

BEFORE THE UNITED STATES
NUCLEAR REGULATORY COMMISSION

In the matter of)
NEW YORK POWER AUTHORITY) Docket No. 50-333
James A. FitzPatrick Nuclear Power Plant)

APPLICATION FOR AMENDMENT TO OPERATING LICENSE

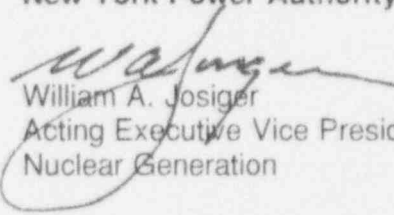
The New York Power Authority requests an amendment to the Facility Operating License DPR-59 for the James A. FitzPatrick Nuclear Power Plant. This application is filed in accordance with Section 10 CFR 50.90 of the Nuclear Regulatory Commission's regulations.

This application for an amendment to the James A. FitzPatrick Operating License proposes to remove license condition 2.E. This condition applies to the construction cleanup, restoration, and maintenance of transmission lines. It incorporated into the Operating License the requirements of U. S. Department of Interior publication "Environmental Criteria for Electric Transmission Systems" - 1970. The goal of this standard is to "safeguard aesthetic and environmental values within the constraints imposed by the current state of high-voltage transmission technology." These requirements are unrelated to nuclear safety.

Removing this condition from the FitzPatrick Operating License eliminates duplication of regulating authority by government agencies of the same activity.

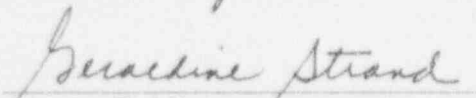
The signed original of the Application for Amendment to Operating License is enclosed for filing. Attachments I, II, and III to this application contain the proposed changes to the Operating License, the associated Safety Evaluation, and a mark-up of the current Operating License page.

New York Power Authority


William A. Josiger
Acting Executive Vice President
Nuclear Generation

STATE OF NEW YORK
COUNTY OF WESTCHESTER

Subscribed and sworn to before me
this 13th day of June, 1994.


Notary Public

GERALDINE STRAND
Notary Public, State of New York
No. 4891272
Qualified in Westchester County
Commission Expires Jan. 27, 1996

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ATTACHMENT I to JPN-94-028

Proposed Changes to Operating License

Removal of License Condition 2.E (JPTS-93-013)

New York Power Authority

JAMES A. FITZPATRICK NUCLEAR POWER PLANT
Docket No. 50-333

D. Physical Protection

The licensee shall fully implement and maintain in effect all provisions of the Commission-approved physical security, guard training and qualification, and safeguards contingency plans including amendments made pursuant to provisions of the Miscellaneous Amendments and Search Requirements revisions to 10 CFR 73.55 (51 FR 27817 and 27822) and to the authority of 10 CFR 50.90 and 10 CFR 50.54(p). The plans, which contain Safeguards Information protected under 10 CFR 73.21, are entitled: "FitzPatrick Modified Amended Security Plan," with revisions submitted through March 7, 1988; "FitzPatrick Modified Amended Security Force Training and Qualification Plan," with revisions submitted through April 10, 1985; and "FitzPatrick Security Contingency Plan," with revisions submitted through June 20, 1980. Changes made in accordance with 10 CFR 73.55 shall be implemented in accordance with the schedule set forth therein.

ATTACHMENT II to JPN-94-028

Safety Evaluation

Regarding Proposed Changes to Operating License

Removal of License Condition 2.E (JPTS-93-013)

New York Power Authority

JAMES A. FITZPATRICK NUCLEAR POWER PLANT
Docket No. 50-333

I. DESCRIPTION OF THE PROPOSED CHANGES

This application for an amendment to the James A. FitzPatrick Operating License proposes to revise page 4 by removing license condition 2.E which reads:

- E. This license is subject to the following conditions for the protection of the environment:
- (1) The licensee will conduct transmission line construction cleanup, restoration, and maintenance in accordance with criteria set forth in the U. S. Department of the Interior Publication "Environmental Criteria for Electric Transmission Systems" - 1970.

II. PURPOSE OF THE PROPOSED CHANGES

The purpose of the proposed change is to reduce duplication of regulating authority by several government agencies of the same activity. Implementing the proposed change will eliminate the need to apply NRC quality assurance requirements to the activities covered by this license condition.

III. SAFETY IMPLICATION OF THE PROPOSED CHANGES

Condition 2.E of the James A. FitzPatrick Operating License applies to the construction cleanup, restoration, and maintenance of transmission lines. The condition incorporated into the Operating License the requirements of U. S. Department of Interior publication, "Environmental Criteria for Electric Transmission Systems" - 1970, (Reference 1). The goal of this standard is to "safeguard aesthetic and environmental values within the constraints imposed by the current state of high-voltage transmission technology." The standard is limited to the preservation and enhancement of natural beauty and the conservation of natural resources associated with high-voltage transmission line right-of-ways. The applicable right-of-ways are those associated with the two 345 kV transmission lines at the James A. FitzPatrick Plant: the FitzPatrick-Edic line and the FitzPatrick-Scriba line.

The requirements imposed by license condition 2.E are unrelated to nuclear safety, and outside the scope of the Atomic Energy Act of 1954, and the Commission's rules and regulations set forth in Title 10, Chapter 1, of the Code of Federal Regulations.

The FitzPatrick Technical Specifications do not address the 345 kV lines right-of-ways. There is no guidance provided by the NRC in the Standard Technical Specifications (Reference 2) for the maintenance of transmission line right-of ways. There is no NRC inspection procedure on environmental aspects of transmission lines.

