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10 CFR 50.90

CNRO-2016-00020
August 16, 2016

U.S. Nuclear Regulatory Commission
Attn: Document Control Desk
Washington, DC 20555-0001

SUBJECT: Application for Order to Transfer Master Decommissioning Trust From PASNY to ENO, Consenting to Amendments to Trust Agreement, and Approving Proposed License Amendments to Modify and Delete Decommissioning Trust License Conditions Upon the Transfer of Trust Funds

Indian Point Nuclear Generating Unit No. 3	James A. FitzPatrick Nuclear Power Plant
Docket No. 50-286	Docket No. 50-333
License No. DPR-64	License No. DPR-59

- REFERENCES:
1. Indian Point Nuclear Generating Unit No. 3 - Order Approving Transfer of License from the Power Authority of the State of New York to Entergy Nuclear Indian Point 3, LLC, and Entergy Nuclear Operations, Inc. and Approving Conforming Amendment (TAC No. MA8948), dated November 9, 2000 (ADAMS Accession No. ML003767953).
 2. James A. FitzPatrick Nuclear Power Plant - Order Approving Transfer of License from the Power Authority of the State of New York to Entergy Nuclear FitzPatrick, LLC, and Entergy Nuclear Operations, Inc. and Approving Conforming Amendment (TAC No. MA8949), dated November 9, 2000 (ADAMS Accession No. ML003768011).

Dear Sir or Madam:

On behalf of itself, Entergy Nuclear Indian Point 3, LLC (ENIP3), Entergy Nuclear FitzPatrick, LLC (ENF), and the Power Authority of the State of New York (PASNY, which does business as the New York Power Authority), Entergy Nuclear Operations, Inc. (ENO), the licensed operator for ENIP3 and ENF, requests that the Nuclear Regulatory Commission (NRC) issue an order (Requested Order) for the transfer to ENO of the beneficial interest in the Power Authority of the State of New York Master Decommissioning Trust (Master Trust), including all rights and obligations thereunder, held by PASNY for Indian Point Nuclear Generating Unit

No. 3 (IP3) and James A. FitzPatrick Nuclear Power Plant (FitzPatrick). ENO also requests NRC's consent to amendments to the Master Decommissioning Trust Agreement dated July 25, 1990, as amended (Master Trust Agreement), governing the Master Trust to facilitate this transfer. Finally, ENO seeks approval of license amendments to modify the existing trust-related license conditions to reflect the proposed transfer of the Master Trust to ENO and to delete other conditions so as to apply the requirements of 10 CFR 50.75(h)(1).

ENO proposes that the approval and issuance of the proposed license amendments be conditioned on the transfer of the Master Trust to ENO by PASNY to continue to be held by ENO pursuant to the Master Trust Agreement with the Bank of New York Mellon, as Trustee. Following the proposed transfer, the decommissioning funding assurance requirements of ENF and ENIP3 will be satisfied using the "prepayment" method in 10 CFR 50.75(e)(1)(i) based upon the Master Trust held by ENO.

As described in the orders approving the license transfers from PASNY to ENIP3 and ENF in References 1 and 2, respectively (2000 Orders), PASNY currently maintains the decommissioning trust funds for IP3 and FitzPatrick in the Master Trust, which includes the Indian Point 3 Unit Fund (IP3 Fund) and the FitzPatrick Unit Fund (FitzPatrick Fund). The Decommissioning Agreement (Indian Point 3), dated November 21, 2000, among PASNY, Entergy Nuclear, Inc. (ENI) and ENIP3 and the Decommissioning Agreement (James A. FitzPatrick), dated November 21, 2000, among PASNY, ENI and ENF (the Decommissioning Agreements) contemplate the possible transfer of the decommissioning trust funds for IP3 and FitzPatrick to ENIP3 and ENF at the end of the initial terms of the operating licenses for IP3 and FitzPatrick. ENO has engaged in discussions with PASNY to seek agreement upon an orderly transfer of the Master Trust to the current licensees for IP3 and FitzPatrick. PASNY has agreed to the transfer and joins in this request for NRC's approval.

ENO and PASNY propose a transaction that will facilitate the transfer of the Master Trust to ENO. The proposed transfer would require that ENO assume PASNY's responsibilities and obligations pursuant to the Decommissioning Agreements upon transfer of the Master Trust to ENO by PASNY. The Requested Order directing the transfer of the Master Trust and consenting to the Master Trust Agreement amendments is required, because the Master Trust Agreement terms must be amended prior to the transfer. Under the terms of the existing license conditions and the Master Trust Agreement itself, any such amendment requires the prior written consent of the Director of the Office Nuclear Reactor Regulation. In addition, the existing license conditions do not contemplate the transfer of the Master Trust to ENO.

Thus, in accordance with these requirements, ENO requests that the NRC issue the Requested Order directing the transfer of the Master Trust to ENO, consenting to an amendment to the Master Trust Agreement authorizing the transfer of the Master Trust to ENO (Second Amendment to Master Decommissioning Trust Agreement), and approving license amendments to be issued in connection with the transfer of the Master Trust to ENO. The proposed Second Amendment would authorize the transfer of the Master Trust and provide that, following the transfer, the Master Trust Agreement terms would apply to ENO and the Bank of New York Mellon, the Trustee, making them the parties to the agreement. The Second Amendment would also authorize future amendments to the Master Trust Agreement after providing 30 working days prior notice to NRC, consistent with 10 CFR 50.75(h)(1)(iii).

Pursuant to 10 CFR 50.90, ENO also proposes to amend the IP3 Facility Operating License DPR-64 (IP3 Operating License) and the FitzPatrick Facility Operating License DPR-59

(FitzPatrick Operating License) to implement the Requested Order by modifying the existing license conditions relating to the prior license transfers to refer to the transfer of the decommissioning trust funds for IP3 and FitzPatrick from PASNY to ENO. The revised license conditions would require the transfer of the Master Trust from PASNY to ENO. The license amendments would also delete the license conditions that impose specific requirements for the decommissioning trust agreement. Instead, the new Master Trust Agreement would be subject to the comprehensive regulatory requirements for decommissioning trust funds in 10 CFR 50.75(h)(1). Pursuant to the terms of 10 CFR 50.75(h)(5), ENIP3 and ENF are currently exempt from the requirements in 10 CFR 50.75(h)(1) through (h)(3). Thus, by deleting the specific license conditions as contemplated by the generic finding of no significant hazards considerations in 10 CFR 50.75(h)(4), the new terms and conditions of the Master Trust Agreement will conform with and be subject to NRC's regulations in 10 CFR 50.75(h)(1) through (h)(3). The deletions will also eliminate references to PASNY holding decommissioning funds.

Attachment 1 provides an analysis of the proposed transfer of the Master Trust to ENO and proposed license amendments. Attachment 2 provides a copy of a proposed Second Amendment to the Master Trust Agreement. Attachment 3 provides the existing FitzPatrick Operating License pages marked up to show the proposed changes, and Attachment 4 provides the existing IP3 Operating License pages marked up to show the proposed changes. Attachments 5 and 6 provide the proposed facility operating license pages in final typed format for FitzPatrick and IP3, respectively.

ENO is submitting a copy of this application and the associated attachments to the designated New York State official in accordance with 10 CFR 50.91.

ENO requests that the NRC consent to the proposed action and approve the proposed license amendments by December 31, 2016. The proposed consent and license amendments do not involve significant technical safety issues, but rather are more akin to financial transactions such as those involving license transfers, which can and should be reviewed expeditiously. Expedited review is consistent with the long-established Commission policy that for these types of approvals "timely and effective resolution . . . is essential." ("Streamlined Hearing Process for NRC Approval of License Transfers," 63 FR 66721, 66721 (Dec. 3, 1998).) Moreover, approval of the transfer of the Master Trust from PASNY to ENO is a precondition to completing another transaction that will be the subject of a license transfer application to be submitted separately in the near future seeking consent for the transfer of FitzPatrick to Exelon Generation Company, LLC.

If NRC requires additional information concerning this request, please contact Bryan Ford, Senior Manager Regulatory Assurance, at (601) 368-55516 or bford@entergy.com.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on August 16, 2016.

