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Mandy K. Halter  
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NL-18-034

June 20, 2018

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

SUBJECT: License Amendment Request – Deletion of Facility Operating License Conditions Related to Decommissioning Trust Provisions

Indian Point Nuclear Generating Unit Nos. 1 and 2  
Docket Nos. 50-003 and 50-247  
License Nos. DPR-5 and DPR-26

- REFERENCES:
1. NRC Final Rule for Decommissioning Trust Provisions (67 FR 78332), published December 24, 2002
  2. Letter, NRC to Entergy Nuclear Operations, Inc., "Indian Point Nuclear Generating Unit No. 3 and James A. Fitzpatrick Nuclear Power Plant – Issuance of Amendments Re: Application for Order to Transfer Master Decommissioning Trust from the Power Authority of the State of New York to Entergy Nuclear Operations, Inc., Consenting to Amendments to Trust Agreement, and Delete Decommissioning Trust License Conditions Upon the Transfer of Trust Funds (CAC Nos. MF8288 and MF8289)," dated January 30, 2017 (ML17025A288)

Dear Sir or Madam:

Pursuant to 10 CFR 50.90, Entergy Nuclear Operations, Inc. (ENO) hereby requests amendments to Facility Operating License (OL) No. DPR-5 for Indian Point Unit No. 1 (IP1) and OL No. DPR-26 for Indian Point Unit 2 (IP2).

This license amendment request proposes to delete from the IP1 and IP2 OLs certain license conditions which impose specific requirements on the decommissioning trust agreement, on the basis that upon approval of this amendment, the provisions of 10 CFR 50.75(h) that specify the regulatory requirements for decommissioning trust funds will apply to ENO. The option to delete license conditions relating to the terms and conditions of decommissioning trust fund agreements and, instead, conform to the 10 CFR 50.75(h) regulations adopted in 2002 (Reference 1) is specifically contemplated by the provisions of 10 CFR 50.75(h)(5), and the generic finding of no significant hazards consideration in 10 CFR 50.75(h)(4). A similar license

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amendment request to delete the decommissioning trust license conditions so as to apply the requirements of 10 CFR 50.75(h)(1) through (h)(3) has been previously approved for Indian Point Unit No. 3 (IP3) (Reference 2).

ENO has reviewed the proposed amendment in accordance with 10 CFR 50.91(a)(1), under the standards set forth in 10 CFR 50.92 and the provision of 10 CFR 50.75(h)(4), and concludes that the requested changes involve no significant hazards consideration.

Attachment 1 to this letter provides a detailed description and evaluation of the proposed changes to the OL. Attachment 2 provides a markup of the current IP1 OL pages, and Attachment 3 provides a markup of the current IP2 OL pages.

ENO requests approval of the proposed license amendment by June 1, 2019, with a 60-day implementation period. In accordance with 10 CFR 50.91(b), a copy of this application, with attachments, is being submitted to the designated New York State official.

There are no new regulatory commitments contained in this letter. Should you have any questions regarding this submittal, please contact Mr. Robert Walpole, Manager, Regulatory Assurance, at (914) 254-6710.

I declare under penalty of perjury that the foregoing is true and correct. Executed on June 20, 2018.

Sincerely,



Mandy K. Halter  
Director, Nuclear Licensing

MKH/cdm

- Attachments:
1. Description and Evaluation of the Proposed Changes
  2. Markup of the Current Indian Point Unit No. 1 Facility Operating License Pages
  3. Markup of the Current Indian Point Unit No. 2 Facility Operating License Pages

cc: Mr. Richard Guzman, Senior Project Manager, NRC NRR DORL  
Mr. David Lew, Acting Regional Administrator, NRC Region I  
Ms. Alicia Barton, President and CEO, NYSERDA  
Ms. Bridget Frymire, New York State Public Service Commission  
Mr. Anthony Vitale, Site Vice President, Indian Point Energy Center  
Mr. Robert Walpole, Manager, Regulatory Assurance, Indian Point Energy Center  
NRC Resident Inspector's Office, Indian Point Energy Center

