

Darin M. Benyak
Vice President, Nuclear Support and Regulatory Affairs

May 31, 2019
L-19-154

10 CFR 50.80
10 CFR 50.90
10 CFR 72.50

U.S. Nuclear Regulatory Commission
Attention: Document Control Desk
Washington, D.C. 20555

SUBJECT:

Beaver Valley Power Station, Unit Nos. 1 and 2
Docket No. 50-334, License No. DPR-66
Docket No. 50-412, License No. NPF-73
Beaver Valley Power Station, Unit Nos. 1 and 2, ISFSI
Docket No. 72-1043

Davis-Besse Nuclear Power Station, Unit No. 1
Docket No. 50-346, License No. NPF-3
Davis-Besse Nuclear Power Station, Unit No. 1 ISFSI
Docket No. 72-14

Perry Nuclear Power Plant, Unit No. 1
Docket No. 50-440, License No. NPF-58
Perry Nuclear Power Plant, Unit No. 1 ISFSI
Docket No. 72-69

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)

By letter dated April 26, 2019 (Accession No. ML19116A087), FirstEnergy Nuclear Operating Company (FENOC), acting on behalf of itself and FirstEnergy Nuclear Generation, LLC (FENGen), requested Nuclear Regulatory Commission (NRC) consent 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 to a newly created ultimate parent company that will be a separate legal entity from FirstEnergy Corp. (Application).

Beaver Valley Power Station, Unit Nos. 1 and 2
Beaver Valley Power Station Independent Spent Fuel Storage Installation
Davis-Besse Nuclear Power Station, Unit No. 1
Davis-Besse Nuclear Power Station Independent Spent Fuel Storage Installation
Perry Nuclear Power Plant, Unit No. 1
Perry Nuclear Power Plant Independent Spent Fuel Storage Installation
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By letter dated May 29, 2019 (Accession No. ML19143A073), the NRC identified the need for supplemental information in order to complete the acceptance review of the Application. The NRC staff requested the supplemental information by June 7, 2019. The supplemental information is contained in Attachment 1.

The information provided by this submittal does not invalidate the no significant hazards consideration analysis provided in the April 26, 2019 Application.

A listing of regulatory commitments described in this submittal is attached. If there are any questions or if additional information is required, please contact Mr. Thomas A. Lentz, Manager, Nuclear Licensing and Regulatory Affairs, at (330) 315-6810.

I declare under penalty of perjury that the foregoing is true and correct. Executed on May 31, 2019.

Sincerely,



Darin M. Benyak

Attachments:

1. Supplemental Information Needed for the Application for Order Consenting to Transfer of Licenses and Conforming License Amendments
2. List of Regulatory Commitments

cc: Director, NRR

NRC Region I Administrator
NRC Region III Administrator
NRC Project Manager - FENOC Fleet
NRC Resident Inspector - Beaver Valley Power Station
NRC Resident Inspector - Davis-Besse Nuclear Power Station
NRC Resident Inspector - Perry Nuclear Power Plant
Director BRP/DEP
Site Representative BRP/DEP
Branch Chief, Ohio Emergency Management Agency, State of Ohio (NRC Liaison)
Utility Radiological Safety Board

Attachment 1
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Supplemental Information Needed for the Application for Order Consenting to Transfer
of Licenses and Conforming License Amendments
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By letter dated April 26, 2019 (Accession No. ML19116A087), FirstEnergy Nuclear Operating Company (FENOC), acting on behalf of itself and FirstEnergy Nuclear Generation, LLC (FENGen) (Applicants), requested Nuclear Regulatory Commission (NRC) consent 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 to a newly created ultimate parent company that will be a separate legal entity from FirstEnergy Corp. (Application).

In order to complete the acceptance review of the Application, the NRC requested additional information to supplement the initial Application. The requested supplemental information is provided below in bold typeface, followed by the Applicants responses.

In accordance with 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 decommission 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.”

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.

- 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**

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.

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:

1a: 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?

Applicants Response:

The license transfer transaction is expected to be consummated prior to March 31, 2020. It is the Applicants' intent to consummate the transaction as soon as practicable after receiving all the necessary approvals, including NRC approval. The Applicants anticipate that the consummation of the license transfer will be completed in the fourth quarter of 2019.

1b: 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.

Applicants Response:

The Applicants are currently evaluating the funding mechanisms described in 10 CFR 50.75(e)(1) to address any shortfall in decommissioning funding assurance. Any shortfall in decommissioning funding assurance for BVPS-1 will be reconciled in accordance with 10 CFR 50.75(e)(1) on or prior to the date the license transfer transaction is consummated.

The Applicants will submit a supplement to the license transfer application describing the proposed funding mechanism to address any shortfall once that mechanism has been selected.

In order to provide reasonable assurance that funds will be available to decommission the BVPS-1 facility following the license transfer, the Applicants propose the following condition to the NRC order approving the license transfer:

On or by the closing date of the license transfer transaction, the Applicants shall take all necessary steps to ensure that the

decommissioning funding assurance mechanism to address any shortfall identified for BVPS-1 is implemented and maintained consistent with the Safety Evaluation supporting this Order.

The language of this proposed condition to the NRC order approving the license transfer could also serve as a BVPS-1 license condition, if deemed necessary by the NRC.

Attachment 2
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List of Regulatory Commitments
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The following list identifies those actions committed to by FirstEnergy Nuclear Operating Company (FENOC) for the Beaver Valley Power Station, Unit Nos. 1 and 2; Davis-Besse Nuclear Power Station, Unit 1; and Perry Nuclear Power Plant, Unit 1 in this document. Any other actions discussed in the submittal represent intended or planned actions by FENOC. They are described only as information and are not Regulatory Commitments. Please notify Mr. Thomas A. Lentz, Manager, FENOC Nuclear Licensing and Regulatory Affairs, at (330) 315-6810 of any questions regarding this document or associated Regulatory Commitments.

REGULATORY COMMITMENT	TYPE		SCHEDULED COMPLETION DATE
	ONE-TIME ACTION	CONTINUING COMPLIANCE	
1. Any shortfall in decommissioning funding assurance for BVPS-1 will be reconciled in accordance with 10 CFR 50.75(e)(1) on or prior to the date the license transfer transaction is consummated.	X		On or prior to consummation of license transfer.