Sincerely,



- Attachments:
1. Analysis of Proposed Transfer of Master Trust and Proposed License Amendments
 2. Proposed Second Amendment to Master Decommissioning Trust Agreement dated July 25, 1990
 3. Marked Up FitzPatrick Facility Operating License for Proposed Decommissioning Trust Fund License Condition Amendment
 4. Marked Up IP3 Facility Operating License for Proposed Decommissioning Trust Fund License Condition Amendment
 5. Final Typed Format FitzPatrick Facility Operating License for Proposed Decommissioning Trust Fund License Condition Amendment
 6. Final Typed Format IP3 Facility Operating License for Proposed Decommissioning Trust Fund License Condition Amendment

cc: USNRC Regional Administrator, NRC Region I
USNRC Project Manager, Indian Point Unit 3
USNRC Project Manager, J. A. FitzPatrick
USNRC Resident Inspector, Indian Point Unit 3
USNRC Resident Inspector, J. A. FitzPatrick
Mr. Francis J. Murray, Jr., President and CEO, NYSERDA
Ms. Bridget Frymire, New York State Dept. of Public Service
Mr. Justin Driscoll, Power Authority of the State of New York

ATTACHMENT 1 TO CNRO-2016-00020

ANALYSIS OF PROPOSED TRANSFER OF MASTER TRUST AND PROPOSED
LICENSE AMENDMENTS

ADDITIONS ARE HIGHLIGHTED IN RED
DELETIONS ARE BLACK WITH A BLACK STRIKETHROUGH
ADDITIONS THAT ARE BEING DELETED ARE RED WITH A RED STRIKETHROUGH

ENTERGY NUCLEAR OPERATIONS, INC.
INDIAN POINT NUCLEAR GENERATING UNIT NO. 3 DOCKET NO. 50-286
JAMES A. FITZPATRICK NUCLEAR POWER PLANT DOCKET NO. 50-333

1.0 SUMMARY DESCRIPTION

On behalf of itself, Entergy Nuclear Indian Point 3, LLC (ENIP3), Entergy Nuclear FitzPatrick, LLC (ENF), and the Power Authority of the State of New York (PASNY), Entergy Nuclear Operations, Inc. (ENO) requests that the Nuclear Regulatory Commission (NRC) issue an order (Requested Order) for the transfer to ENO of the beneficial interest in the Power Authority of the State of New York Master Decommissioning Trust (Master Trust), including all rights and obligations thereunder, held by PASNY for Indian Point Nuclear Generating Unit No. 3 (IP3) and James A. FitzPatrick Nuclear Power Plant (FitzPatrick). ENO also requests NRC's consent to amendments to the Master Decommissioning Trust Agreement dated July 25, 1990, as amended (Master Trust Agreement) governing the Master Trust to facilitate this transfer. Finally, ENO seeks approval of license amendments to modify the existing trust-related license conditions to reflect the proposed transfer of the Master Trust to ENO and to delete other conditions so as to apply the requirements of 10 CFR 50.75(h)(1).

ENO proposes that the approval and issuance of the proposed license amendments be conditioned on the transfer of the Master Trust to ENO by PASNY to continue to be held by ENO pursuant to the Master Trust Agreement with the Bank of New York Mellon, as Trustee. Following the proposed transfer, the decommissioning funding assurance requirements of ENF and ENIP3 will be satisfied using the "prepayment" method in 10 CFR 50.75(e)(1)(i) based upon the Master Trust held by ENO.

ENO requests that the NRC issue the Requested Order providing for the transfer of the Master Trust from PASNY to ENO, consenting to amendments to the Master Trust Agreement, and approving amendments to the IP3 Facility Operating License DPR 64 (IP3 Operating License) and the FitzPatrick Facility Operating License DPR-59 (FitzPatrick Operating License) because the proposed transaction and transfer will align responsibility over the Master Trust with the operating licensee for these units. The proposed license amendments also will require the transfer, delete references to PASNY holding the decommissioning trust funds for IP3 and FitzPatrick, and conform the IP3 Operating License and FitzPatrick Operating License to the NRC's regulations governing decommissioning trusts that were revised in 2002.

2.0 DETAILED DESCRIPTION

As described in the orders approving the license transfers from PASNY to ENIP3 (Reference 1) and ENF (Reference 2) (2000 Orders), PASNY currently maintains the decommissioning trust funds for IP3 and FitzPatrick in the Master Trust, which includes the Indian Point 3 Unit Fund (IP3 Fund) and the FitzPatrick Unit Fund (FitzPatrick Fund). The Decommissioning Agreement (Indian Point 3), dated November 21, 2000, among PASNY, Entergy Nuclear, Inc. (ENI) and

ENIP3 and the Decommissioning Agreement (James A. FitzPatrick), dated November 21, 2000, among PASNY, ENI and ENF (the Decommissioning Agreements) contemplate the possible transfer of the decommissioning trust funds for IP3 and FitzPatrick to ENIP3 and ENF at the end of the initial terms of the IP3 Operating License and FitzPatrick Operating License, respectively, and ENO has engaged in discussions with PASNY to seek agreement upon an orderly transfer of the Master Trust and the Decommissioning Agreements to the current licensees for FitzPatrick and IP3. PASNY has agreed to the transfer and joins in this request for NRC's approval.

ENO and PASNY propose a transaction that will facilitate the transfer of the Master Trust to ENO. In addition to paying PASNY consideration for the acquisition of the Master Trust, the proposed transfer would require that ENO assume PASNY's responsibilities and obligations pursuant to the Decommissioning Agreements upon transfer of the Master Trust to ENO by PASNY. The Requested Order directing the transfer of the Master Trust and consenting to the Master Trust Agreement amendments is required, because the Master Trust Agreement terms must be amended prior to the transfer. Under the terms of the existing license conditions and the Master Trust Agreement itself, any such amendment requires the prior written consent of the Director of the Office Nuclear Reactor Regulation. In addition, the existing license conditions do not contemplate the transfer of the Master Trust to ENO. Under the terms of Section 10.05 of the Master Trust Agreement, as amended, the terms of the agreement may be amended to comply with an order issued by the NRC.

Thus, in accordance with these requirements, ENO, on behalf of ENIP3, ENF and PASNY, requests that the NRC issue the Requested Order directing the transfer of the Master Trust, consenting to an amendment to the Master Trust Agreement authorizing the transfer of the Master Trust to ENO (Second Amendment to Master Decommissioning Trust Agreement), and approving license amendments to be issued in connection with the transfer of the Master Trust to ENO to implement the Requested Order. The proposed Second Amendment would authorize the transfer of the Master Trust and provide that following the transfer, the Master Trust Agreement's terms would apply to ENO and the Bank of New York Mellon, the Trustee, making them the parties to the agreement. The Second Amendment would also authorize future amendments to the Master Trust Agreement after first having provided 30 working days prior notice to NRC, consistent with 10 CFR 50.75(h)(1)(iii).

Pursuant to 10 CFR 50.90, ENO also proposes to amend the IP3 Operating License and the FitzPatrick Operating License to implement the Requested Order by modifying the existing license conditions relating to the prior license transfers to refer to the transfer of the decommissioning trust funds for IP3 and FitzPatrick from PASNY to ENO. The revised license conditions would require the transfer of the Master Trust from PASNY to ENO. The license amendments

would also delete the license conditions that impose specific requirements for the decommissioning trust agreement. Instead, the new Master Trust Agreement would be subject to the comprehensive regulatory requirements for decommissioning trust funds in 10 CFR 50.75(h)(1). Pursuant to the terms of 10 CFR 50.75(h)(5), ENIP3 and ENF are currently exempt from the requirements in 10 CFR 50.75(h)(1) through (h)(3). Thus, by deleting the specific license conditions as contemplated by the generic finding of no significant hazards considerations in 10 CFR 50.75(h)(4), the new terms and conditions of the Master Trust Agreement will conform with and be subject to NRC's regulations in 10 CFR 50.75(h)(1) through (h)(3). The deletions will also eliminate references to PASNY holding decommissioning funds.

Under the terms of the IP3 Operating License and the FitzPatrick Operating License, the Master Trust Agreement is held by PASNY. However, under the terms of the 2000 Orders and safety evaluations which transferred the IP3 Operating License and the FitzPatrick Operating License to ENIP3 and ENF, respectively, and ENO, PASNY was removed from both operating licenses, and thus, PASNY is no longer a licensee.

The proposed transaction and the Requested Order would provide for the transfer of the Master Trust from PASNY to ENO. The NRC's action would remove PASNY, a non-licensee, from having any authority over the Master Trust, and instead, consolidate control of the Master Trust with the operating licensee, ENO. It is preferable to not have a non-licensee involved in the exercise of control over the decommissioning trust funds.

The IP3 Operating License currently contains the following license conditions relating to the decommissioning trust funds:

- Q. The decommissioning trust agreement shall provide that the use of assets in the decommissioning trust fund, in the first instance, shall be limited to the expenses related to decommissioning of the facility as defined by the NRC in its regulations and issuances, and as provided in this license and any amendments thereto.
- R. The decommissioning trust agreement shall provide that no contribution to the decommissioning trust fund that consists of property other than liquid assets shall be permitted.
- S. With respect to the decommissioning trust fund, investments in the securities or other obligations of PASNY, Entergy Corporation, ENIP3, Entergy Nuclear FitzPatrick, LLC, ENO, or affiliates thereof, or their successors or assigns, shall be prohibited. Except for investments that replicate the composition of market indices or other non-nuclear sector mutual funds, investments in any entity owning one or more nuclear plants is prohibited.

- T. The decommissioning trust agreement shall provide that no disbursements or payments from the trust, other than for ordinary administrative expenses, shall be made by the trustee until the trustee has first given the NRC 30 days prior written notice of the payment. In addition, the trust agreement shall state that no disbursements or payments from the trust shall be made if the trustee receives prior written notice of objection from the Director, Office of Nuclear Reactor Regulation.
- U. The decommissioning trust agreement shall provide that the trust agreement shall not be modified in any material respect without the prior written consent of the Director, Office of Nuclear Reactor Regulation.
- V. Entergy Nuclear Indian Point 3, or its successors or assigns, shall take no action that would adversely affect any contract between it and PASNY for PASNY's eventual payment of decommissioning funds from the trust.
- W. Entergy Nuclear Indian Point 3, or its successors or assigns, shall inform the NRC within 30 days of any adverse developments with respect to PASNY's ownership of the decommissioning trust that could reasonably be expected to lead to a significant diminution of funds available for decommissioning the facility.
- X. The decommissioning trust agreement shall state that the trustee, investment advisor, or anyone else directing the investments made in the trust shall adhere to a "prudent investment" standard as specified in 18 CFR 35.32(a)(3) of the Federal Energy Regulatory Commission's regulations.