ATTACHMENT 1 TO NL-18-034

DESCRIPTION AND EVALUATION OF PROPOSED CHANGES

ENERGY NUCLEAR OPERATIONS, INC.  
INDIAN POINT NUCLEAR GENERATING UNIT NOS. 1 AND 2  
DOCKET NOS. 50-003 AND 50-247

## 1.0 SUMMARY DESCRIPTION

This license amendment request proposes to delete from the Indian Point Unit No. 1 (IP1) and Indian Point Unit No. 2 (IP2) Facility Operating Licenses (OLs) certain license conditions which impose specific requirements on the decommissioning trust agreement, on the basis that Entergy Nuclear Operations, Inc. (ENO) has elected to subject its decommissioning trust agreement to the regulatory requirements for decommissioning trust funds that are specified in 10 CFR 50.75(h). The option to delete license conditions relating to the terms and conditions of decommissioning trust fund agreements and, instead, conform to the 10 CFR 50.75(h) regulations adopted in 2002 (Reference 1), as amended in 2003 (Reference 2), is consistent with the Nuclear Regulatory Commission's (NRC's) stated intent in the Final Rule for Decommissioning Trust Provisions published in the Federal Register (67 FR 78332, 68 FR 65388) and is specifically contemplated by the provisions of 10 CFR 50.75(h)(5), and the generic finding of no significant hazards consideration in 10 CFR 50.75(h)(4).

Pursuant to the terms of 10 CFR 50.75(h)(5), IP1 and IP2 are currently exempt from the requirements in 10 CFR 50.75(h)(1) through (h)(3). Therefore, by deleting the specific license conditions as contemplated by the generic finding of no significant hazards consideration in 10 CFR 50.75(h)(4), the new terms and conditions of the decommissioning trust agreement will conform with and be subject to the NRC's regulations in 10 CFR 50.75(h)(1) through (h)(3). A similar license amendment request to delete the decommissioning trust license conditions so as to apply the requirements of 10 CFR 50.75(h)(1) through (h)(3) has been previously approved for Indian Point Unit No. 3 (IP3) (Reference 3).

## 2.0 DETAILED DESCRIPTION

License Conditions 6.(a) and 7 of the IP1 Amended Provisional OL currently include the following requirements for the decommissioning trust funds:

6.
  - (a) Decommissioning Trust
    - (i) The decommissioning trust agreement must be in a form acceptable to the NRC.
    - (ii) With respect to the decommissioning trust funds, investments in the securities or other obligations of Entergy Corporation, or its affiliates, subsidiaries, successors, or assigns are and shall be prohibited. Except for investments tied to market indexes or other non-nuclear-sector mutual funds, investments in any entity owning one or more nuclear power plants are and shall be prohibited.
    - (iii) No contribution to the funds that consists of property other than liquid assets shall be permitted.
    - (iv) The decommissioning trust agreement must provide that no disbursements or payments from the trusts, other than for ordinary administrative expenses, shall be made by the trustee unless the trustee has first given the Director of the Office of Nuclear Reactor Regulation 30 days prior

written notice of payment. The decommissioning trust agreement shall further contain a provision that no disbursements or payments from the trusts shall be made if the trustee receives prior written notice of objection from the NRC.

- (v) The decommissioning trust agreement must provide that the agreement cannot be amended in any material respect without 30 days prior written notification to the Director of the Office of Nuclear Reactor Regulation.
  - (vi) The appropriate section of the decommissioning trust agreement shall state that the trustee, investment advisor, or anyone else directing the investments made in the trusts shall adhere to a "prudent Investor" standard, as specified in 18 CFR 35.32(a)(3) of the Federal Energy Regulatory Commission's regulations.
7. ENIP2 shall take all necessary steps to ensure that the decommissioning trusts are maintained in accordance with the application for approval of the transfer of the IP1 and IP2 licenses to ENIP2 and ENO and the requirements of the Order approving the transfer, and consistent with the safety evaluation supporting that Order.

License Conditions 3.(a) and 4 of the IP2 Amended OL currently include the following requirements for the decommissioning trust funds:

- 3.
- (a) Decommissioning Trust
    - (i) The decommissioning trust agreement must be in a form acceptable to the NRC.
    - (ii) With respect to the decommissioning trust funds, investments in the securities or other obligations of Entergy Corporation, or its affiliates, subsidiaries, successors, or assigns are and shall be prohibited. Except for investments tied to market indexes or other non-nuclear-sector mutual funds, investments in any entity owning one or more nuclear power plants are and shall be prohibited.
    - (iii) No contribution to the funds that consists of property other than liquid assets shall be permitted.
    - (iv) The decommissioning trust agreement must provide that no disbursements or payments from the trusts, other than for ordinary administrative expenses, shall be made by the trustee unless the trustee has first given the Director of the Office of Nuclear Reactor Regulation 30 days prior written notice of payment. The decommissioning trust agreement shall further contain a provision that no disbursements or payments from the trusts shall be made if the trustee receives prior written notice of objection from the NRC.

