



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

December 18, 2015

Mr. David B. Hamilton
Site Vice President
FirstEnergy Nuclear Operating Company
Mail Stop A-PY-A290
P.O. Box 97, 10 Center Road
Perry, OH 44081-0097

SUBJECT: PERRY NUCLEAR POWER PLANT, UNIT 1 – REQUEST FOR ADDITIONAL INFORMATION RELATED TO APPLICATION FOR TRANSFER OF CONTROL OF LICENSE AND CONFORMING LICENSE AMENDMENT (TAC NO. MF6412) (L-15-195)

Dear Mr. Hamilton:

By application dated June 30, 2015 (Agencywide Documents Access and Management System (ADAMS) Accession No. ML15181A366), FirstEnergy Nuclear Operating Company submitted a license transfer request for Perry Nuclear Power Plant, Unit 1 (PNPP). The proposed request would transfer Ohio Edison Company's 12.58 percent leased interest in PNPP to FirstEnergy Nuclear Generation, LLC (FENGen), making FENGen the sole proprietor of PNPP.

The U.S. Nuclear Regulatory Commission (NRC) staff is reviewing your submittal and has determined that additional information is required to complete the review. The specific information requested is addressed in the enclosure to this letter. A draft request for additional (RAI) was transmitted on December 15, 2015. During a discussion with your staff on December 16, 2015, it was agreed that you would provide a response within 30 days from the date of this letter.

D. Hamilton

- 2 -

The NRC staff considers that timely responses to RAIs help ensure sufficient time is available for staff review and contribute toward the NRC's goal of efficient and effective use of staff resources. If circumstances result in the need to revise the requested response date, please contact me at (301) 415-1627.

Sincerely,

A handwritten signature in black ink, appearing to read 'Kimberly Green', followed by a small 'for' and a signature.

Kimberly Green, Senior Project Manager
Plant Licensing Branch III-1
Division of Operating Reactor Licensing
Office of Nuclear Reactor Regulation

Docket No. 50-440

License No. NPF-58

Enclosure:
Request for Additional Information

cc w/encl: Distribution via Listserv

REQUEST FOR ADDITIONAL INFORMATION
TRANSFER OF CONTROL OF LICENSE AND
CONFORMING LICENSE AMENDMENT REQUEST
FIRSTENERGY NUCLEAR OPERATING COMPANY
PERRY NUCLEAR POWER PLANT, UNIT NO. 1
DOCKET NO. 50-440

By application dated June 30, 2015 (Agencywide Documents Access and Management System (ADAMS) Accession No. ML15181A366), FirstEnergy Nuclear Operating Company (FENOC or the licensee) submitted a license transfer request for Perry Nuclear Power Plant, Unit 1 (PNPP). The proposed request would transfer Ohio Edison Company's 12.58 percent leased interest in PNPP to FirstEnergy Nuclear Generation, LLC (FENGen), making FENGen the sole proprietor of PNPP.

The U.S. Nuclear Regulatory Commission (NRC) staff has reviewed your submittal and has determined that the additional information below is needed to complete its review of the application.

Regulatory Basis for Request for Additional Information (RAI) No. 1:

The regulation at 10 CFR 50.33(f) provides that each application shall state the following:

Except for an electric utility applicant for a license to operate a utilization facility of the type describe in § 50.21(b) or § 50.22, [an application shall state] information sufficient to demonstrate to the Commission the financial qualification of the applicant to carry out, in accordance with regulations in this chapter, the activities for which the permit or license is sought.

In addition, the regulation at 10 CFR 50.2 defines an electric utility as the following: "[A]ny 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."

RAI No. 1:

Section II of the application, "Statement of Purpose of the Transfer and Nature of the Transaction Making the Transfer Necessary or Desirable," discusses rate regulation. Section II, Part E "Financial Qualifications" discusses "FENGen's Pro Forma Income Statements for the 5-year period from January 1, 2016, until December 31, 2020." The application has stated that the licensee is regulated pursuant to the purchased power contract approved by the Federal Energy Regulatory Commission, and yet, has also provided 5-year pro forma income statements associated with the requirements for a merchant plant. It appears unclear to the staff which percentage is, and/or, will remain an electric utility, and which percentage is, and/or will remain a merchant plant after the proposed transfer. Therefore, the NRC staff requests that FENOC clearly state which percentage (leased interest of 12.58 percent or ownership of 87.42

Enclosure

percent) is currently an electric utility, and the net effect of the transfer on the licensee's status as an electric utility.

Regulatory Basis for RAI No. 2:

The regulation at 10 CFR 140.21, "Licensee guarantees of payment of deferred premiums," states:

Each licensee required to have and maintain financial protection for each nuclear reactor as determined in § 140.11(a)(4) shall at the issuance of the license and annually, on the anniversary of the date on which the indemnity agreement is effective, provide evidence to the Commission that it maintains one of the following types of guarantee of payment of deferred premium in the amount specified in § 140.11(a)(4) for each reactor it is licensed to operate:

- (a) Surety bond,
- (b) Letter of credit,
- (c) Revolving credit/term loan arrangement,
- (d) Maintenance of escrow deposits of government securities,
- (e) Annual certified financial statement showing either that a cash flow (i.e., cash available to a company after all operating expenses, taxes, interest charges, and dividends have been paid) can be generated and would be available for payment of retrospective premiums within three (3) months after submission of the statement, or a cash reserve or a combination of cash flow and cash reserve, or
- (f) Such other type of guarantee as may be approved by the Commission.

RAI No. 2:

FENOC provided a hyperlink to the most recent annual certified financial statement filed with the Securities and Exchange Commission (10-k) as part of the application. Since FENOC submitted its application, the hyperlink has not consistently worked properly. Thus, at times, the NRC staff has been unable to access the information. Because the link may not remain active indefinitely, the NRC staff requests that FENOC provide the most recent annual certified financial statement filed with the Securities and Exchange Commission (10-k).

D. Hamilton

- 2 -

The NRC staff considers that timely responses to RAIs help ensure sufficient time is available for staff review and contribute toward the NRC's goal of efficient and effective use of staff resources. If circumstances result in the need to revise the requested response date, please contact me at (301) 415-1627.

Sincerely,

/RA ADietrich for/

Kimberly Green, Senior Project Manager
Plant Licensing Branch III-1
Division of Operating Reactor Licensing
Office of Nuclear Reactor Regulation

Docket No. 50-440

License No. NPF-58

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Request for Additional Information

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| NAME | JHauser | KGreen | MHenderson | ABowers |
| DATE | 12/18/2015 | 12/08/2015 | 12/18/2015 | 12/09/2015 |
| OFFICE | OGC/GCHEA/AGCOR | NRR/DORL/LPLIII-1/BC | NRR/DORL/LPLIII-1/PM | |
| NAME | AGhosh | (KGreen for) DPelton | (ADietrich for) KGreen | |
| DATE | 12/15/2015 | 12/18/2015 | 12/18/2015 | |

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