The FitzPatrick Operating License currently contains the following license conditions relating to the decommissioning trust funds:

- H. The decommissioning trust agreement shall provide that the use of assets in the decommissioning trust fund, in the first instance, shall be limited to the expenses related to decommissioning of the facility as defined by the NRC in its regulations and issuances, and as provided in this license and any amendments thereto.
- I. The decommissioning trust agreement shall provide that no contribution to the decommissioning trust that consists of property other than liquid assets shall be permitted.
- J. With respect to the decommissioning trust fund, investments in the securities or other obligations of the PASNY, Entergy Corporation, Entergy Nuclear IP3, LLC, ENF, ENO, or affiliates thereof, or their successors or assigns, shall be prohibited. Except for investments that replicate the composition of

market indices or other non-nuclear sector mutual funds, investments in any entity owning one or more nuclear plants is prohibited.

- K. The decommissioning trust agreement shall provide that no disbursements or payments from the trust, other than for ordinary administrative expenses, shall be made by the trustee until the trustee has first given the NRC 30 days' prior written notice of the payment. In addition, the trust agreement shall state that no disbursements or payments from the trust shall be made if the trustee receives prior written notice of objection from the Director, Office of Nuclear Reactor Regulation.
- L. The decommissioning trust agreement shall provide that the trust agreement shall not be modified in any material respect without the prior written consent of the Director, Office of Nuclear Reactor Regulation.
- M. ENF, or its successors or assigns shall take no action that would adversely affect any contract between it and PASNY for PASNY's eventual payment of decommissioning funds from the trust.
- N. ENF, or its successors or assigns shall inform the NRC within 30 days of any adverse developments with respect to PASNY's ownership of the decommissioning trust that could reasonably be expected to lead to a significant diminution of funds available for decommissioning the facility.
- O. The decommissioning trust agreement shall state that the trustee, investment advisor, or anyone else directing the investments made in the trust shall adhere to a "prudent investor" standard, as specified in 18 CFR 35.32(a)(3) of the Federal Energy Regulatory Commission's regulations.

The requested amendments would delete all of the above license conditions.

In addition, the remaining license conditions relating to the decommissioning trust funds would be amended to reflect the required transfer of the Master Trust to ENO. The changes to section 2.W of the IP3 Operating License and section 2.P of the FitzPatrick Operating License would reflect the transfer of the Master Trust to ENO, and the changes to section 2.X of the IP3 Operating License and section 2.Q of the FitzPatrick Operating License would reflect the obligations of the owner licensees relating to the Master Trust being held by ENO, instead of PASNY.

3.0 BACKGROUND

On November 9, 2000, the NRC issued the 2000 Orders and safety evaluations that approved the transfer of the IP3 Operating License to ENIP3 and ENO

(Reference 1), and that approved the transfer of the FitzPatrick Operating License to ENF and ENO (Reference 2).

The original commercial arrangements involving the acquisition of IP3 and FitzPatrick contemplated that PASNY would retain the decommissioning trust funds for IP3 and FitzPatrick, respectively, for a period of time, but then provided that either decommissioning costs would be funded from the trusts held by PASNY or that the decommissioning trust funds for IP3 and FitzPatrick would be transferred to ENIP3 and ENF, respectively. Thus, the existing license conditions impose requirements relating to these potential outcomes, but do not authorize the transfer of the Master Trust to ENO. In order to assure an orderly transfer of the Master Trust to a licensee entity, ENO proposes a transaction where ENO would replace PASNY with respect to the Master Trust and PASNY's obligations under the Decommissioning Agreements. This requires that the existing license conditions be amended to both direct and authorize the transfer of the Master Trust to ENO.

In addition, in late 2002, the NRC amended its regulations at 10 CFR 50.75(e) and added new provisions via 10 CFR 50.75(h)(1)-(4) that govern financial assurance mechanisms for licensees that are not "electric utilities" as defined in 10 CFR 50.2. The provisions in 10 CFR 50.75(h) include substantially similar decommissioning trust requirements as those found in the conditions in the IP3 Operating License and FitzPatrick Operating License. In its 2002 rulemaking, the NRC addressed several comments regarding potential conflicts or inconsistencies between the provisions of 10 CFR 50.75(h) and a licensee's existing decommissioning trust-related license conditions. The NRC explained that "licensees will have the option of maintaining their existing license conditions or submitting to the new requirements" and "will be able to decide for themselves whether they prefer to keep or eliminate their specific licenses conditions." (67 FR 78332, 78335, 78339 (Dec. 24, 2002)). To support the option to amend and eliminate these license conditions, the Commission made a generic determination in 10 CFR 50.75(h)(4) that a license amendment which does no more than delete specific license conditions relating to the terms and conditions of decommissioning trust agreements involves "no significant hazards consideration."

In November 2003, the NRC added new section 10 CFR 50.75(h)(5), which codifies the NRC's stated intention of allowing licensees to choose to either maintain their existing license conditions or eliminate them in favor of complying with the new regulatory requirements. (68 FR 65386, 65387 (Nov. 20, 2003)). Section 50.75(h)(5) states:

"The provisions of paragraphs (h)(1) through (h)(3) of this section do not apply to any licensee that as of December 24, 2003, has existing license

conditions relating to decommissioning trust agreements, so long as the licensee does not elect to amend those license conditions. If a licensee with existing license conditions relating to decommissioning trust agreements elects to amend those conditions, the license amendment shall be in accordance with the provisions of paragraph (h) of this section.”

Section 10 CFR 50.75(h)(5) applies to ENIP3 and ENF because ENO is not an “electric utility” as defined in 10 CFR 50.2, and because the IP3 Operating License and the FitzPatrick Operating License have license conditions relating to decommissioning trust agreements that were put in place in 2000.

Consistent with 10 CFR 50.75(h)(5), ENO has elected to submit to the requirements of 10 CFR 50.75(h) by requesting deletion of those license conditions that are currently incorporated in the IP3 Operating License and FitzPatrick Operating License, but addressed in Section 50.75(h).

4.0 TECHNICAL EVALUATION

The Requested Order authorizing the amendment of the Master Trust Agreement makes no substantive changes to the Master Trust Agreement or the IP3 Operating License and the FitzPatrick Operating License. It only makes administrative changes to the Trust Agreement to reflect that transfer of the Master Trust from PASNY to ENO. As a result, no technical changes must be made to the license.

With respect to the deletion of license conditions, the tables below summarize the manner in which the specific requirements of the IP3 Operating License and the FitzPatrick Operating License requested for deletion are addressed in the regulations.

Indian Point Unit 3

License Condition	Regulatory Requirement of 10 CFR 50.75(h)
<p>Q. The decommissioning trust agreement shall provide that the use of assets in the decommissioning trust fund, in the first instance, shall be limited to the expenses related to decommissioning of the facility as defined by the NRC in its regulations and issuances, and as provided in this license and any amendments thereto. (DELETED)</p>	<p>10 CFR 50.75(h)(1)(iv)</p> <p>(iv) Except for withdrawals being made under §50.82(a)(8) or for payments of ordinary administrative costs (including taxes) and other incidental expenses of the fund (including legal, accounting, actuarial, and trustee expenses) in connection with the operation of the fund, no disbursement or payment may be made from the trust, escrow account, Government fund, or other account used to segregate and manage the funds until written notice of the intention to make a disbursement or payment has been given to the Director, Office of Nuclear Reactor Regulation, Director, Office of New Reactors, or Director, Office of Nuclear Material Safety and Safeguards, as applicable, at least 30 working days before the date of the intended disbursement or payment. The disbursement or payment from the trust, escrow account, Government fund or other account may be made following the 30-working day notice period if the person responsible for managing the trust, escrow account, Government fund, or other account does not receive written notice of objection from the Director, Office of Nuclear Reactor Regulation, Director, Office of New Reactors, or Director, Office of Nuclear Material Safety and Safeguards, as applicable, within the notice period. Disbursements or payments from the trust, escrow account, Government fund, or other account used to segregate and</p>

License Condition	Regulatory Requirement of 10 CFR 50.75(h)
	<p>manage the funds, other than for payment of ordinary administrative costs (including taxes) and other incidental expenses of the fund (including legal, accounting, actuarial, and trustee expenses) in connection with the operation of the fund, are restricted to decommissioning expenses or transfer to another financial assurance method acceptable under paragraph (e) of this section until final decommissioning has been completed. After decommissioning has begun and withdrawals from the decommissioning fund are made under §50.82(a)(8), no further notification need be made to the NRC.</p>
<p>R. The decommissioning trust agreement shall provide that no contribution to the decommissioning trust fund that consists of property other than liquid assets shall be permitted. (DELETED)</p>	<p>This requirement was not deemed necessary in the NRC's rulemaking.</p>

