

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

In the Matter of)	EA-11-013
)	
USEC, INC.)	Docket Nos.: 70-7003, 70-7004
(American Centrifuge Lead Cascade Facility)	License Nos. SNM-7003, SNM-2011
and American Centrifuge Plant))	

**ORDER APPROVING DIRECT TRANSFER OF LICENSES
AND CONFORMING AMENDMENT**

I

USEC, Inc. (USEC) is the holder of material licenses numbers SNM-7003 and SNM-2011 for the American Centrifuge Lead Cascade Facility (Lead Cascade) and American Centrifuge Plant (ACP), respectively, which authorize the licensee to: 1) possess and use source and special nuclear material at the Lead Cascade at the Portsmouth Gaseous Diffusion Plant site in Piketon, Ohio, in accordance with material license number SNM-7003; and, 2) construct and operate a gas centrifuge uranium enrichment facility (the ACP) at the Portsmouth Gaseous Diffusion Plant site in Piketon, Ohio, in accordance with material license number SNM-2011.

II

By letter dated September 10, 2010, USEC requested that the U.S. Nuclear Regulatory Commission (NRC) consent to transfer control of material license numbers SNM-7003 and SNM-2011 from USEC to a subsidiary limited liability company, American Centrifuge Operating (ACO), LLC. In addition, USEC requested NRC approval of changes to the Lead Cascade and the ACP material licenses. With NRC's approval of the request to transfer licenses, USEC will then make conforming changes to the license applications to reflect ACO as the Licensee. USEC's request included conforming changes to Chapter 2 of the combined Lead Cascade and

ACP security program.

Approval of the direct transfer of the licenses and of the conforming license amendments was requested pursuant to 10 CFR 70.36. A notice of consideration of approval was published in the *Federal Register* on November 17, 2010 (75 FR 70300), including a notice of opportunity to request a hearing, or to submit written comments. No requests for a hearing were submitted in response to this notice. However, the Ohio Sierra Club submitted a written request, dated December 5, 2010 (ADAMS Accession No. ML103370366), for a public meeting to discuss this request to transfer licenses. In response, the NRC held a public meeting on January 4, 2011, in Piketon, Ohio, to discuss NRC's process for reviewing USEC's request to transfer licenses with members of the Sierra Club and other members of the public. During the meeting, the Southern Ohio Neighbors Group (SONG) submitted written comments regarding the transfer of licenses to the NRC. SONG's comments were received after the December 17, 2010, due date for submittal of comments provided in the November 17, 2010, *Federal Register* Notice. The NRC considered the comments to the maximum extent practicable within the enclosed Safety Evaluation Report.

Pursuant to 10 CFR 30.34(b), 40.46, and 70.36, no license granted under those parts, and no right thereunder to use byproduct, source, or special nuclear material, shall be transferred, assigned, or in any manner disposed of, directly or indirectly, through transfer of control of any license, to any person, unless the Commission shall, after securing full information, find that the transfer is in accordance with the provisions of the Atomic Energy Act of 1954 (the Act), as amended, and shall give its consent in writing.

The Commission will approve an application for the direct or indirect transfer of a license if the Commission determines that the proposed restructuring and reorganization will not affect the qualifications of the Licensee to hold the license, and that the transfer is otherwise consistent with applicable provisions of law, regulations, and orders issued by the Commission pursuant thereto. After review of the information in USEC's request and other information

before the Commission, and relying on the representations and agreements contained in the request, the NRC staff has determined that the proposed corporate restructuring and direct transfer of the licenses are acceptable and consistent with applicable provisions of law, regulations, and orders issued by the Commission. The NRC staff has further determined that the application for the proposed license amendments complies with the standards and requirements of the Act, as amended, and the Commission's rules and regulations set forth in Title 10 Chapter I. The requested direct transfer of the licenses and issuance of the conforming license amendments would not be inimical to the common defense and security, or to the health and safety of the public, or the environment. Furthermore, the issuance of the proposed amendments would be in accordance with 10 CFR Part 51 of the Commission's regulations, and all applicable requirements have been satisfied.

III

Accordingly, pursuant to Sections 161b, 161i, and 184 of the Act; 42 U.S.C. 2201(b), 2201(i), and 2234; 10 CFR 30.34(b), 40.46, and 70.36, IT IS HEREBY ORDERED that the Application regarding the direct transfer of the licenses, as described herein, be approved, subject to the following conditions:

1) USEC will obtain NRC approval on the revised financial assurance instruments for decommissioning of the Lead Cascade facility;

2) ACO, as stated in the request, will abide by all commitments and representations previously made by USEC with respect to the licenses; and

3) USEC will provide to the NRC, a copy of the executed facilities subleasing agreement(s) naming ACO as the tenant and clarifying DOE indemnification, before the transfers are completed.

IT IS FURTHER ORDERED that the conforming license amendments for the direct transfer of licenses shall be issued after the above conditions have been satisfied, and made

effective at the time the proposed transfer of licenses is completed.

IT IS FURTHER ORDERED that, to ensure that the NRC is timely notified of the transfers' completion, the licensee shall inform the Director of the Office of Nuclear Material Safety and Safeguards, in writing, of the date of closing of the direct transfer of license numbers SNM-7003 and SNM-2011 at least one (1) business day prior to closing. If the direct transfer of the licenses and all the above conforming conditions has not been completed within 180 days from the date of the issuance of this Order, the Order shall become null and void; however, on written application and for good cause shown, such date may be extended by order. The Director, Office of Nuclear Material Safety and Safeguards, may relax or rescind, in writing, any of the above conditions upon a demonstration of good cause by the licensee.

This Order is effective upon issuance.

For further details with respect to this Order, see the initial application dated September 10, 2010, and the Safety Evaluation Report that supports the amendment, which are available for public inspection at the Commission's Public Document Room (PDR), located at One White Flint North, Room O1-F21, 11555 Rockville Pike (first floor), Rockville, MD 20852, 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 or 301-415-4737 or by e-mail to pdr.resources@nrc.gov.

Dated at Rockville, MD, this 10th day of February 2011.

FOR THE NUCLEAR REGULATORY COMMISSION.

/RA/
Catherine Haney, Director,
Office of Nuclear Material Safety
and Safeguards.