- (v) The decommissioning trust agreement must provide that the agreement cannot be amended in any material respect without 30 days prior written notification to the Director of the Office of Nuclear Reactor Regulation.
  - (vi) The appropriate section of the decommissioning trust agreement shall state that the trustee, investment advisor, or anyone else directing the investments made in the trusts shall adhere to a "prudent Investor" standard, as specified in 18 CFR 35.32(a)(3) of the Federal Energy Regulatory Commission's regulations.
4. ENIP2 shall take all necessary steps to ensure that the decommissioning trust is maintained in accordance with the application for approval of the transfer of the IP1 and IP2 licenses to ENIP2 and ENO and the requirements of the Order approving the transfer, and consistent with the safety evaluation supporting that Order.

This proposed license amendment request would delete IP1 License Conditions 6.(a) and 7, including the 6.(a) subparagraphs (i) through (vi). This amendment request would also delete IP2 License Conditions 3.(a) and 4, including the 3.(a) subparagraphs (i) through (vi). In addition, conforming changes would delete "decommissioning trust" from the last sentence in paragraphs 6 and 3 of the IP1 and IP2 License Conditions, respectively, that refers the reader to the now deleted decommissioning trust requirements.

### **3.0 BACKGROUND**

On August 27, 2001, the NRC issued an Order and safety evaluation that approved the transfer of the IP1 and IP2 OLs from Consolidated Edison Company of New York, Inc., to Entergy Nuclear Indian Point 2, LLC (ENIP2), and Entergy Nuclear Operations, Inc. (Reference 4). On September 6, 2001, the NRC issued conforming amendments to the IP1 and IP2 OLs to reflect the license transfers (Reference 5).

In December 2002, the NRC amended its regulations at 10 CFR 50.75(e) and added new provisions at 10 CFR 50.75(h)(1) through (h)(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 IP1 OL License Conditions 6.(a) and 7 and IP2 OL License Conditions 3.(a) and 4. 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 license conditions" (67 FR 78332, 78335, 78339 (Reference 1)). To support the option to amend and eliminate these license conditions, the NRC 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) to the regulations, which codifies the NRC's stated intention of allowing licensees to choose to either maintain their

existing license conditions or eliminating them in favor of complying with the new regulatory requirements (68 FR 65387, 65389 (Reference 2)). Section 10 CFR 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 IP1 and IP2 because ENO is not an “electric utility” as defined in 10 CFR 50.2 and because the IP1 and IP2 OLs have license conditions relating to decommissioning trust agreements that were put in place in 2001.

Consistent with 10 CFR 50.75(h)(5), ENO has elected to submit to the requirements of 10 CFR 50.75(h). Accordingly, ENO requests deletion of the existing license conditions relating to decommissioning trust agreements that are currently incorporated in the IP1 and IP2 OLs, and are addressed in 10 CFR 50.75(h).

#### 4.0 TECHNICAL EVALUATION

The table below summarizes the manner in which the specific requirements of the IP1 and IP2 license conditions requested for deletion are addressed in the regulations.

### IP1

License Condition 6.(a)	Regulatory Requirement of 10 CFR 50.75(h)
(i) <del>The decommissioning trust agreement must be in a form acceptable to the NRC. (Deleted)</del>	While this wording is not explicitly stated in the revised regulations of 10 CFR 50.75, the intent of this license condition is the basic focus of the NRC's 2002 rulemaking (67 FR 78332). In that rulemaking, the NRC stated that “[t]he amendments to NRC’s requirements for decommissioning trust provisions of nuclear power plants <i>require that decommissioning trust agreements be in a form acceptable to the NRC</i> in order to increase assurance that an adequate amount of decommissioning funds will be available for their intended purpose” (67 FR 78349 (emphasis added)).
(ii) <del>With respect to the decommissioning trust funds, investments in the securities or other obligations of Entergy Corporation, or its affiliates, subsidiaries, successors, or assigns are and shall be prohibited. Except for investments tied to market indexes or other non-nuclear sector</del>	§50.75(h)(1)(i)  The trustee, manager, investment advisor, or other person directing investment of the funds:  (A) Is prohibited from investing the funds in securities or other obligations of the licensee or any other owner or operator of any nuclear

License Condition 6.(a)	Regulatory Requirement of 10 CFR 50.75(h)
<p><del>mutual funds, investments in any entity owning one or more nuclear power plants are and shall be prohibited. (Deleted)</del></p>	<p>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>(iii) <del>No contribution to the funds that consists of property other than liquid assets shall be permitted. (Deleted)</del></p>	<p>Decommissioning financial assurance payments generally refer to payments into a trust, escrow account, or government fund, with payment of cash or liquid assets by certificate of deposit or deposit of government securities or other securities, or other method acceptable to the NRC. The acceptable financial assurance methods and forms of payment are provided in 10 CFR 50.75(e).</p>
<p>(iv) <del>The decommissioning trust agreement must provide that no disbursements or payments from the trusts, other than for ordinary administrative expenses, shall be made by the trustee unless the trustee has first given the Director of the Office of Nuclear Reactor Regulation 30 days prior written notice of payment. The decommissioning trust agreement shall further contain a provision that no disbursements or payments from the trusts shall be made if the trustee receives prior written notice of objection from the NRC. (Deleted)</del></p>	<p>§50.75(h)(1)(iv)</p> <p>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,</p>