License Condition	Regulatory Requirement of 10 CFR 50.75(h)
<p>S. With respect to the decommissioning trust fund, investments in the securities or other obligations of PASNY, Entergy Corporation, ENIP3, Entergy Nuclear FitzPatrick, LLC, ENO, or affiliates thereof, or their successors or assigns, shall be prohibited. Except for investments that replicate the composition of market indices or other non-nuclear sector mutual funds, investments in any entity owning one or more nuclear plants is prohibited. (DELETED)</p>	<p>10 CFR 50.75(h)(1)(i)(A)</p> <p>(i) The trustee, manager, investment advisor, or other person directing investment of the funds:</p> <p>(A) Is prohibited from investing the funds in securities or other obligations of the licensee or any other owner or operator of any nuclear power reactor or their affiliates, subsidiaries, successors or assigns, or in a mutual fund in which at least 50 percent of the fund is invested in the securities of a licensee or parent company whose subsidiary is an owner or operator of a foreign or domestic nuclear power plant. However, the funds may be invested in securities tied to market indices or other non-nuclear sector collective, commingled, or mutual funds, provided that this subsection shall not operate in such a way as to require the sale or transfer either in whole or in part, or other disposition of any such prohibited investment that was made before the publication date of this rule, and provided further that no more than 10 percent of trust assets may be indirectly invested in securities of any entity owning or operating one or more nuclear power plants.</p>
<p>T. The decommissioning trust agreement shall provide that no disbursements or payments from the trust, other than for ordinary administrative expenses, shall be made by the trustee until the trustee has first given the NRC 30 days prior written notice of the payment. In addition, the trust agreement shall state that no</p>	<p>10 CFR 50.75(h)(1)(iv)</p> <p>(iv) Except for withdrawals being made under §50.82(a)(8) or for payments of ordinary administrative costs (including taxes) and other incidental expenses of the fund (including legal, accounting, actuarial, and trustee expenses) in connection with the operation of the fund, no disbursement or payment may</p>

License Condition	Regulatory Requirement of 10 CFR 50.75(h)
<p>disbursements or payments from the trust shall be made if the trustee receives prior written notice of objection from the Director, Office of Nuclear Reactor Regulation. (DELETED)</p>	<p>be made from the trust, escrow account, Government fund, or other account used to segregate and manage the funds until written notice of the intention to make a disbursement or payment has been given to the Director, Office of Nuclear Reactor Regulation, Director, Office of New Reactors, or Director, Office of Nuclear Material Safety and Safeguards, as applicable, at least 30 working days before the date of the intended disbursement or payment. The disbursement or payment from the trust, escrow account, Government fund or other account may be made following the 30-working day notice period if the person responsible for managing the trust, escrow account, Government fund, or other account does not receive written notice of objection from the Director, Office of Nuclear Reactor Regulation, Director, Office of New Reactors, or Director, Office of Nuclear Material Safety and Safeguards, as applicable, within the notice period. Disbursements or payments from the trust, escrow account, Government fund, or other account used to segregate and manage the funds, other than for payment of ordinary administrative costs (including taxes) and other incidental expenses of the fund (including legal, accounting, actuarial, and trustee expenses) in connection with the operation of the fund, are restricted to decommissioning expenses or transfer to another financial assurance method acceptable under paragraph (e) of this section until final decommissioning has been</p>

License Condition	Regulatory Requirement of 10 CFR 50.75(h)
	<p>completed. After decommissioning has begun and withdrawals from the decommissioning fund are made under §50.82(a)(8), no further notification need be made to the NRC.</p>
<p>U. The decommissioning trust agreement shall provide that the trust agreement shall not be modified in any material respect without the prior written consent of the Director, Office of Nuclear Reactor Regulation. (DELETED)</p>	<p>10 CFR 50.75(h)(1)(iii)</p> <p>(iii) The trust, escrow account, Government fund, or other account used to segregate and manage the funds may not be amended in any material respect without written notification to the Director, Office of Nuclear Reactor Regulation, Director, Office of New Reactors, or Director, Office of Nuclear Material Safety and Safeguards, as applicable, at least 30 working days before the proposed effective date of the amendment. The licensee shall provide the text of the proposed amendment and a statement of the reason for the proposed amendment. The trust, escrow account, Government fund, or other account may not be amended if the person responsible for managing the trust, escrow account, Government fund, or other account receives written notice of objection from the Director, Office of Nuclear Reactor Regulation, Director, Office of New Reactors, or Director, Office of Nuclear Material Safety and Safeguards, as applicable, within the notice period.</p>

License Condition	Regulatory Requirement of 10 CFR 50.75(h)
<p>V. The decommissioning trust agreement shall state that the trustee, investment advisor, or anyone else directing the investments made in the trust shall adhere to a “prudent investment” standard as specified in 18 CFR 35.32(a)(3) of the Federal Energy Regulatory Commission’s regulations. (DELETED)</p>	<p>10 CFR 50.75(h)(1)(i)(B)</p> <p>(B) Is obligated at all times to adhere to a standard of care set forth in the trust, which either shall be the standard of care, whether in investing or otherwise, required by State or Federal law or one or more State or Federal regulatory agencies with jurisdiction over the trust funds, or, in the absence of any such standard of care, whether in investing or otherwise, that a prudent investor would use in the same circumstances. The term “prudent investor,” shall have the same meaning as set forth in the Federal Energy Regulatory Commission’s “Regulations Governing Nuclear Plant Decommissioning Trust Funds” at 18 CFR 35.32(a)(3), or any successor regulation.</p>

The Tables below show two license conditions relating to the decommissioning trust funds that were inadvertently omitted from the current IP3 Operating License. These two conditions are also being deleted.

IP3

<p>V1. Entergy Nuclear Indian Point 3, or its successors or assigns, shall take no action that would adversely affect any contract between it and PASNY for PASNY’s eventual payment of decommissioning funds from the trust. (DELETED)</p>	<p>Although discussed in 10 CFR 50.75(h), this license condition will be unnecessary should the NRC approve the proposed transaction, as control over the Master Trust would be transferred from PASNY, a non-licensee, to ENO, a licensee.</p>
--	---

<p>W1. Entergy Nuclear Indian Point 3, or its successors or assigns, shall inform the NRC within 30 days of any adverse developments with respect to PASNY's ownership of the decommissioning trust that could reasonably be expected to lead to a significant diminution of funds available for decommissioning the facility. (DELETED)</p>	<p>Although discussed in 10 CFR 50.75(h), this license condition will be unnecessary should the NRC approve the proposed transaction, as control over the Master Trust would be transferred from PASNY, a non-licensee, to ENO, a licensee.</p>
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FitzPatrick

License Condition	Regulatory Requirement of 10 CFR 50.75(h)
<p>H. The decommissioning trust agreement shall provide that the use of assets in the decommissioning trust fund, in the first instance, shall be limited to the expenses related to decommissioning of the facility as defined by the NRC in its regulations and issuances, and as provided in this license and any amendments thereto. (DELETED)</p>	<p>10 CFR 50.75(h)(1)(iv) (iv) Except for withdrawals being made under §50.82(a)(8) or for payments of ordinary administrative costs (including taxes) and other incidental expenses of the fund (including legal, accounting, actuarial, and trustee expenses) in connection with the operation of the fund, no disbursement or payment may be made from the trust, escrow account, Government fund, or other account used to segregate and manage the funds until written notice of the intention to make a disbursement or payment has been given to the Director, Office of Nuclear Reactor Regulation, Director, Office of New Reactors, or Director, Office of Nuclear Material Safety and Safeguards, as applicable, at least 30 working days before the date of the intended disbursement or payment. The disbursement or payment from the trust, escrow account, Government fund or other account may be made following the 30-working day notice period if the person responsible for</p>

License Condition	Regulatory Requirement of 10 CFR 50.75(h)
	<p>managing the trust, escrow account, Government fund, or other account does not receive written notice of objection from the Director, Office of Nuclear Reactor Regulation, Director, Office of New Reactors, or Director, Office of Nuclear Material Safety and Safeguards, as applicable, within the notice period. Disbursements or payments from the trust, escrow account, Government fund, or other account used to segregate and manage the funds, other than for payment of ordinary administrative costs (including taxes) and other incidental expenses of the fund (including legal, accounting, actuarial, and trustee expenses) in connection with the operation of the fund, are restricted to decommissioning expenses or transfer to another financial assurance method acceptable under paragraph (e) of this section until final decommissioning has been completed. After decommissioning has begun and withdrawals from the decommissioning fund are made under §50.82(a)(8), no further notification need be made to the NRC.</p>
<p>I. The decommissioning trust agreement shall provide that no contribution to the decommissioning trust that consists of property other than liquid assets shall be permitted. (DELETED)</p>	<p>This requirement was not deemed necessary in the NRC's rulemaking.</p>

