACILITY OPERATING LICENSES FOR BIG ROCK POINT, JAMES A. FITZPATRICK NUCLEAR POWER PLANT, INDIAN POINT NUCLEAR GENERATING UNIT NOS. 1, 2, AND 3, PALISADES NUCLEAR PLANT, PILGRIM NUCLEAR POWER STATION, AND VERMONT YANKEE NUCLEAR POWER STATION (TAC NOS. ME2515, ME2516, ME2517, ME2518, ME2519, ME2520, ME2521, AND ME2522)

Dear Mr. Kansler:

The enclosed Order is being issued in response to Entergy Nuclear Operations, Inc.'s request dated November 3, 2009, as supplemented on December 10, 2009, on behalf of itself and Entergy Nuclear Palisades, LLC, Entergy Nuclear FitzPatrick, LLC, Entergy Nuclear Indian Point 2, LLC, Entergy Nuclear Indian Point 3, LLC, Entergy Nuclear Generation Company, and Entergy Nuclear Vermont Yankee, LLC (together, Applicants), for an extension of the effectiveness of the Nuclear Regulatory Commission's (NRC's) Orders dated July 28, 2008. The NRC's Orders dated July 28, 2008, consented to the indirect transfer of control of the licenses of the subject facilities pursuant to Section 50.80 of Title 10 of the *Code of Federal Regulations* in connection with a proposed corporate restructuring and the establishment of Enexus Energy Corporation.

The NRC staff has considered the information presented in your request and has determined that good cause has been shown to extend the effectiveness of the NRC's Orders dated July 28, 2008, to August 1, 2010. The enclosed Order (Enclosure 1) approves the extension. Enclosure 2 contains the staff's safety evaluation (SE).

The plant-specific license amendments reflecting the name changes from Entergy to Enexus and Entergy Nuclear Operations, Inc. to EquaGen Nuclear LLC will be issued and made effective when the restructuring is complete. The appropriateness of these changes was previously acknowledged in the SE enclosed with the NRC Orders of July 28, 2008.

The enclosed Order has been forwarded to the Office of the Federal Register for publication.

Sincerely,

Douglas V. Pickett

Douglas V. Pickett, Senior Project Manager
Project Directorate I-1
Division of Operating Reactor Licensing
Office of Nuclear Reactor Regulation

Docket Nos. 50-293
50-003, 50-247, 50-286, 72-51
50-333, 72-12
50-271, 72-59
50-255, 72-7
50-155, 72-43

Enclosures:
1. Order
2. Safety Evaluation

cc w/encls: See next page

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[7590-01-P]

UNITED STATES OF AMERICA

NUCLEAR REGULATORY COMMISSION

In the Matter of	)	
	)	
ENTERGY NUCLEAR OPERATIONS, INC.	)	
	)	
ENTERGY NUCLEAR GENERATION COMPANY	)	
	)	
(Pilgrim Nuclear Power Station)	)	Docket No. 50-293
	)	License No. DPR-35
	)	
ENTERGY 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
	)	
ENTERGY NUCLEAR INDIAN POINT 3, LLC	)	
	)	
(Indian Point Nuclear Generating Unit No. 3)	)	Docket No. 50-286
	)	License No. DPR-64
	)	
ENTERGY NUCLEAR FITZPATRICK, LLC	)	
	)	
(James A. FitzPatrick Nuclear Power Plant)	)	Docket Nos. 50-333 and 72-12
	)	License No. DPR-59
	)	
ENTERGY NUCLEAR VERMONT YANKEE, LLC	)	
	)	
(Vermont Yankee Nuclear Power Station)	)	Docket Nos. 50-271 and 72-59
	)	License No. DPR-28
	)	
ENTERGY 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 EFECTIVENESS 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, would become null and void if the license transfers were not completed by July 28, 2009, unless upon application and for good cause shown, such date was extended by the Commission. By Order dated July 24, 2009, the NRC staff determined that good cause had been shown to extend the effectiveness of the Orders of July 28, 2008, through January 28, 2010. Similarly, by its terms, the Order of July 24, 2009, becomes null

and void if the license transfers are not completed by January 28, 2010, unless upon application and for good cause shown, such date is extended by the Commission.

III

By letter dated November 3, 2009, as supplemented by letter dated December 10, 2009, ENO, acting on behalf of itself, Entergy Nuclear, ENIP2, ENIP3, EN-FitzPatrick, EN-Vermont Yankee, and EN-Palisades (together the Applicants), submitted a request for an extension of the effectiveness of the Orders of July 28, 2008, such that they would remain effective through August 1, 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. ENO has expressed confidence that it will receive all of the required approvals for the transaction. However, proceedings are ongoing before the New York State Public Service Commission (PSC) and the State of Vermont Public Service Board (PSB) 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 January 28, 2010, as required by the NRC Orders consenting to the proposed restructuring and associated indirect license transfers.