License Condition 6.(a)	Regulatory Requirement of 10 CFR 50.75(h)
	<p>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 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>(v) <del>The decommissioning trust agreement must provide that the agreement cannot be amended in any material respect without 30 days prior written notification to the Director of the Office of Nuclear Reactor Regulation. (Deleted)</del></p>	<p>§50.75(h)(1)(iii)</p> <p>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</p>

License Condition 6.(a)	Regulatory Requirement of 10 CFR 50.75(h)
	Safeguards, as applicable, within the notice period.
<p>(vi) <del>The appropriate section of the decommissioning trust agreement shall state that the trustee, investment advisor, or anyone else directing the investments made in the trusts 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)</del></p>	<p>§50.75(h)(1)(i)</p> <p>The trustee, manager, investment advisor, or other person directing investment of the funds:</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>
License Condition 7	Regulatory Requirement of 10 CFR 50.75(h)
<p><del>ENIP2 shall take all necessary steps to ensure that the decommissioning trusts are maintained in accordance with the application for approval of the transfer of the IP1 and IP2 licenses to ENIP2 and ENO and the requirements of the Order approving the transfer, and consistent with the safety evaluation supporting that Order. (Deleted)</del></p>	<p>This license condition is no longer needed, based on the provisions of 10 CFR 50.75(h) and Entergy's decision to comply with that section's decommissioning trust agreement requirements. In addition, as noted in the NRC's 2002 rulemaking, "the NRC has always believed that it is preferable and more efficient to adopt standard rules, as opposed to applying specific license conditions on a case-by-case basis" (67 FR 78334). This license condition is effectively addressed by the standard requirements codified in the regulations.</p>

**IP2**

License Condition 3.(a)	Regulatory Requirement of 10 CFR 50.75(h)
(i) <del>The decommissioning trust agreement must be in a form acceptable to the NRC. (Deleted)</del>	While this wording is not explicitly stated in the revised regulations of 10 CFR 50.75, the intent of this license condition is the basic focus of the NRC's 2002 rulemaking (67 FR 78332). In that rulemaking, the NRC stated that "[t]he amendments to NRC's requirements for decommissioning trust provisions of nuclear power plants <i>require that decommissioning trust agreements be in a form acceptable to the NRC</i> in order to increase assurance that an adequate amount of decommissioning funds will be available for their intended purpose" (67 FR 78349 (emphasis added)).
(ii) <del>With respect to the decommissioning trust funds, investments in the securities or other obligations of Entergy Corporation, or its affiliates, subsidiaries, successors, or assigns are and shall be prohibited. Except for investments tied to market indexes or other non-nuclear sector mutual funds, investments in any entity owning one or more nuclear power plants are and shall be prohibited. (Deleted)</del>	§50.75(h)(1)(i)  The trustee, manager, investment advisor, or other person directing investment of the funds:  (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.

License Condition 3.(a)	Regulatory Requirement of 10 CFR 50.75(h)
(iii) <del>No contribution to the funds that consists of property other than liquid assets shall be permitted. (Deleted)</del>	Decommissioning financial assurance payments generally refer to payments into a trust, escrow account, or government fund, with payment of cash or liquid assets by certificate of deposit or deposit of government securities or other securities, or other method acceptable to the NRC. The acceptable financial assurance methods and forms of payment are provided in 10 CFR 50.75(e).
(iv) <del>The decommissioning trust agreement must provide that no disbursements or payments from the trusts, other than for ordinary administrative expenses, shall be made by the trustee unless the trustee has first given the Director of the Office of Nuclear Reactor Regulation 30 days prior written notice of payment. The decommissioning trust agreement shall further contain a provision that no disbursements or payments from the trusts shall be made if the trustee receives prior written notice of objection from the NRC. (Deleted)</del>	§50.75(h)(1)(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 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