License Condition	Regulatory Requirement of 10 CFR 50.75(h)
<p>J. With respect to the decommissioning trust fund, investments in the securities or other obligations of the PASNY, Entergy Corporation, Entergy Nuclear IP3, LLC, ENF, ENO, or affiliates thereof, or their successors or assigns, shall be prohibited. Except for investments that replicate the composition of market indices or other non-nuclear sector mutual funds, investments in any entity owning one or more nuclear plants is prohibited. (DELETED)</p>	<p>10 CFR 50.75(h)(1)(i)(A)</p> <p>(i) The trustee, manager, investment advisor, or other person directing investment of the funds:</p> <p>(A) Is prohibited from investing the funds in securities or other obligations of the licensee or any other owner or operator of any nuclear power reactor or their affiliates, subsidiaries, successors or assigns, or in a mutual fund in which at least 50 percent of the fund is invested in the securities of a licensee or parent company whose subsidiary is an owner or operator of a foreign or domestic nuclear power plant. However, the funds may be invested in securities tied to market indices or other non-nuclear sector collective, commingled, or mutual funds, provided that this subsection shall not operate in such a way as to require the sale or transfer either in whole or in part, or other disposition of any such prohibited investment that was made before the publication date of this rule, and provided further that no more than 10 percent of trust assets may be indirectly invested in securities of any entity owning or operating one or more nuclear power plants.</p>
<p>K. The decommissioning trust agreement shall provide that no disbursements or payments from the trust, other than for ordinary administrative expenses, shall be made by the trustee until the trustee has first given the NRC 30 days' prior written notice of the payment. In addition, the trust agreement shall state that no</p>	<p>10 CFR 50.75(h)(1)(iv)</p> <p>(iv) Except for withdrawals being made under §50.82(a)(8) or for payments of ordinary administrative costs (including taxes) and other incidental expenses of the fund (including legal, accounting, actuarial, and trustee expenses) in connection with the operation of the fund, no disbursement or payment may</p>

License Condition	Regulatory Requirement of 10 CFR 50.75(h)
<p>disbursements or payments from the trust shall be made if the trustee receives prior written notice of objection from the Director, Office of Nuclear Reactor Regulation. (DELETED)</p>	<p>be made from the trust, escrow account, Government fund, or other account used to segregate and manage the funds until written notice of the intention to make a disbursement or payment has been given to the Director, Office of Nuclear Reactor Regulation, Director, Office of New Reactors, or Director, Office of Nuclear Material Safety and Safeguards, as applicable, at least 30 working days before the date of the intended disbursement or payment. The disbursement or payment from the trust, escrow account, Government fund or other account may be made following the 30-working day notice period if the person responsible for managing the trust, escrow account, Government fund, or other account does not receive written notice of objection from the Director, Office of Nuclear Reactor Regulation, Director, Office of New Reactors, or Director, Office of Nuclear Material Safety and Safeguards, as applicable, within the notice period. Disbursements or payments from the trust, escrow account, Government fund, or other account used to segregate and manage the funds, other than for payment of ordinary administrative costs (including taxes) and other incidental expenses of the fund (including legal, accounting, actuarial, and trustee expenses) in connection with the operation of the fund, are restricted to decommissioning expenses or transfer to another financial assurance method acceptable under paragraph (e) of this section until final decommissioning has been</p>

License Condition	Regulatory Requirement of 10 CFR 50.75(h)
	completed. After decommissioning has begun and withdrawals from the decommissioning fund are made under §50.82(a)(8), no further notification need be made to the NRC.
<p>L. The decommissioning trust agreement shall provide that the trust agreement shall not be modified in any material respect without the prior written consent of the Director, Office of Nuclear Reactor Regulation. (DELETED)</p>	<p>10 CFR 50.75(h)(1)(iii)</p> <p>(iii) The trust, escrow account, Government fund, or other account used to segregate and manage the funds may not be amended in any material respect without written notification to the Director, Office of Nuclear Reactor Regulation, Director, Office of New Reactors, or Director, Office of Nuclear Material Safety and Safeguards, as applicable, at least 30 working days before the proposed effective date of the amendment. The licensee shall provide the text of the proposed amendment and a statement of the reason for the proposed amendment. The trust, escrow account, Government fund, or other account may not be amended if the person responsible for managing the trust, escrow account, Government fund, or other account receives written notice of objection from the Director, Office of Nuclear Reactor Regulation, Director, Office of New Reactors, or Director, Office of Nuclear Material Safety and Safeguards, as applicable, within the notice period</p>
<p>M. ENF, or its successors or assigns shall take no action that would adversely affect any contract between it and PASNY for PASNY's eventual payment of decommissioning funds from the trust. (DELETED)</p>	<p>Although discussed in 10 CFR 50.75(h), this license condition will be unnecessary should the NRC approve the proposed transaction, as control over the Master Trust would be transferred from PASNY, a non-licensee, to ENO, a licensee.</p>

License Condition	Regulatory Requirement of 10 CFR 50.75(h)
<p>N. ENF, or its successors or assigns shall inform the NRC within 30 days of any adverse developments with respect to PASNY's ownership of the decommissioning trust that could reasonably be expected to lead to a significant diminution of funds available for decommissioning the facility. (DELETED)</p>	<p>Although discussed in 10 CFR 50.75(h), this license condition will be unnecessary should the NRC approve the proposed transaction, as control over the Master Trust would be transferred from PASNY, a non-licensee, to ENO, a licensee.</p>
<p>O. The decommissioning trust agreement shall state that the trustee, investment advisor, or anyone else directing the investments made in the trust shall adhere to a "prudent investor" standard, as specified in 18 CFR 35.32(a)(3) of the Federal Energy Regulatory Commission's regulations. (DELETED)</p>	<p>10 CFR 50.75(h)(1)(i)(B)</p> <p>(B) Is obligated at all times to adhere to a standard of care set forth in the trust, which either shall be the standard of care, whether in investing or otherwise, required by State or Federal law or one or more State or Federal regulatory agencies with jurisdiction over the trust funds, or, in the absence of any such standard of care, whether in investing or otherwise, that a prudent investor would use in the same circumstances. The term "prudent investor," shall have the same meaning as set forth in the Federal Energy Regulatory Commission's "Regulations Governing Nuclear Plant Decommissioning Trust Funds" at 18 CFR 35.32(a)(3), or any successor regulation.</p>

The Tables below show the proposed changes in the remaining two license conditions in each license relating to the decommissioning trust funds.

IP3

License Condition	Explanation
<p>W. For purposes of ensuring public health and safety, ENIP3, upon the transfer of this license to it and upon transfer of decommissioning funds from PASNY to ENO, shall provide decommissioning funding assurance</p>	<p>The changes reflect the decommissioning trust funds being held by ENO rather than PASNY.</p>

License Condition	Explanation
<p>for the facility by the prepayment or equivalent method, to be held in a decommissioning trust fund for the facility, of no less than the amount required under NRC regulation at 10 CFR 50.75. Any amount held in any decommissioning trust maintained by ENOPASNY for the facility after the transfer of the facility license to ENIP3 may be credited towards the amount required under this paragraph.</p>	
<p>X. ENIP3 shall take all necessary steps to ensure that the decommissioning trust is maintained in accordance with the application for the transfer of this license to ENIP3 and ENO, as modified by the request to transfer decommissioning funds from PASNY, and the requirements of the order approving the transfer and order approving the transfer of decommissioning funds from PASNY to ENO, and consistent with the safety evaluations supporting such orders.</p>	<p>The changes reflect the obligations of ENIP3 following the transfer of decommissioning trust funds to ENO from PASNY.</p>

FitzPatrick

License Condition	Explanation
<p>P. For purposes of ensuring public health and safety, ENF, upon the transfer of this license to it and upon transfer of decommissioning funds from PASNY to ENO, shall provide decommissioning funding assurance for the facility, to be held in a decommissioning trust fund for the facility by the prepayment or equivalent method, of no less than the amount required under NRC regulations at 10 CFR 50.75. Any amount held in any decommissioning trust maintained by ENOPASNY for</p>	<p>The changes reflect the decommissioning trust funds being held by ENO rather than PASNY.</p>

License Condition	Explanation
<p>the facility after the transfer of the facility license to ENF may be credited towards the amount required under this paragraph.</p>	
<p>Q. ENF shall take all necessary steps to ensure that the decommissioning trust is maintained in accordance with the application for the transfer of this license to ENF and ENO, as modified by the request to transfer decommissioning funds from PASNY, and the requirements of the order approving the transfer and order approving the transfer of decommissioning funds from PASNY to ENO, and consistent with the safety evaluations supporting such orders.</p>	<p>The changes reflect the obligations of ENF following the transfer of decommissioning trust funds to ENO from PASNY.</p>

5.0 REGULATORY ANALYSIS

5.1 NO SIGNIFICANT HAZARDS CONSIDERATION DETERMINATION

The proposed changes do no more than transfer authority over the Master Trust from PASNY, a non-licensee, to ENO, a licensee, and delete specific license conditions relating to the terms and conditions of decommissioning trust agreements. As such, the proposed amendments fall within the “generic” determination by the Commission in 10 CFR 50.75(h)(4) that such an amendment does not normally involve any significant hazards consideration:

“(4) Unless otherwise determined by the Commission with regard to a specific application, the Commission has determined that any amendment to the license of a utilization facility that does no more than delete specific license conditions relating to the terms and conditions of decommissioning trust agreements involves ‘no significant hazards consideration.’”

Pursuant to 10 CFR 50.92, ENO has reviewed the proposed changes and concludes that the changes do not involve a significant hazards consideration since the proposed change satisfies the criteria in 10 CFR 50.92(c). These criteria require that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; (2) create the possibility of a

new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

The discussion below addresses each of these criteria and demonstrates that the proposed amendment does not constitute a significant hazard.

1. Do the proposed amendments involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The requested changes delete certain license conditions pertaining to the decommissioning trust agreements currently in sections 2.Q to 2.X of the IP3 Operating License and sections 2.H to 2.O of the FitzPatrick Operating License. In addition, conforming changes to 2.W and 2.X of the IP3 Operating License and 2.P and 2.Q of the FitzPatrick Operating License are necessary reflect the transfer of the Master Trust from PASNY to ENO.