As indicated in ENO's letter dated August 18, 2009, an amended petition has been submitted to the New York PSC that includes several enhancements to the transaction. In Vermont, Entergy Nuclear Vermont Yankee, LLC, ENO, and Enexus have entered into a Memorandum of Understanding (MOU) with the Vermont Department of Public Service. This MOU must be approved by the Vermont PSB.

The Applicants are concerned that the transaction may not be completed by January 28, 2010, as required by the current Orders. Moreover, beginning in early 2010, there are certain "blackout periods" imposed by Federal regulations in connection with efforts to finalize the audited 2009 annual financial results for Entergy Corporation. Once such blackout periods

begin, limitations on access to the financial markets would likely delay completion of the transaction until the June or July 2010 time frame.

As stated in the licensee's submittal, the conditions under which the NRC issued the Orders approving the license transfers have not changed significantly. The technical qualifications of the new organization and other bases for approving the transfers remain intact and the various inter-company contractual arrangements and financial support described in the application and supplemental information submitted to support the NRC staff's review and issuance of its safety evaluation (SE), remain valid and fully support the staff's findings. In support of the claim that the financial qualifications have not significantly changed, ENO submitted revised proprietary financial projections for the plant licensees and Enexus for the 5 calendar years 2010 – 2014 along with responses to staff questions regarding decommissioning funding assurance. As such, the current conditions continue to support the staff's findings regarding the technical and financial qualifications of the affected licensees.

The NRC staff has considered the submittal of November 3, 2009, as supplemented by letter dated December 10, 2009, and has determined that good cause to extend the effectiveness of the Orders of July 28, 2008, has been shown in that the delay in completing the transaction was not caused by the licensee. The findings set forth above are supported by a SE dated January 22, 2010.

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 August 1, 2010, the Orders of July 28, 2008, and July 24, 2009,

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 November 3, 2009 (Agencywide Documents Access and Management System (ADAMS) Accession No. ML093100496), as supplemented by letter dated December 10, 2009 (ADAMS Accession No. ML093630884), and the SE dated January 22, 2010 (ADAMS Accession No. ML093620895), 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 22nd day of January 2010.

FOR THE NUCLEAR REGULATORY COMMISSION

Charles L. Miller

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

Joseph G. Giitter

Joseph G. Giitter, Director
Division of Operating Reactor Licensing
Office of Nuclear Reactor Regulation

Michael F. Weber

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UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D.C. 20555-0001

SAFETY EVALUATION BY THE OFFICE OF NUCLEAR REACTOR REGULATION

REQUEST FOR SECOND EXTENSION OF ORDERS 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 AND 72-51

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

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

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

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

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

1.0 INTRODUCTION

By letter dated November 3, 2009,[1] as supplemented on December 10, 2009,[2] 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 EN-Palisades, LLC, (together, the "Applicants"), requested an extension of seven orders, issued by the NRC on July 28, 2008 (Transfer Orders),[3] consenting to an indirect transfer of control of the operating licenses held by the Applicants, which would be effected due to a corporate restructuring of Entergy Corporation and creation of a new holding company, Enexus Energy Corporation (Enexus) and several intermediate companies. Enexus would become the ultimate parent company of the NRC license holders. The Transfer Orders contained a clause stating:

[1] Agencywide Document Access and Management System (ADAMS) Accession No. ML093100496
[2] ADAMS Accession No. ML093630884
[3] ADAMS Accession Nos. ML080990282, ML080940360, ML080940400, ML080940564, ML080940536, ML080940379, ML080940591

Enclosure 2

> Should the proposed corporate restructuring and establishment of Enexus not be completed within one year from the date of this Order, this Order shall become null and void, provided, however, upon written application and good cause shown, such date may be extended by Order

The November 3, 2009, letter is the second request to extend the Transfer Orders. ENO requested the first extension by letters dated May 15, 2009[4], and May 29, 2009[5]. By Order dated July 24, 2009[6], the NRC determined that good cause had been shown to extend the effectiveness of the Transfer Orders, allowing for completion of the proposed indirect transfer on or before January 28, 2010.

Section IV of the July 24, 2009 Order, provides 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."

By letter dated November 3, 2009, as supplemented by letter dated December 10, 2009, (together, "Second Extension Request"), ENO submitted a request that the Orders dated July 24, 2009, be extended through August 1, 2010, in order to allow ample time for completion of the proposed restructuring.