License Condition 3.(a)	Regulatory Requirement of 10 CFR 50.75(h)
	<p>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>(v) <del>The decommissioning trust agreement must provide that the agreement cannot be amended in any material respect without 30 days prior written notification to the Director of the Office of Nuclear Reactor Regulation. (Deleted)</del></p>	<p>§50.75(h)(1)(iii)</p> <p>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>(vi) <del>The appropriate section of the decommissioning trust agreement shall state that the trustee, investment advisor, or anyone else directing the investments made in the trusts 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)</del></p>	<p>§50.75(h)(1)(i)</p> <p>The trustee, manager, investment advisor, or other person directing investment of the funds:</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</p>

<b>License Condition 3.(a)</b>	<b>Regulatory Requirement of 10 CFR 50.75(h)</b>
	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.
<b>License Condition 4</b>	<b>Regulatory Requirement of 10 CFR 50.75(h)</b>
<del>ENIP2 shall take all necessary steps to ensure that the decommissioning trust is maintained in accordance with the application for approval of the transfer of the IP1 and IP2 licenses to ENIP2 and ENO and the requirements of the Order approving the transfer, and consistent with the safety evaluation supporting that Order.</del> (Deleted)	This license condition is no longer needed, based on the provisions of 10 CFR 50.75(h) and Entergy's decision to comply with that section's decommissioning trust agreement requirements. In addition, as noted in the NRC's 2002 rulemaking, "the NRC has always believed that it is preferable and more efficient to adopt standard rules, as opposed to applying specific license conditions on a case-by-case basis" (67 FR 78334). This license condition is effectively addressed by the standard requirements codified in the regulations.

## 5.0 REGULATORY EVALUATION

### 5.1 NO SIGNIFICANT HAZARDS CONSIDERATION DETERMINATION

The proposed changes do no more than delete specific license conditions relating to the terms and conditions of decommissioning trust agreements. In 10 CFR 50.75(h)(4), the NRC (Commission) determined 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.'"

The requested changes are consistent with the type of license amendment permitted in 10 CFR 50.75(h)(4).

Pursuant to 10 CFR 50.92, ENO has reviewed the proposed changes and concludes that the changes satisfy the criteria in 10 CFR 50.92(c) and 10 CFR 50.75(h)(4), and as such, the proposed changes do not involve a significant hazards consideration. The criteria in 10 CFR 50.92(c) 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 criterion 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 License Conditions 6.(a) and 7 of the IP1 OL and License Conditions 3.(a) and 4 of the IP2 OL, which pertain to the decommissioning trust agreements.

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 the IP1 and IP2 OLs relating to the terms and conditions of the decommissioning trust agreements. The proposed changes will be consistent with the NRC's regulations at 10 CFR 50.75(h).

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 amendments do 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.

This request involves administrative changes to the IP1 and IP2 OLs that will be consistent with the NRC's regulations at 10 CFR 50.75(h).

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 amendments do 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 previously approved for Indian Point Nuclear Generating Unit No. 3 and James A. Fitzpatrick Nuclear Power Plant (Reference 6), Oyster Creek Nuclear Generating Station (Reference 7), and Comanche Peak Steam Electric Station, Units 1 and 2 (Reference 8)

## 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 CONSIDERATIONS

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. NRC Final Rule for Decommissioning Trust Provisions (Volume 67 Federal Register 78332 – 78352), published December 24, 2002
2. NRC Direct Final Rule for Minor Changes to Decommissioning Trust Provisions (Volume 68 Federal Register 65386 – 65389), published November 20, 2003
3. Letter, NRC to Entergy Nuclear Operations, Inc., "Indian Point Nuclear Generating Unit No. 3 and James A. Fitzpatrick Nuclear Power Plant – Issuance of Amendments Re: Application for Order to Transfer Master Decommissioning Trust from the Power Authority of the State of New York to Entergy Nuclear Operations, Inc., Consenting to Amendments to Trust Agreement, and Delete Decommissioning Trust License Conditions Upon the Transfer of Trust Funds (CAC Nos. MF8288 and MF8289)," dated January 30, 2017 (ML17025A288)

