

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50-334, 50-412, 50-346, and 50-440; NRC-2018-0174]

First Energy Corp.

First Energy Solutions

FirstEnergy Nuclear Generation

FirstEnergy Nuclear Operating Company

AGENCY: Nuclear Regulatory Commission.

ACTION: 10 CFR 2.206 request; receipt.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is giving notice that by petition dated March 27, 2018, Environmental Law and Policy Center (ELPC) (the petitioner) has requested that the NRC take enforcement action with regard to First Energy Corp. (FE), First Energy Solutions (FES), FirstEnergy Nuclear Generation (NG), and FirstEnergy Nuclear Operating Company (FENOC). The petitioner's requests are included in the SUPPLEMENTARY INFORMATION section of this document.

ADDRESSES: Please refer to Docket ID **NRC-2018-0174** when contacting the NRC about the availability of information regarding this document. You may obtain publicly-available information related to this document using any of the following methods:

- **Federal Rulemaking Web Site:** Go to <http://www.regulations.gov> and search for Docket ID **NRC-2018-0174**. Address questions about NRC dockets to Jennifer Borges; telephone: 301-287-9127; e-mail: Jennifer.Borges@nrc.gov. For

technical questions, contact the individuals listed in the FOR FURTHER INFORMATION CONTACT section of this document.

- **NRC's Agencywide Documents Access and Management System**

(ADAMS): You may obtain publicly-available documents online in the ADAMS Public Documents collection at <http://www.nrc.gov/reading-rm/adams.html>. To begin the search, select "[Begin Web-based ADAMS Search](#)." For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1-800-397-4209, 301-415-4737, or by e-mail to pdr.resource@nrc.gov. The ADAMS accession number for each document referenced (if it is available in ADAMS) is provided the first time that it is mentioned in this document. In addition, for the convenience of the reader, the ADAMS accession numbers are provided in a table in the "Availability of Documents" section of this document.

- **NRC's PDR:** You may examine and purchase copies of public documents at the NRC's PDR, Room O1-F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

FOR FURTHER INFORMATION CONTACT: Bhalchandra K. Vaidya, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington DC 20555-0001; telephone: 301-415-3308; email: Bhalchandra.Vaidya@nrc.gov; or Perry Buckberg, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington DC 20555-0001; telephone: 301-415-1383; email: Perry.Buckberg@nrc.gov. Both are staff of the U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001.

SUPPLEMENTARY INFORMATION:

On March 27, 2018, the petitioner requested that the NRC take enforcement action with regard to FE, FES, NG, and FENOC operations in Ohio and Pennsylvania at Beaver Valley Power Station (BVPS), Units 1 and 2; Davis-Besse Nuclear Power Station (DBNPS), Unit 1; and Perry Nuclear Power Plant (PNPP), Unit 1 (ADAMS Accession No. ML18094A642). The petitioner requested that the NRC take the following actions:

A) Demands for Information

- (1) Promptly issue a Demand for Information to FE, FES, NG, and FENOC requesting site-specific decommissioning funding plans for the BVNPS, DBNPS, and PNPP;
- (2) Promptly issue a Demand for Information to FE, FES, NG, and FENOC regarding their reliance on external trust funds from FE and FES to satisfy their decommissioning financial obligations;
- (3) Promptly issue a Demand for Information to FE, FES, NG, and FENOC regarding their continued reliance on Parent Guarantees from FE to satisfy decommissioning funding obligations, including the ability of FE to satisfy the Parent Guarantee financial test under title 10 of the *Code of Federal Regulations* (10 CFR) part 30, appendix A;

- (4) Promptly issue a Demand for Information to FES, NG, and FENOC to the extent that they are relying on Parent Guarantees from FES to satisfy decommissioning funding obligations, including the ability of FES to satisfy the Parent Guarantee financial test under 10 CFR part 30, appendix A;
- (5) Promptly issue a Demand for Information to FE, FES, NG, and FENOC regarding their proposed investment and financial contribution plans to make up the current decommissioning shortfall; and
- (6) Promptly issue a Demand for Information to FE and FES, respectively, regarding each of their commitments to guarantee NG and FENOC's decommissioning shortfall in the event of bankruptcy.

B) Notice of Violation and Penalties

- (1) Promptly issue a Notice of Violation against FE, FES, NG, and FENOC for operating nuclear facilities without sufficient decommissioning funds in violation of 42 United States Code Annotated (U.S.C.A.), Section 2201(x)(1) and 10 CFR 50.75;
- (2) Promptly issue civil penalties against FE, FES, NG, and FENOC for operating nuclear facilities without sufficient decommissioning funds in violation of 42 U.S.C.A. Section 2201(x)(1) and 10 CFR 50.75; and

- (3) Promptly issue an Order to suspend NG, and FENOC's licenses for BVNPS, DBNPS, and PNPP.

The ELPC also urges the NRC to prohibit NG and FENOC from placing their nuclear facilities into SAFSTOR for purely financial reasons. In addition, ELPC requests that this Petition be given immediate emergency consideration in light of FE's and FES' rapidly deteriorating financial conditions.

The basis for ELPC's request is summarized below:

1. NG and FENOC's decommissioning trust amounts are insufficient on their own to provide reasonable assurance of funding.
2. FE cannot rely on rate increases forced on retail ratepayers to pay for the decommissioning trust fund shortfalls.
3. The costs, including SAFSTOR costs, may still be much higher than expected due to significantly higher shortfalls as reported by the Callan Institute and recognized flaws in the NRC's cost estimate formula.
4. On March 28, 2018, FES and FENOC announced that they would permanently retire all four of their reactors within the next 3 years. If plants close in 2020 and 2021, the funds cannot grow to levels that will pay for complete decommissioning.

5. Parent companies FE and FES filed for bankruptcy on March 31, 2018.

The request is being treated pursuant to 10 CFR 2.206 of the Commission's regulations. The request has been referred to the Director of the Office of Nuclear Reactor Regulation. As provided by 10 CFR 2.206, appropriate action will be taken on this petition within a reasonable time.

The petitioner met with the Petition Review Board on June 19, 2018, to discuss the petition; the transcript of that meeting is a supplement to the petition (ADAMS Accession No. ML18194A395). The petition and the results of the discussion at the June 19, 2018, meeting would be considered in establishing the schedule for the review of the petition.

Dated at Rockville, Maryland, this 27th day of August 2018.

For the Nuclear Regulatory Commission.

/RA/

Ho K. Nieh, Director
Office of Nuclear Reactor Regulation