2.0 BASIS FOR THE EXTENSION REQUEST

According to the Second Extension Request, diligent efforts have been made to obtain the required State and Federal regulatory approvals, and many of the required approvals have been obtained. As discussed in ENO's letter dated August 18, 2009, "Update Regarding Status and Request for Threshold Determination Under 10 CFR 50.80"[7], ENO states that it remains confident that it will receive all of the required approvals for the transaction. However, proceedings are ongoing before the New York State Public Service Commission (PSC) and the State of Vermont Public Service Board (PSB), and the New York PSC may not complete its regulatory approval process in time for completion of the restructuring and establishment of Enexus before January 28, 2010, as required by the July 24, 2009, extension Order. An amended petition has been submitted to the New York PSC that includes several enhancements to the transaction. In Vermont, Entergy Nuclear Vermont Yankee, LLC (ENVY), ENO, and Enexus have entered into a Memorandum of Understanding (MOU) with the Vermont Department of Public Service. The MOU must be approved by the Vermont PSB and this approval is expected to be issued in the near future.

The Applicants state that they are optimistic that they may be able to close the Enexus transaction by the end of January 2010 but remain concerned that the transaction may not be completed by January 28, 2010, as required by the current Orders. Moreover, beginning in early 2010, there are certain "blackout periods" imposed by Federal regulations in connection with efforts to finalize the audited 2009 annual financial results for Entergy Corporation. Once

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[4] ADAMS Accession No. ML091420271
[5] ADAMS Accession No. ML091600059
[6] ADAMS Accession No. ML091520154
[7] ADAMS Accession No. ML092370203

such blackout periods begin, limitations on access to the financial markets would likely delay completion of the transaction until the June or July 2010 time frame.

2.1 Conclusion as to Good Cause

The NRC staff concludes that the Applicants have demonstrated that the reasons for the delay (i.e., the need to obtain State approvals and the possibility of limited access to financial markets) establish good cause for the extension of the Transfer Orders.

3.0 FINANCIAL QUALIFICATIONS

The Second Extension Request contained new information with respect to the indirect transfers of the licenses. In an indirect license transfer, the NRC staff determines whether the proposed shift in ultimate corporate control will affect the licensees' existing financial and technical qualifications.

In the Second Extension Request, the applicant provided 5-year projected income statements for the period from FY 2010 to FY 2014 for each of the 7 licenses involved in the indirect transfers. The previous projections had been for the period from FY 2007 to FY 2012. The updated projections show that revenues will exceed operating and maintenance expenses for each of the licensees. Based upon the revenues and expenses submitted in the Second Extension Request, the NRC staff finds that there are no material changes to the financial qualifications of the licensees. Therefore, the finding made in the Transfer Orders, that the indirect transfers of control of the licenses will not affect financial qualifications of the licensees is still valid.

3.1 Decommissioning Funding Assurance

On October 29, 2009,[8] in response to an NRC staff request for additional information related to the biennial decommissioning fund status report submitted pursuant to Title 10 of the *Code of Federal Regulations* Section 50.75(f), Entergy submitted its plan to address a projected shortfall in decommissioning funding for ENVY. The plan included the addition of a parent company guarantee from Entergy, which will terminate 3 days after the indirect transfer of the ENVY license to Enexus. ENVY committed to replace the parent guarantee from Entergy with another financial instrument, if necessary, within 2 days after the indirect transfer to Enexus is completed. The staff determined that the amount of the parent guarantee provided adequate decommissioning funding assurance.

Based upon the decommissioning funding assurance statements submitted in the Second Request for Extension, the NRC staff finds the proposed restructuring and indirect license transfers will not affect the adequacy of decommissioning funding assurance.

4.0 CONCLUSION

The conditions under which the NRC issued the July 28, 2008, Transfer Orders have not changed significantly. The technical qualifications of the new organization and other bases for approving the transfers remain intact and the various inter-company contractual arrangements

[8] ADAMS Accession No. ML092870647

and financial support described in the application and supplemental information submitted to support the NRC staff's review and issuance of its Safety Evaluation, remain valid and fully support the staff's findings. As such, the current conditions continue to support the staff's findings regarding the technical and financial qualifications of the affected licensees.

Principal Contributor: M. A. Dusaniwskyj, NRR

Date: January 22, 2010

The enclosed Order has been forwarded to the Office of the Federal Register for publication.

Sincerely,
/RA/
Douglas V. Pickett, Senior Project Manager
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Office of Nuclear Reactor Regulation

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