The requested changes are consistent with the types of license amendments permitted in 10 CFR 50.75(h)(5).

The regulations of 10 CFR 50.75(h)(4) state that “Unless otherwise determined by the Commission with regard to a specific application, the Commission has determined that any amendment to the license of a utilization facility that does no more than delete specific license conditions relating to the terms and conditions of decommissioning trust agreements involves ‘no significant hazards consideration.’”

In addition the requested changes seek changes to the Master Trust agreement only to the extent that they replace PASNY, a non-licensee, with ENO, a licensee. No other changes to the Master Trust agreement are contemplated.

This request involves changes that are administrative in nature. No actual plant equipment or accident analyses will be affected by the proposed changes.

Therefore, the proposed amendments do not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Do the proposed amendments create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

This request involves administrative changes to licenses that will be consistent with the NRC's regulations at 10 CFR 50.75(h) and to change the name of the entity responsible under the Master Trust for decommissioning from a non-licensee to a licensee.

No actual plant equipment or accident analyses will be affected by the proposed changes and no failure modes not bounded by previously evaluated accidents will be created.

Therefore, the proposed change does not create the possibility of a new or different kind of accident from any previously evaluated.

3. Do the proposed amendments involve a significant reduction in a margin of safety?

Response: No.

The request involves administrative changes to the licenses that will be consistent with the NRC's regulations at 10 CFR 50.75(h) and to change the name of the entity responsible under the Master Trust for decommissioning from a non-licensee to a licensee.

Margin of safety is associated with confidence in the ability of the fission product barriers to limit the level of radiation doses to the public. No actual plant equipment or accident analyses will be affected by the proposed change. Additionally, the proposed changes will not relax any criteria used to establish safety limits, will not relax any safety systems settings, or will not relax the bases for any limiting conditions of operation.

Therefore, the proposed change does not involve a significant reduction in the margin of safety.

Based on the above, ENO concludes that the proposed amendments present no significant hazards consideration under the standards set forth in 10 CFR 50.92(c), and, accordingly, a finding of "no significant hazards consideration" is justified.

5.2 PRECEDENT

The proposed changes are consistent with those approved for Comanche Peak Steam Electric Station, Units 1 and 2 (Reference 3).

5.3 CONCLUSION

Based on the considerations discussed above: (1) there is reasonable assurance that the health and safety of the public will not be endangered by operation in the proposed manner; (2) such activities will be conducted in compliance with the Commission's regulations; and (3) the issuance of the amendment will not be inimical to the common defense and security or to the health and safety of the public.

6.0 ENVIRONMENTAL CONSIDERATION

The proposed amendments are confined to administrative changes for providing consistency with existing regulations. Accordingly, the proposed amendments meet the eligibility criterion for categorical exclusion set forth in 10 CFR 51.22(c)(10). Therefore, pursuant to 10 CFR 51.22(b), no environmental impact statement or environmental assessment need be prepared in connection with the proposed amendments.

7.0 REFERENCES

1. Indian Point Nuclear Generating Unit No. 3 – Order Approving the Transfer of License from the Power Authority of the State of New York to Entergy Nuclear Indian Point 3, LLC, and Entergy Nuclear Operations, Inc. and Approving Conforming Amendment (TAC No. MA8948), dated Nov. 9, 2000 (ML003767953)
2. James A. FitzPatrick Nuclear Power Plant – Order Approving the Transfer of License from the Power Authority of the State of New York to Entergy Nuclear FitzPatrick, LLC, and Entergy Nuclear Operations, Inc., and Approving Conforming Amendment (TAC No. MA8949), dated Nov. 9, 2000 (ML003768011).
3. Letter, NRC to TXU Energy, "Comanche Peak Steam Electric Station (CPSES), Units 1 and 2 – Issuance of Amendments RE: Deletion of Unnecessary License Conditions and Reporting Requirements (TAC Nos. MB5770 and MB5771)," dated May 15, 2003 (ML031350770).

ATTACHMENT 2 TO CNRO-2016-00020

PROPOSED SECOND AMENDMENT TO MASTER DECOMMISSIONING TRUST
AGREEMENT DATED JULY 25, 1990

ENTERGY NUCLEAR OPERATIONS, INC.
INDIAN POINT NUCLEAR GENERATING UNIT NO. 3 DOCKET NO. 50-286
JAMES A. FITZPATRICK NUCLEAR POWER PLANT DOCKET NO. 50-333

SECOND AMENDMENT TO MASTER DECOMMISSIONING TRUST AGREEMENT

SECOND AMENDMENT TO MASTER DECOMMISSIONING TRUST AGREEMENT dated as of _____, 20__ (“Second Amendment”) by and between the Power Authority of the State of New York, a corporate municipal instrumentality and political subdivision of the State of New York (“Authority”) and The Bank of New York Mellon, as Trustee (the “Trustee”), a New York banking corporation having trust powers.

WHEREAS, with respect to the Decommissioning of the Indian Point 3 Nuclear Plant (“Indian Point 3”) and the James A. FitzPatrick Nuclear Plant (“FitzPatrick”), the Authority has a beneficial interest in the Master Decommissioning Trust (the “Master Trust”) operating under the Master Decommissioning Trust Agreement dated as of July 25, 1990 between the Authority and the Trustee, as amended by the First Amendment to Master Decommissioning Trust Agreement dated as of November 21, 2000, between the Authority and the Trustee (as so amended, the “Master Trust Agreement”);

WHEREAS, Section 10.05 of the Master Trust Agreement provides that the Master Trust Agreement may be altered or amended to the extent necessary to comply with Applicable Law or any Order;

WHEREAS, Section 10.05 of the Master Trust Agreement further provides that the Master Trust Agreement may be amended in connection with the assignment of beneficial ownership provided by Section 3.01 of the Master Trust Agreement;

WHEREAS, Section 10.05 of the Master Trust Agreement provides that any alteration, amendment or modification of the Master Trust Agreement or an exhibit thereto must be in writing and signed by the Authority and the Trustee;

WHEREAS, Section 10.05 of the Master Trust Agreement provides that the Trustee shall execute such alteration, modification or amendment required to be executed by it, but shall have no duty to inquire or make any investigation as to whether any amendment, modification or alteration is consistent with said Section 10.05;

WHEREAS, the Authority has agreed, subject to satisfaction of certain terms and conditions, to assign its beneficial interest in the Master Trust under the terms of the Master Trust Agreement, including all rights and obligations thereunder, and the Decommissioning Agreements to Entergy Nuclear Operations, Inc. (“ENO”);

WHEREAS, the Nuclear Regulatory Commission (“NRC”) has issued an Order dated _____, 20__ providing for the Authority to assign its beneficial interest in the Master Trust under the terms of the Master Trust Agreement, including all rights and obligations thereunder, and the Decommissioning Agreements to ENO consistent with the terms and conditions set forth in such Order; and

WHEREAS, the Authority desires to amend the Master Trust Agreement to comply with such Order and in connection with such assignment of such beneficial ownership interest;

NOW, THEREFORE, in consideration of the foregoing premises and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Trustee and the Authority hereby agree as follows:

1. Defined terms used herein and not otherwise defined shall have the meanings ascribed to them in the Master Trust Agreement.
2. The Master Trust Agreement is amended as follows:
 - a. Section 3.01 is amended in its entirety to read as follows:

“3.01 Beneficiary. The beneficial ownership of the Funds shall, subject to the purpose of the Master Trust, be at all times in the Authority; provided, however, the Authority shall have the right by written notice to the Trustee to assign its beneficial interest hereunder to the owner(s) of the Units in accordance with the Decommissioning Agreements or to Entergy Nuclear Operations, Inc., and after such assignment wherever the term “Authority” is used herein, except for (a) clause (iii) of Section 6.01 of this Agreement; and (b) the second sentence of Section 10.05, it shall be deemed to refer to such assignee beneficiary as it relates to the Master Trust, IP3 Unit Fund, FitzPatrick Unit Fund, or this Agreement, as the case may be.”

- b. The words “pursuant to the Decommissioning Agreements” in Section 4.01 are changed to “pursuant to Section 3.01 hereof” and the last sentence in Section 4.01 is deleted.
 - c. The last two sentences of Section 5.01 are amended and replaced to read as follows:

“Except for withdrawals being made under 10 CFR § 50.82(a)(8) or for payments of ordinary administrative costs (including taxes) and other incidental expenses of the fund (including legal, accounting, actuarial, and trustee expenses) in connection with the operation of the fund, no disbursement or payment may be made from the trust until written notice of the intention to make a disbursement or payment has been given to the Director, Office of Nuclear Reactor Regulation, Director, Office of New Reactors, or Director, Office of Nuclear Material Safety and Safeguards, as applicable, at least 30 working days before the date of the intended disbursement or payment. The disbursement or payment from the trust

may be made following the 30-working day notice period if the Trustee does not receive written notice of objection from the Director, Office of Nuclear Reactor Regulation, Director, Office of New Reactors, or Director, Office of Nuclear Material Safety and Safeguards, as applicable, within the notice period. Disbursements or payments from the trust, other than for payment of ordinary administrative costs (including taxes) and other incidental expenses of the fund (including legal, accounting, actuarial, and trustee expenses) in connection with the operation of the fund, are restricted to decommissioning expenses or transfer to another financial assurance method acceptable under applicable NRC regulations until final decommissioning has been completed. After decommissioning has begun and withdrawals from the decommissioning fund are made under 10 CFR § 50.82(a)(8), no further notification need be made to the NRC.”

