



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

September 22, 2011

Mr. Peter P. Sena, III  
President and Chief Operating Officer  
FirstEnergy Nuclear Operating Company  
341 White Pond Drive  
Akron, OH 44320

SUBJECT: REQUEST FOR THRESHOLD DETERMINATION UNDER 10 CFR 50.80 -  
BEAVER VALLEY POWER STATION, UNIT NOS. 1 AND 2; DAVIS-BESSE  
NUCLEAR POWER STATION, UNIT NO. 1; AND PERRY NUCLEAR POWER  
PLANT, UNIT NO. 1 (TAC NOS. ME6805, ME6806, ME6807, AND ME6808)

Dear Mr. Sena:

By letter dated July 26, 2011 (Agencywide Documents Access and Management System Accession No. ML11215A131), FirstEnergy Nuclear Operating Company, operating on behalf of FirstEnergy Nuclear Generation Corporation (FENGenCo), (together, the applicant), submitted to the U.S. Nuclear Regulatory Commission (NRC) a request for a threshold determination under Title 10 of the *Code of Federal Regulation*, Section 50.80 for Beaver Valley Power Station, Unit Nos. 1 and 2, Davis-Besse Nuclear Power Station, Unit No. 1 and Perry Nuclear Power Plant, Unit No. 1 (together, the plants).

The NRC staff concludes that the conversion of FENGenCo to a limited liability (LLC) company does not involve any license transfer. Accordingly, prior NRC consent is not required to make the changes indentified in the July 26, 2011, submittal.

The NRC concludes that the conversion of FENGenCo will not affect the qualifications of the applicant as the holder of the licenses of the plants and that the conversion appears to be consistent with the applicable provisions of law, regulations, and Orders issued by the NRC.

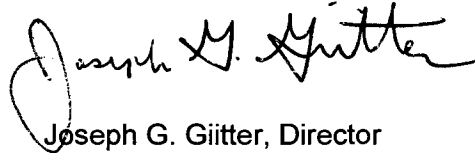
The NRC staff's safety evaluation regarding the threshold determination is enclosed.

P. Sena

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Please contact Michael Mahoney at 301-415-3867 if you have any questions.

Sincerely,

A handwritten signature in black ink, appearing to read "Joseph G. Gitter". The signature is fluid and cursive, with a large initial "J" and "G".

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

Docket Nos. 50-334, 50-412, 50-346, and 50-440

Enclosure:  
Safety Evaluation

cc w/encl: Distribution via Listserv



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

SAFETY EVALUATION BY THE OFFICE OF NUCLEAR REACTOR REGULATION

CONVERSION OF COMPANY

BY FIRSTENERGY NUCLEAR GENERATION CORPORATION

BEAVER VALLEY POWER STATION, UNIT NOS. 1 AND 2;

DAVIS-BESSE NUCLEAR POWER STATION, UNIT NO. 1;

PERRY NUCLEAR POWER PLANT, UNIT NO. 1

DOCKET NOS. 50-334, 50-412, 50-346, 50-440

1.0 INTRODUCTION

By letter dated July 26, 2011 (Agencywide Documents Access and Management System (ADAMS) Accession No. ML11215A131), FirstEnergy Nuclear Operating Company (FENOC), operating on behalf of FirstEnergy Nuclear Generation Corporation (FENGenCo, the applicant) submitted to the U.S. Nuclear Regulatory Commission (NRC, Commission) a request for threshold determination under Title 10 of the *Code of Federal Regulation* (10 CFR) Section 50.80 for Beaver Valley Power Station, Unit Nos. 1 and 2 (BVPS-1 and 2), Davis-Besse Nuclear Power Station, Unit No. 1 (Davis-Besse) and Perry Nuclear Power Plant, Unit No. 1 (Perry) (together, the plants).

2.0 BACKGROUND

FENGenCo is an owner licensee of the following units: 100 percent of BVPS-1, 60.08 percent of Beaver Valley 2, 100 percent of Davis-Besse and 87.42 percent of Perry. Currently, FENGenCo is a corporation organized under the laws of the State of Ohio.

3.0 EVALUATION

The NRC staff reviewed the conversion of FENGenCo to a limited liability company (LLC) organized under the laws of the State of Ohio. The regulation at 10 CFR 50.80(a) states:

No license for a production or utilization facility (including, but not limited to, permits under this part and part 52 of this chapter, and licenses under parts 50 and 52 of this chapter), 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 gives its consent in writing.

Enclosure

A conversion of a company to an LLC under the laws of the State of Ohio does not require a transfer of the company to another entity during the conversion of the company to an LLC. Therefore, based on the information provided by the applicant, as well as the laws of conversion to an LLC under the laws of the State of Ohio, the NRC staff finds that the conversion to an LLC does not involve any license transfer. Accordingly, prior NRC consent is not required to make the changes identified in the submittal.

The NRC staff analyzed the effect of the conversion of FENGenCo on the applicant's financial qualifications, decommissioning funding assurance, technical qualifications, and status with respect to any foreign control or domination to confirm that there were no material changes to the license.

### 3.1 Financial Qualifications:

The proposed conversion should have no affect on the financial qualifications of FENGenCo.

### 3.2 Decommissioning Funding Assurance:

The applicant currently provides decommissioning funding assurance for the plants through the allowable funding mechanisms outlined in 10 CFR 50.75(e). In a separate proceeding, pursuant to the 2011 Decommissioning Funding Status report submitted on March 29, 2011 (ADAMS Accession No. ML110950060), the NRC staff is reviewing the financial assurance for decommissioning provided by the plants. At this time, the NRC staff does not project a potential shortfall at the time of permanent termination of operations in the decommissioning funding assurance provided for the plants.

The decision criterion applied to an indirect license transfer is whether the transfer will affect the licensee's existing financial qualifications. The NRC staff finds the proposed change submitted by the applicant on July 26, 2011, will not affect the amount of decommissioning funding assurance for the plants.

### 3.3 Management and Technical Qualifications:

The NRC staff is not aware of anything to indicate that there have been, or will be in the future, any material effects on the manner in which the plants are operated or the identity, organization, management and technical qualification of the applicant as the plants' licensees as a result of the conversion of FENGenCo to an LLC.

### 3.4 Foreign Ownership, Control or Domination:

Section 103d of the Atomic Energy Act prohibits the Commission 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 staff does not know or have reason to believe that, as a result of the conversion of FENGenCo to an LLC, the applicant will be owned, controlled, or dominated by a foreign person or entity.

#### 4.0 CONCLUSION

The NRC staff concludes that the conversion of FENGenCo to an LLC, does not involve any license transfer. Accordingly, prior NRC consent is not required to make the changes identified in the July 26, 2011 submittal. The NRC staff concludes that the conversion of FENGenCo to an LLC will not affect the qualifications of the applicant as the holder of licenses of the plants and that the conversion to FENGenCo appears to be consistent with applicable provisions of law, regulations and Orders issued by the Commission.

Principal Contributor: Aaron L. Szabo, NRR/DPR

Date: September 22, 2011

P. Sena

- 2 -

Please contact Michael Mahoney at 301-415-3867 if you have any questions.

Sincerely,

*/RA/*

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

Docket Nos. 50-334, 50-412, 50-346, and 50-440

Enclosure:  
Safety Evaluation

cc w/encl: Distribution via Listserv

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**ADAMS Accession No. ML112430556**

**NRR-106**

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