



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

May 29, 2019

Mr. David B. Hamilton
Chief Nuclear Officer
FirstEnergy Nuclear Operating Company
341 White Pine Drive
Akron, OH 44320

SUBJECT: BEAVER VALLEY POWER STATION, UNIT NOS. 1 AND 2; DAVIS-BESSE NUCLEAR POWER STATION, UNIT NO. 1; AND PERRY NUCLEAR POWER PLANT, UNIT NO. 1 – SUPPLEMENTAL INFORMATION NEEDED FOR ACCEPTANCE OF REQUESTED LICENSING ACTION RE: APPLICATION FOR ORDER CONSENTING TO TRANSFER OF LICENSES AND CONFORMING LICENSE AMENDMENTS (EPID-L-2019-LLM-0000)

Dear Mr. Hamilton:

By letter dated April 26, 2019 (Agencywide Documents Access and Management System (ADAMS) Accession No. ML19116A087), FirstEnergy Nuclear Operating Company (FENOC), acting on behalf of itself and FirstEnergy Nuclear Generation, LLC (FENGen) (together, the Applicants) submitted an application for an Order consenting to the transfer of the licenses for Beaver Valley Power Station, Unit Nos. 1 and 2; Davis-Besse Nuclear Power Station, Unit No. 1; and Perry Nuclear Power Plant, Unit No. 1, and their respective generally licensed independent spent fuel storage installation facilities (ISFSIs). The application also requests conforming license amendments to update the entity names on the licenses and modify the \$400 million support agreement. Portions of the letter dated April 26, 2019, contained sensitive unclassified non-safeguards information and, accordingly, have been withheld from public disclosure pursuant to Section 2.390 of Title 10 of the *Code of Federal Regulations* (10 CFR).

The purpose of this letter is to provide the results of the U.S. Nuclear Regulatory Commission (NRC) staff's acceptance review of this license transfer application. The acceptance review was performed to determine if there is sufficient technical information in scope and depth to allow the NRC staff to complete its detailed technical review. The acceptance review is also intended to identify whether the application has any readily apparent information insufficiencies in its characterization of the regulatory requirements or the licensing basis of the plant.

The provisions of Section 184 of the Atomic Energy Act of 1954, as amended, and the NRC's regulations at 10 CFR 50.80, "Transfer of licenses," require NRC approval prior to the transfer of control of the ownership and/or operating authority responsibilities within the facility operating license. Specifically, 10 CFR 50.80(a) states, in part, that "No license for a production or utilization facility..., shall be transferred, assigned, or in any manner disposed of, either voluntarily or involuntarily, directly or indirectly, through transfer of control of the license to any person, unless the Commission gives its consent in writing."

Consistent with 10 CFR 50.80(b), an application for transfer of a license include as much of the technical and financial qualifications information described in 10 CFR 50.33 and 50.34 on the proposed transferee as would be required for an initial license. In addition, pursuant to 10 CFR 50.33(k)(1) applicants must provide "information in the form of a report, as described in 10 CFR 50.75, indicating how reasonable assurance will be provided that funds will be available to decommission the facility.

The NRC staff has reviewed your application and concluded that the information requested in the enclosure to this letter is necessary to enable the staff to make an independent assessment regarding the acceptability of the proposed action in terms of regulatory requirements and the protection of public health and safety and the environment.

In order to make the application complete, the NRC staff requests that the Applicants supplement the application to address the information requested in the enclosure by June 7, 2019. This will enable the NRC staff to begin its detailed technical review. If the information responsive to the NRC staff's request is not received by the above date, the application will not be accepted for review pursuant to 10 CFR 2.101, and the NRC will cease its review activities associated with the application. If the application is subsequently accepted for review, you will be advised of any further information needed to support the staff's detailed technical review by separate correspondence.

The information requested and associated time frame in this letter were discussed with Thomas A. Lentz of your staff on May 28, 2019.

If you have any questions, please contact me at (301) 415-3308.

Sincerely,



Bhalchandra Vaidya, Project Manager
Plant Licensing Branch III
Division of Operating Reactor Licensing
Office of Nuclear Reactor Regulation

Docket Nos. 50-334, 50-412, 72-1043,
50-346, 72-14, 50-440, and 72-69

Enclosure:
Supplemental Information Needed

cc: Mr. Frank R. Payne
Acting Site Vice President
FirstEnergy Nuclear Operating Company
Perry Nuclear Power Station
P.O. Box 97, SB306
Perry, OH 44081-0097

Mr. Mark Bezilla
Site Vice President
FirstEnergy Nuclear Operating Company
Davis-Besse Nuclear Power Station
5501 N. State Route 2
Mail Stop A-DB-3080
Oak Harbor, OH 43449-9760

Mr. Richard D. Bologna
Site Vice President
FirstEnergy Nuclear Operating Company
Beaver Valley Power Station
Mail Stop A-BV-SSB
P.O. Box 4, Route 168
Shippingport, PA 15077

Listserv

SUPPLEMENTAL INFORMATION NEEDED
APPLICATION FOR ORDER CONSENTING TO TRANSFER OF LICENSES AND
CONFORMING LICENSE AMENDMENTS
FIRSTENERGY NUCLEAR OPERATING COMPANY
BEAVER VALLEY POWER STATION, UNIT NOS. 1 AND 2;
DAVIS-BESSE NUCLEAR POWER STATION, UNIT NO. 1; AND
PERRY NUCLEAR POWER PLANT, UNIT NO. 1
DOCKET NOS. 50-334, 50-412, 72-1043, 50-346, 72-14, 50-440, AND 72-69

In accordance with the U.S. Nuclear Regulatory Commission (NRC) regulations in Section 50.80(b)(1)(i) of Title 10 of the *Code of Federal Regulations* (10 CFR), an application for transfer of a license shall include as much of the technical and financial qualifications information described in 10 CFR 50.33 and 50.34 of the proposed transferee as would be required for an initial license. In addition, pursuant to 10 CFR 50.33(k)(1) applicants must provide "information in the form of a report, as described in 10 CFR 50.75, indicating how reasonable assurance will be provided that funds will be available to decommission the facility."