- d. The last sentence of Section 6.02 is deleted.
- e. The second and third sentences in Section 9.01 are amended and replaced to read as follows:

“The Trustee and any Investment Manager appointed pursuant to Section 9.02 hereof are prohibited from investing the funds in securities or other obligations of Authority, Entergy Corporation, Entergy Nuclear FitzPatrick, LLC, Entergy Nuclear Indian Point 3, LLC, Entergy Nuclear Operations, Inc., Exelon Generation Company, their affiliates, or their successors or assigns, or any other owner or operator of any nuclear power reactor or their affiliates, subsidiaries, successors or assigns, or in a mutual fund in which at least 50 percent of the fund is invested in the securities of a licensee or parent company whose subsidiary is an owner or operator of a foreign or domestic nuclear power plant.

- f. Section 9.03 is amended to include a new subsection “(e)” as follows:

“(e) The Authority, its affiliates, and its subsidiaries are prohibited from being engaged as investment manager for the funds or from giving day-to-day management direction of the funds' investments or direction on individual investments by the funds, except in the case of passive fund management of trust funds where management is limited to investments tracking market indices.”

- g. The penultimate sentence of Section 10.5 is amended and replaced to read as follows:

“This Agreement may not be modified in any material respect without written notification to the Director, Office of Nuclear Reactor Regulation, or

the Director, Office of Nuclear Material Safety and Safeguards, as applicable, at least 30 working days before the proposed effective date of the amendment. The Authority shall provide the text of the proposed amendment and a statement of the reason for the proposed amendment. The Agreement may not be amended if the Trustee receives written notice of objection from the Director, Office of Nuclear Reactor Regulation, Director, Office of New Reactors, or Director, Office of Nuclear Material Safety and Safeguards, as applicable, within the notice period.”

3. This Second Amendment shall bind and inure to the benefit of the Authority and the Trustee and their assigns, transferees and successors.
4. This Second Amendment and all questions pertaining to its validity, construction and administration shall be determined in accordance with the internal substantive laws (and not the choice of law rules) of the State of New York to the extent not superseded by Federal law.
5. This Second Amendment may be executed in any number of counterparts, each of which shall be an original, with the same effect as if the signature thereto and hereto were upon the same instrument.
6. The Authority and the Trustee hereby represent and warrant to the other that it has full authority to enter into this Second Amendment on the terms and conditions hereof and that the individual executing this Second Amendment on its behalf has the requisite authority to bind such party.

[Signature page follows.]

IN WITNESS WHEREOF, the Authority and the Trustee have executed this instrument under seal as of the date first above written.

THE BANK OF NEW YORK MELLON, AS TRUSTEE

By: _____

Name:

Title:

Attest:

Name:

Title:

POWER AUTHORITY OF THE STATE OF NEW YORK

By: _____

Name:

Title:

Attest:

Name:

Title:

ATTACHMENT 3 TO CNRO-2016-00020

MARKED UP FITZPATRICK FACILITY OPERATING LICENSE FOR PROPOSED
DECOMMISSIONING TRUST FUND LICENSE CONDITION AMENDMENT

ADDITIONS ARE HIGHLIGHTED IN RED
DELETIONS ARE BLACK WITH A BLACK STRIKETHROUGH
ADDITIONS THAT ARE BEING DELETED ARE RED WITH A RED STRIKETHROUGH

ENTERGY NUCLEAR OPERATIONS, INC.
INDIAN POINT NUCLEAR GENERATING UNIT NO. 3 DOCKET NO. 50-286
JAMES A. FITZPATRICK NUCLEAR POWER PLANT DOCKET NO. 50-333

- G. ENF and ENO shall take no action to cause Entergy Global Investments, Inc. or Entergy International Ltd. LLC, or their parent companies, to void, cancel, or modify the \$70 million contingency commitment to provide funding for the facility as represented in the application for approval of the transfer of the facility license from PASNY to ENF and ENO, without the prior written consent of the Director, Office of Nuclear Reactor Regulation.
- H. ~~The decommissioning trust agreement shall provide that the use of assets in the decommissioning trust fund, in the first instance, shall be limited to the expenses related to decommissioning of the facility as defined by the NRC in its regulations and issuances, and as provided in this license and any amendments thereto (DELETED)~~
- I. ~~The decommissioning trust agreement shall provide that no contribution to the decommissioning trust that consists of property other than liquid assets shall be permitted. (DELETED)~~
- J. ~~With respect to the decommissioning trust fund, investments in the securities or other obligations of the PASNY, Entergy Corporation, Entergy Nuclear IP3, LLC, ENF, ENO, or affiliates thereof, or their successors or assigns, shall be prohibited. Except for investments that replicate the composition of market indices or other non-nuclear sector mutual funds, investments in any entity owning one or more nuclear plants is prohibited. (DELETED)~~
- K. ~~The decommissioning trust agreement shall provide that no disbursements or payments from the trust, other than for ordinary administrative expenses, shall be made by the trustee until the trustee has first given the NRC 30 days' prior written notice of the payment. In addition, the trust agreement shall state that no disbursements or payments from the trust shall be made if the trustee receives prior written notice of objection from the Director, Office of Nuclear Reactor Regulation. (DELETED)~~
- L. ~~The decommissioning trust agreement shall provide that the trust agreement shall not be modified in any material respect without the prior written consent of the Director, Office of Nuclear Reactor Regulation. (DELETED)~~
- M. ~~ENF, or its successors or assigns shall take no action that would adversely affect any contract between it and PASNY for PASNY's eventual payment of decommissioning funds from the trust. (DELETED)~~
- N. ~~ENF, or its successors or assigns shall inform the NRC within 30 days of any adverse developments with respect to PASNY's ownership of the decommissioning trust that could reasonably be expected to lead to a significant diminution of funds available for decommissioning the facility. (DELETED)~~

- O. ~~The decommissioning trust agreement shall state that the trustee, investment advisor, or anyone else directing the investments made in the trust shall adhere to a “prudent investor” standard, as specified in 18 CFR 35.32(a)(3) of the Federal Energy Regulatory Commission’s regulations. (DELETED)~~
- P. For purposes of ensuring public health and safety, ENF, upon the transfer of this license to it, **and upon transfer of decommissioning funds from PASNY to ENO**, shall provide decommissioning funding assurance for the facility, to be held in a decommissioning trust fund for the facility by the prepayment or equivalent method, of no less than the amount required under NRC regulations at 10 CFR 50.75. Any amount held in any decommissioning trust maintained by **ENO PASNY** for the facility after the transfer of the facility license to ENF may be credited towards the amount required under this paragraph.
- Q. ENF shall take all necessary steps to ensure that the decommissioning trust is maintained in accordance with the application for the transfer of this license to ENF and ENO, **as modified by the request to transfer decommissioning funds from PASNY**, and the requirements of the order approving the transfer **and order approving the transfer of decommissioning funds from PASNY to ENO**, and consistent with the safety evaluations supporting such orders.
- R. Mitigation Strategy License Condition

Develop and maintain strategies for addressing large fires and explosions and that include the following key areas:

- (a) Fire fighting response strategy with the following elements:
1. Pre-defined coordinated fire response strategy and guidance
 2. Assessment of mutual aid fire fighting assets
 3. Designated staging areas for equipment and materials
 4. Command and control
 5. Training of response personnel
- (b) *Operations to mitigate fuel damage considering the following:*
1. Protection and use of personnel assets
 2. Communications
 3. Minimizing fire spread
 4. Procedures for implementing integrated fire response strategy
 5. Identification of readily-available pre-staged equipment
 6. Training on integrated fire response strategy
 7. Spent fuel pool mitigation measures
- (c) Actions to minimize release to include consideration of:
1. Water spray scrubbing
 2. Dose to onsite responders

- S. The licensee shall implement and maintain all Actions required by Attachment 2 to NRC Order EA-06-137, issued June 20, 2006, except the last action that requires incorporation of the strategies into the site security plan, contingency plan, emergency plan and/or guard training and qualification plan, as appropriate.