4. Letter, NRC to Entergy Nuclear Operations, Inc. and Consolidated Edison Company of New York, Inc., "Indian Point Nuclear Generating Unit Nos. 1 and 2 – Order Approving Transfer of Licenses from the Consolidated Edison Company of New York, Inc., to Entergy Nuclear Indian Point 2, LLC, and Entergy Nuclear Operations, Inc. and Approving Conforming Amendments (TAC Nos. MB0743 and MB0744)," dated August 27, 2001 (ML012250459)
5. Letter, NRC to Entergy Nuclear Operations, Inc. and Consolidated Edison Company of New York, Inc., "Indian Point Nuclear Generating Unit Nos. 1 and 2 – Issuance of Conforming Amendments (TAC Nos. MB0743 and MB0744)," dated September 6, 2001 (ML012490190)
6. Letter, NRC to Entergy Nuclear Operations, Inc., "Order Approving Transfer of Control of Master Decommissioning Trust for Indian Point Nuclear Generating Unit No. 3 and James A. Fitzpatrick Nuclear Power Plant from the Power Authority of the State of New York to Entergy Nuclear Operations, Inc., Amendments to the Master Decommissioning Trust Agreement, and Associated License Amendments (CAC Nos. MF8286, MF8287, MF8288, and MF8289)," dated January 27, 2017 (ML16336A492)
7. Letter, NRC to Exelon Generation Company, LLC, "Oyster Creek Nuclear Generating Station – Issuance of Amendment RE: Deletion of Facility Operating License Conditions Related to Decommissioning Trust Provisions (CAC No. MF9293)," dated June 23, 2017 (ML17067A042)
8. 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 NL-18-034

MARKUP OF THE CURRENT INDIAN POINT UNIT NO. 1  
FACILITY OPERATING LICENSE PAGES

ENTERGY NUCLEAR OPERATIONS, INC.  
INDIAN POINT NUCLEAR GENERATING UNIT NOS. 1 AND 2  
DOCKET NOS. 50-003 AND 50-247

- o) An instrument system, including detectors, transmitters, amplifiers, receivers and controllers, panel boards and necessary circuitry to control the reactor and associated systems.
- p) A radiation monitoring system, including detectors and measuring devices.
- q) Secondary coolant system.
- r) Auxiliary steam system.
- s) Condensate and make-up water storage facilities.
- t) Circulating system.
- u) Component drain system.
- v) Sampling system.
- w) Electrical system excluding transmission lines and the Buchanan substation to the extent that they are not covered in the Technical Specifications.

6. On the closing date of the transfer of the license, Con Edison shall transfer to ENIP2 all of the accumulated decommissioning trust funds for Indian Point Nuclear Generating Unit No.1 (IP1) and such additional funds to be deposited in the decommissioning trusts for IP1 such that the total amount transferred for IP1 and Indian Point Nuclear Generating Unit NO.2 (IP2) is no less than \$430,000,000. Furthermore, ENIP2 shall either (a) establish a provisional trust for decommissioning funding assurance for IP1 and IP2 in an amount no less than \$25,000,000 (to be updated as required under applicable NRC regulations, unless otherwise approved by the NRC) or (b) obtain a surety bond for an amount no less than \$25,000,000 (to be updated as required under applicable NRC regulations, unless otherwise approved by the NRC). The total decommissioning funding assurance provided for IP1 by the combination of the decommissioning trust and the provisional trust or surety bond at the time of transfer of the licenses shall be at a level no less than the amounts calculated pursuant to, and required under, 10 CFR 50.75. The decommissioning trust, provisional trust, and surety bond shall be subject to or be consistent with the following requirements, as applicable:

(a) Decommissioning Trust

Deleted

- (i) ~~The decommissioning trust agreement must be in a form acceptable to the NRC.~~
- (ii) ~~With respect to the decommissioning trust funds, investments in the securities or other obligations of Entergy Corporation, or its affiliates, subsidiaries, successors, or assigns are and shall be prohibited. Except for investments tied to market indexes or other non-nuclear sector mutual funds, investments in any entity owning one or more nuclear power plants are and shall be prohibited.~~
- (iii) ~~No contribution to the funds that consists of property other than liquid assets shall be permitted.~~

- ~~(iv) The decommissioning trust agreement must provide that no disbursements or payments from the trusts, other than for ordinary administrative expenses, shall be made by the trustee unless the trustee has first given the Director of the Office of Nuclear Reactor Regulation 30 days prior written notice of payment. The decommissioning trust agreement shall further contain a provision that no disbursements or payments from the trusts shall be made if the trustee receives prior written notice of objection from the NRC.~~
  - ~~(v) The decommissioning trust agreement must provide that the agreement cannot be amended in any material respect without 30 days prior written notification to the Director of the Office of Nuclear Reactor Regulation.~~
  - ~~(vi) The appropriate section of the decommissioning trust agreement shall state that the trustee, investment advisor, or anyone else directing the investments made in the trusts shall adhere to a "prudent investor" standard, as specified in 18 CFR 35.32(a)(3) of the Federal Energy Regulatory Commission's regulations.~~
- (b) Provisional Trust
- (i) The provisional trust agreement must be in a form acceptable to the NRC.
  - (ii) Investments in the securities or other obligations of Entergy Corporation or its affiliates, subsidiaries, successors, or assigns are and shall be prohibited. Except for investments tied to market indexes or other non-nuclear-sector mutual funds, investments in any entity owning one or more nuclear power plants are and shall be prohibited.
  - (iii) The provisional trust agreement must provide that no disbursements or payments from the trust, other than for ordinary administrative expenses, shall be made by the trustee unless the trustee has first given the Director of the Office of Nuclear Reactor Regulation 30 days prior written notice of payment. The provisional trust agreement shall further contain a provision that no disbursements or payments from the trust shall be made if the trustee receives prior written notice of objection from the NRC.
  - (iv) The provisional trust agreement must provide that the agreement cannot be amended in any material respect, or terminated, without 30 days prior written notification to the Director of the Office of Nuclear Reactor Regulation.
  - (v) The appropriate section of the provisional 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.
  - (vi) Use of assets in the provisional trust, in the first instance, shall be limited to the expenses related to decommissioning IP1 or IP2 as defined by the NRC in its regulations and issuances, and as provided in this license and any amendments thereto.