Section 50.75(b)(1) states, in part:

For an applicant for or holder of an operating license under part 50, the report must contain a certification that financial assurance for decommissioning will be (for a license applicant), or has been (for a license holder), provided in an amount which may be more, but not less, than the amount stated in the table in paragraph (c)(1) of this section adjusted using a rate at least equal to that stated in paragraph (c)(2) of this section.

Pursuant to Section 50.75(b)(4), "The amount stated in the applicant's or licensee's certification may be based on a cost estimate for decommissioning the facility."

Thus, for the NRC staff to make a reasonable assurance finding that sufficient funding is available to decommissioning a facility, applicants must demonstrate compliance with the decommissioning financial assurance requirements in 10 CFR 50.75, including that financial assurance is being provided in the required amount in accordance with 10 CFR 50.75(b).

Regulatory Guide (RG) 1.159, Revision 2, "Assuring the Availability of Funds for Decommissioning Nuclear Reactors," October 2011 (Agencywide Documents Access and Management System (ADAMS) Accession No. ML112160012), provides guidance for assuring the availability of funds for decommissioning nuclear reactors. RG 1.159 includes guidance for licensees on correcting shortfalls in decommissioning funding when a licensee can no longer provide decommissioning financial assurance in the amount required by 10 CFR 50.75. As noted in RG 1.159, a shortfall is defined as "The difference between the amount of financial assurance provided by the licensee and the amount of financial assurance required, when the amount provided is less than the amount required."

Enclosure

In its March 15, 2019, submittal for the Decommissioning Funding Status Report (ADAMS Accession No. ML19074A242), FirstEnergy Nuclear Operating Company (FENOC, the licensee) identified a projected shortfall for the Beaver Valley Power Station Unit No 1 (BVPS-1) decommissioning trust fund of approximately \$78 million. In its report, FENOC included a regulatory commitment that "Shortfalls in decommissioning funding assurance for BVPS-1 will be reconciled in accordance with the methods described in 10 CFR 50.75(e)(1) by March 31, 2020."

In the license transfer application dated April 26, 2019 (ADAMS Accession No. ML19116A087),¹ FENOC and FirstEnergy Nuclear Generation, LLC (FENGen) (together, the Applicants) reference the March 15, 2019, regulatory commitment to reconcile the shortfall by March 31, 2020, and state that this commitment aligns with NRC regulatory guidance in RG 1.159. Relying on this commitment, the Applicants state that the report dated March 15, 2019, demonstrates reasonable assurance of adequate funding for radiological decommissioning.

1. As part of its review of the Applicants' license transfer application, the NRC must make a finding that the Applicants have demonstrated that there is reasonable assurance that funds will be available to decommission the facility in accordance with 10 CFR 50.33(k)(1) and 10 CFR 50.75. Any shortfall in decommissioning funding must be corrected by the time of the transfer to demonstrate compliance with NRC decommissioning financial assurance requirements in 10 CFR 50.75. To allow the NRC staff to complete its review of the license transfer application, please provide the following information:
 - a. The Applicants have indicated that there is a shortfall in decommissioning funding for BVPS-1, that they plan to reconcile by March 31, 2020. Will the license transfer transaction be consummated on or after March 31, 2020?
 - b. If the license transfer transaction will be consummated prior to March 31, 2020, please provide supplemental information demonstrating how the Applicants will provide reasonable assurance that funds will be available to decommission the facility, including how the projected shortfall in decommissioning funding will be corrected on or prior to the date the license transfer transaction is consummated.

¹ Portions of the letter dated April 26, 2019, contained sensitive unclassified non-safeguards information and, accordingly, have been withheld from public disclosure pursuant to 10 CFR 2.390.

SUBJECT: BEAVER VALLEY POWER STATION, UNIT NOS. 1 AND 2; DAVIS-BESSE NUCLEAR POWER STATION, UNIT NO. 1; AND PERRY NUCLEAR POWER PLANT, UNIT NO. 1 – SUPPLEMENTAL INFORMATION NEEDED FOR ACCEPTANCE OF REQUESTED LICENSING ACTION RE: APPLICATION FOR ORDER CONSENTING TO TRANSFER OF LICENSES AND CONFORMING LICENSE AMENDMENTS (EPID-L-2019-LLM-0000) DATED MAY 29, 2019

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ADAMS Accession No. ML19143A073

(*) By email

OFFICE	NRR/DORL/LPL3/PM	NRR/DORL/LPL3/LA	NRR/DLP/PFPB/BC(A)
NAME	BVaidya	SRohrer (JBurkhardt for)	FMiller
DATE	05/28/2019	5/24/19	5/29/19
OFFICE	OGC(*)	NRR/DORL/LPL3/BC(A)	NRR/DORL/LPL3/PM
NAME	AGhosh	LRegner (with comments)	BVaidya
DATE	05/28/2019	5/29/19	5/29/19

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