ATTACHMENT 4 TO CNRO-2016-00020

MARKED UP IP3 FACILITY OPERATING LICENSE FOR PROPOSED DECOMMISSIONING
TRUST FUND LICENSE CONDITION AMENDMENT

ADDITIONS ARE HIGHLIGHTED IN RED
DELETIONS ARE BLACK WITH A BLACK STRIKETHROUGH
ADDITIONS THAT ARE BEING DELETED ARE RED WITH A RED STRIKETHROUGH

ENTERGY NUCLEAR OPERATIONS, INC.
INDIAN POINT NUCLEAR GENERATING UNIT NO. 3 DOCKET NO. 50-286
JAMES A. FITZPATRICK NUCLEAR POWER PLANT DOCKET NO. 50-333

- M. (DELETED) Amdt. 205
2/27/01
- N. (DELETED) Amdt. 49
5-25-84
- O. Evaluation, status and schedule for completion of balance of plant modifications as outlined in letter dated February 12, 1983, shall be forwarded to the NRC by January 1, 1984. Amdt. 47
5-27-83
- P. Entergy Nuclear IP3 and ENO shall take no action to cause Entergy Global Investments, Inc. or Entergy International Ltd. LLC, or their parent companies to void, cancel, or modify the \$70 million contingency commitment to provide funding for the facility as represented in the application for approval of the transfer of the license from PASNY to ENIP3 and ENO, without the prior written consent of the Director, Office of Nuclear Reactor Regulation. Amdt. 203
11/21/00
- Q. ~~The decommissioning trust agreement shall provide that the use of assets in the decommissioning trust fund, in the first instance, shall be limited to the expenses related to decommissioning of the facility as defined by the NRC in its regulations and issuances, and as provided in this license and any amendments thereto.~~(DELETED) Amdt. 203
11/27/00
- R. ~~The decommissioning trust agreement shall provide that no contribution to the decommissioning trust fund that consists of property other than liquid assets shall be permitted.~~(DELETED) Amdt. 203
11/27/00
- S. ~~With respect to the decommissioning trust fund, investments in the securities or other obligations of PASNY, Entergy Corporation, ENIP3, Entergy Nuclear FitzPatrick, LLC, ENO, or affiliates thereof, or their successors or assigns, shall be prohibited. Except for investments that replicate the composition of market indices or other non-nuclear sector mutual funds, investments in any entity owning one or more nuclear plants is prohibited.~~ (DELETED) Amdt. 203
11/27/00

- T. ~~The decommissioning trust agreement shall provide that no disbursements or payments from the trust, other than for ordinary administrative expenses, shall be made by the trustee until the trustee has first given the NRC 30 days prior written notice of the payment. In addition, the trust agreement shall state that no disbursements or payments from the trust shall be made if the trustee receives prior written notice of objection from the Director, Office of Nuclear Reactor Regulation. (DELETED)~~ Amdt. 203
11/27/00
- U. ~~The decommissioning trust agreement shall provide that the trust agreement shall not be modified in any material respect without the prior written consent of the Director, Office of Nuclear Reactor Regulation. (DELETED)~~ Amdt. 203
11/27/00
- V. ~~The decommissioning trust agreement shall state that the trustee, investment advisor, or anyone else directing the investments made in the trust shall adhere to a "prudent investment" standard, as specified in 18 CFR 35.32(a)(3) of the Federal Energy Regulatory Commission's regulations. (DELETED)~~ Amdt. 203
11/27/00
- W. For purposes of ensuring public health and safety, ENIP3, upon the transfer of this license to it, **and upon transfer of decommissioning funds from PASNY to ENO**, shall provide decommissioning funding assurance for the facility by the prepayment or equivalent method, to be held in a decommissioning trust fund for the facility, of no less than the amount required under NRC regulations at 10 CFR 50.75. Any amount held in any decommissioning trust maintained by **ENO** ~~PASNY~~ for the facility after the transfer of the facility license to ENIP3 may be credited towards the amount required under this paragraph. Amdt. 203
11/27/00
- X. ENIP3 shall take all necessary steps to ensure that the decommissioning trust is maintained in accordance with the application for the transfer of this license to ENIP3 and ENO, **as modified by the request to transfer decommissioning funds from PASNY**, and the requirements of the order approving the transfer **and order approving the transfer of decommissioning funds from PASNY to ENO**, and consistent with the safety evaluations supporting such orders. Amdt. 203
11/27/00

The two license conditions below are related to the decommissioning trust funds and were inadvertently omitted from the current IP3 Operating License. These two conditions are also being deleted.

V1. ~~Entergy Nuclear Indian Point 3, or its successors or assigns, shall take no action that would adversely affect any contract between it and PASNY for PASNY's eventual payment of decommissioning funds from the trust. (DELETED)~~

W1. ~~Entergy Nuclear Indian Point 3, or its successors or assigns, shall inform the NRC within 30 days of any adverse developments with respect to PASNY's ownership of the decommissioning trust that could reasonably be expected to lead to a significant diminution of funds available for decommissioning the facility. (DELETED)~~

ATTACHMENT 5 TO CNRO-2016-00020

FINAL TYPED FORMAT FITZPATRICK FACILITY OPERATING LICENSE FOR PROPOSED
DECOMMISSIONING TRUST FUND LICENSE CONDITION AMENDMENT

ADDITIONS ARE HIGHLIGHTED IN RED
DELETIONS ARE BLACK WITH A BLACK STRIKETHROUGH
ADDITIONS THAT ARE BEING DELETED ARE RED WITH A RED STRIKETHROUGH

ENTERGY NUCLEAR OPERATIONS, INC.
INDIAN POINT NUCLEAR GENERATING UNIT NO. 3 DOCKET NO. 50-286
JAMES A. FITZPATRICK NUCLEAR POWER PLANT DOCKET NO. 50-333

- G. ENF and ENO shall take no action to cause Entergy Global Investments, Inc. or Entergy International Ltd. LLC, or their parent companies, to void, cancel, or modify the \$70 million contingency commitment to provide funding for the facility as represented in the application for approval of the transfer of the facility license from PASNY to ENF and ENO, without the prior written consent of the Director, Office of Nuclear Reactor Regulation.
- H. DELETED
- I. DELETED
- J. DELETED
- K. DELETED
- L. DELETED
- M. DELETED
- N. DELETED
- O. DELETED
- P. For purposes of ensuring public health and safety, ENF, upon the transfer of this license to it, **and upon transfer of decommissioning funds from PASNY to ENO**, shall provide decommissioning funding assurance for the facility, to be held in a decommissioning trust fund for the facility by the prepayment or equivalent method, of no less than the amount required under NRC regulations at 10 CFR 50.75. Any amount held in any decommissioning trust maintained by **ENO** for the facility after the transfer of the facility license to ENF may be credited towards the amount required under this paragraph.
- Q. ENF shall take all necessary steps to ensure that the decommissioning trust is maintained in accordance with the application for the transfer of this license to ENF and ENO, **as modified by the request to transfer decommissioning funds from PASNY**, and the requirements of the order approving the transfer **and order approving the transfer of decommissioning funds from PASNY to ENO**, and consistent with the safety evaluations supporting such orders.

R. Mitigation Strategy License Condition

Develop and maintain strategies for addressing large fires and explosions and that include the following key areas:

- (a) Fire fighting response strategy with the following elements:
 - 6. Pre-defined coordinated fire response strategy and guidance
 - 7. Assessment of mutual aid fire fighting assets
 - 8. Designated staging areas for equipment and materials
 - 9. Command and control
 - 10. Training of response personnel

- (b) Operations to mitigate fuel damage considering the following:
 - 1. Protection and use of personnel assets
 - 2. Communications
 - 3. Minimizing fire spread
 - 4. Procedures for implementing integrated fire response strategy
 - 5. Identification of readily-available pre-staged equipment
 - 6. Training on integrated fire response strategy
 - 7. Spent fuel pool mitigation measures

- (c) Actions to minimize release to include consideration of:
 - 1. Water spray scrubbing
 - 2. Dose to onsite responders

S. The licensee shall implement and maintain all Actions required by Attachment 2 to NRC Order EA-06-137, issued June 20, 2006, except the last action that requires incorporation of the strategies into the site security plan, contingency plan, emergency plan and/or guard training and qualification plan, as appropriate.

ATTACHMENT 6 TO CNRO-2016-00020

FINAL TYPED FORMAT IP3 FACILITY OPERATING LICENSE FOR PROPOSED
DECOMMISSIONING TRUST FUND LICENSE CONDITION AMENDMENT

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ENTERGY NUCLEAR OPERATIONS, INC.
INDIAN POINT NUCLEAR GENERATING UNIT NO. 3 DOCKET NO. 50-286
JAMES A. FITZPATRICK NUCLEAR POWER PLANT DOCKET NO. 50-333

- M. (DELETED)
- N. (DELETED)
- O. Evaluation, status and schedule for completion of balance of plant modifications as outlined in letter dated February 12, 1983, shall be forwarded to the NRC by January 1, 1984.
- P. Entergy Nuclear IP3 and ENO shall take no action to cause Entergy Global Investments, Inc. or Entergy International Ltd. LLC, or their parent companies to void, cancel, or modify the \$70 million contingency commitment to provide funding for the facility as represented in the application for approval of the transfer of the license from PASNY to ENIP3 and ENO, without the prior written consent of the Director, Office of Nuclear Reactor Regulation.
- Q. (DELETED)
- R. (DELETED)
- S. (DELETED)
- T. (DELETED)
- U. (DELETED)
- V. (DELETED)
- W. For purposes of ensuring public health and safety, ENIP3, upon the transfer of this license to it, and upon transfer of decommissioning funds from PASNY to ENO, shall provide decommissioning funding assurance for the facility by the prepayment or equivalent method, to be held in a decommissioning trust fund for the facility, of no less than the amount required under NRC regulations at 10 CFR 50.75. Any amount held in any decommissioning trust maintained by ENO for the facility after the transfer of the facility license to ENIP3 may be credited towards the amount required under this paragraph.

- X. ENIP3 shall take all necessary steps to ensure that the decommissioning trust is maintained in accordance with the application for the transfer of this license to ENIP3 and ENO, as modified by the request to transfer decommissioning funds from PASNY, and the requirements of the order approving the transfer and order approving the transfer of decommissioning funds from PASNY to ENO, and consistent with the safety evaluations supporting such orders.