(c) Surety Bond

- (i) The surety bond agreement must be in a form acceptable to the NRC and be in accordance with all applicable NRC regulations.
- (ii) The surety company providing any surety bond obtained to comply with the requirements of the Order approving the transfer shall be one of those listed by the U.S. Department of the Treasury in the most recent edition of Circular 570 and shall have a coverage limit sufficient to cover the amount of the surety bond.
- (iii) ENIP2 shall establish a standby trust to receive funds from the surety bond, if a surety bond is obtained, in the event that ENIP2 defaults on its funding obligations for the decommissioning of IP1. The standby trust agreement must be in a form acceptable to the NRC, and shall conform with all conditions otherwise applicable to the decommissioning trust agreement, and with all conditions that would be applicable to the provisional trust above, if established.
- (iv) The surety agreement must provide that the agreement cannot be amended in any material respect, or terminated, without 30 days prior written notification to the Director of the Office of Nuclear Reactor Regulation.

Deleted

- 7. ~~ENIP2 shall take all necessary steps to ensure that the decommissioning trusts are maintained in accordance with the application for approval of the transfer of the IP1 and IP2 licenses to ENIP2 and ENO and the requirements of the Order approving the transfer, and consistent with the safety evaluation supporting that Order.~~
- 8. ENIP2 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 \$55 million contingency commitment to provide funding for the IP1 and IP2 plants as represented in the application without the prior written consent of the Director of the Office of Nuclear Reactor Regulation.
- 9. The approved Decommissioning Plan supplements the Final Safety Analysis Report (FSAR) and the licensee may (i) make changes in the facility or procedures as described in the FSAR or the Decommissioning Plan and (ii) conduct tests, or experiments not described in the FSAR or Decommissioning Plan, without prior Commission approval, provided the requirements of 10 CFR 50.59 and 10 CFR 50.82(a)(6) and (7) are satisfied.
- 10. The amended license is effective as of the date of issuance, shall be implemented within 30 days, and shall expire at midnight, September 28, 2013.

FOR THE ATOMIC ENERGY COMMISSION

Original signed by  
E. G. Case

R.L. Doan, Director  
Division of Reactor Licensing

Date of Issuance: October 29, 1965

ATTACHMENT 3 TO NL-18-034

MARKUP OF THE CURRENT INDIAN POINT UNIT NO. 2  
FACILITY OPERATING LICENSE PAGES

ENTERGY NUCLEAR OPERATIONS, INC.  
INDIAN POINT NUCLEAR GENERATING UNIT NOS. 1 AND 2  
DOCKET NOS. 50-003 AND 50-247

3. On the closing date of the transfer of the license, Con Edison shall transfer to ENIP2 all of the accumulated decommissioning trust funds for IP2 and such additional funds to be deposited in the decommissioning trusts for IP2 such that the total amount transferred for Indian Point Nuclear Generating Unit No. 1 (IP1) and IP2 is no less than \$430,000,000. Furthermore, ENIP2 shall either (a) establish a provisional trust for decommissioning funding assurance for IP1 and IP2 in an amount no less than \$25,000,000 (to be updated as required under applicable NRC regulations, unless otherwise approved by the NRC) or (b) obtain a surety bond for an amount no less than \$25,000,000 (to be updated as required under applicable NRC regulations, unless otherwise approved by the NRC). The total decommissioning funding assurance provided for IP2 by the combination of the decommissioning trust and the provisional trust or surety bond at the time of transfer of the licenses shall be at a level no less than the amounts calculated pursuant to, and required under, 10 CFR 50.75. The ~~decommissioning trust, provisional trust, and surety bond~~ shall be subject to or be consistent with the following requirements, as applicable:

(a) Decommissioning Trust ← Deleted

~~(i) The decommissioning trust agreement must be in a form acceptable to the NRC.~~

~~(ii) With respect to the decommissioning trust funds, investments in the securities or other obligations of Entergy Corporation, or its affiliates, subsidiaries, successors, or assigns are and shall be prohibited. Except for investments tied to market indexes or other non-nuclear sector mutual funds, investments in any entity owning one or more nuclear power plants are and shall be prohibited.~~

~~(iii) No contribution to the funds that consists of property other than liquid assets shall be permitted.~~

~~(iv) The decommissioning trust agreement must provide that no disbursements or payments from the trusts, other than for ordinary administrative expenses, shall be made by the trustee unless the trustee has first given the Director of the Office of Nuclear Reactor Regulation 30 days prior written notice of payment. The decommissioning trust agreement shall further contain a provision that no disbursements or payments from the trusts shall be made if the trustee receives prior written notice of objection from the NRC.~~

~~(v) The decommissioning trust agreement must provide that the agreement cannot be amended in any material respect without 30 days prior written notification to the Director of the Office of Nuclear Reactor Regulation.~~

~~(vi) The appropriate section of the decommissioning trust agreement shall state that the trustee, investment advisor, or anyone else directing the investments made in the trusts shall adhere to a "prudent investor" standard, as specified in 18 CFR 35.32(a)(3) of the Federal Energy Regulatory Commission's regulations.~~

**Note**

No changes to this page – page included for completeness and is information only.

- 8 -

(b) Provisional Trust:

- (i) The provisional trust agreement must be in a form acceptable to the NRC.
- (ii) Investments in the securities or other obligations of Entergy Corporation or its affiliates, subsidiaries, successors, or assigns are and shall be prohibited. Except for investments tied to market indexes or other non-nuclear-sector mutual funds, investments in any entity owning one or more nuclear power plants are and shall be prohibited.
- (iii) The provisional trust agreement must provide that no disbursements or payments from the trust, other than for ordinary administrative expenses, shall be made by the trustee unless the trustee has first given the Director of the Office of Nuclear Reactor Regulation 30 days prior written notice of payment. The provisional trust agreement shall further contain a provision that no disbursements or payments from the trust shall be made if the trustee receives prior written notice of objection from the NRC.
- (iv) The provisional trust agreement must provide that the agreement cannot be amended in any material respect, or terminated, without 30 days prior written notification to the Director of the Office of Nuclear Reactor Regulation.
- (v) The appropriate section of the provisional 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.
- (vi) Use of assets in the provisional trust, in the first instance, shall be limited to the expenses related to decommissioning IP2 or IP1 as defined by the NRC in its regulations and issuances, and as provided in this license and any amendments thereto.

(c) Surety Bond

- (i) The surety bond agreement must be in a form acceptable to the NRC and be in accordance with all applicable NRC regulations.
- (ii) The surety company providing any surety bond obtained to comply with the requirements of the Order approving the transfer shall be one of those listed by the U.S. Department of the Treasury in the most recent edition of Circular 570 and shall have a coverage limit sufficient to cover the amount of the surety bond.
- (iii) ENIP2 shall establish a standby trust to receive funds from the surety bond, if a surety bond is obtained, in the event that ENIP2 defaults on its funding obligations for the decommissioning of IP2. The standby trust agreement must be in a form acceptable to the NRC, and shall conform with all conditions otherwise applicable to the decommissioning trust agreement, and with all conditions that would be applicable to the provisional trust above, if established.

- (iv) The surety agreement must provide that the agreement cannot be amended in any material respect, or terminated, without 30 days prior written notification to the Director of the Office of Nuclear Reactor Regulation.

Deleted

4. ~~ENIP2 shall take all necessary steps to ensure that the decommissioning trust is maintained in accordance with the application for approval of the transfer of the IP1 and IP2 licenses to ENIP2 and ENO and the requirements of the Order approving the transfer, and consistent with the safety evaluation supporting that Order.~~
5. ENIP2 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 \$55 million contingency commitment to provide funding for the IP1 and IP2 plants as represented in the application without the prior written consent of the Director of the Office of Nuclear Reactor Regulation.
6. This amended license is effective as of the date of issuance, and shall expire at midnight September 28, 2013. Amdt. 118  
4-21-87

FOR THE ATOMIC ENERGY COMMISSION

Original signed by  
Roger S. Boyd

A. Giambusso, Deputy Director  
for Reactor Projects  
Directorate of Licensing

Attachments:

Appendix A – Technical Specifications  
Appendix B – Environmental Technical Specification Requirements  
Appendix C – Inter-Unit Fuel Transfer Technical Specifications

Date of Issuance: September 28, 1973