The 345 kV lines deliver power to the New York Power Pool transmission grid and can provide an alternate source of offsite AC power to plant auxiliaries during plant shutdowns. Plant accident analyses assume offsite power is unavailable. Removing this condition from the license does not change the conclusions of the accident analyses.

The Authority's Environmental Programs Division developed a plan, "Generic Transmission Line Right-of-Way Management" (Reference 3), to manage all of the Authority's transmission lines. The requirements imposed by the plan on the FitzPatrick transmission line right-of-ways exceed those of the U. S. Department of Interior publication referenced in license condition 2.E in both scope and details.

In addition, the Authority's transmission lines are subject to regulation by other State and Federal agencies. The principal agencies with jurisdiction over right-of-ways management of the Authority's transmission lines include: the New York State Department of Environmental Conservation (DEC), and the U. S. Environmental Protection Agency (EPA).

Technical Specification 6.5.2.8.a requires auditing of operational activities contained within the Technical Specifications and applicable license conditions. This audit requirement applies to safety related functions only. Condition 2.E is not an "applicable" license condition considering the non-nuclear safety nature of the activity identified, and has not been subject to the audit requirements of Section 6.5.2.8.a. Removal of this license condition will not affect operation of safety related structures, systems or components nor affect the quality assurance program at the FitzPatrick plant.

Condition 2.E addresses the preservation of the environment and natural resources. Removing this condition from the Facility Operating License has no bearing on plant safety or the health and safety of the public considering its non-nuclear safety nature.

IV. EVALUATION OF SIGNIFICANT HAZARDS CONSIDERATION

Operation of the FitzPatrick plant in accordance with the proposed Amendment would not involve a significant hazards consideration as defined in 10 CFR 50.92, since it would not:

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

The proposed change will remove a license condition unrelated to nuclear safety. License condition 2.E incorporated into the Operating License the requirements of U. S. Department of Interior publication "Environmental Criteria for Electric Transmission Systems" - 1970. The goal of this standard is to "safeguard aesthetic

and environmental values within the constraints imposed by the current state of high-voltage transmission technology." License condition 2.E addresses the preservation of the environment and natural resources. Removing this condition from the Facility Operating License has no bearing on plant safety or the health and safety of the public considering its non-nuclear safety nature. The transmission line right-of-ways maintained by the Authority are subject to regulation by other State and Federal agencies. Removal of this license condition will not affect operation of safety related structures, systems or components nor affect the quality assurance program at the FitzPatrick plant. Therefore, the proposed change does not 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.

License condition 2.E of the James A. FitzPatrick Plant Operating License applies to the construction cleanup, restoration, and maintenance of transmission lines. The Authority's transmission lines are managed under guidelines based on the "Generic Transmission Line Right-of-Way Management" plan requirements. The requirements imposed by the plan on the FitzPatrick transmission line right-of-ways exceed those of the U. S. Department of Interior publication referenced in license condition 2.E in both scope and details. Therefore, implementing the proposed change will not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. involve a significant reduction in a margin of safety.

License condition 2.E of the James A. FitzPatrick Operating License applies to the construction cleanup, restoration, and maintenance of transmission lines. The requirements imposed by this license condition are unrelated to nuclear safety. Continued operation of the plant without Condition 2.E does not involve a significant reduction in any margin of safety.

V. IMPLEMENTATION OF THE PROPOSED CHANGE

Implementation of the proposed changes will not adversely affect the ALARA or Fire Protection Programs at the FitzPatrick plant, nor will the changes affect the environment because the Authority's plan (Reference 3) to manage the lines imposes requirements which exceed those of the U. S. Department of Interior publication referenced in license condition 2.E in both scope and details.

VI. CONCLUSION

The changes, as proposed, do not constitute an unreviewed safety question as defined in 10 CFR 50.59. That is, they:

1. will not increase the probability nor the consequences of an accident or malfunction of equipment important to safety as previously evaluated in the Safety Analysis Report;
2. will not create the possibility of an accident or malfunction of a type different from any previously evaluated in the Safety Analysis Report;
3. will not reduce the margin of safety as defined in the basis for any technical specification; and
4. involve no significant hazards consideration, as defined in 10 CFR 50.92.

VII. REFERENCES

1. U. S. Department of the Interior Publication, "Environmental Criteria for Electric Transmission Systems" - 1970.
2. NUREG-1433, Standard Technical Specifications, BWR/4, Revision 0, dated September 28, 1992.
3. "Generic Transmission Line Right-of-Way Management" prepared by NYPA's Environmental Programs Division - 1982.

ATTACHMENT III to JPN-94-028

Markup of the current Operating License page.

(JPTS-93-013)

New York Power Authority

JAMES A. FITZPATRICK NUCLEAR POWER PLANT
Docket No. 50-333

D. Physical Protection

The licensee shall fully implement and maintain in effect all provisions of the Commission-approved physical security, guard training and qualification, and safeguards contingency plans including amendments made pursuant to provisions of the Miscellaneous Amendments and Search Requirements revisions to 10 CFR 73.55 (51 FR 27817 and 27822) and to the authority of 10 CFR 50.90 and 10 CFR 50.54(p). The plans, which contain Safeguards Information protected under 10 CFR 73.21, are entitled: "FitzPatrick Modified Amended Security Plan," with revisions submitted through March 7, 1988; "FitzPatrick Modified Amended Security Force Training and Qualification Plan," with revisions submitted through April 10, 1985; and "FitzPatrick Security Contingency Plan," with revisions submitted through June 20, 1980. Changes made in accordance with 10 CFR 73.55 shall be implemented in accordance with the schedule set forth therein.

AMENDMENT 124

E. This license is subject to the following conditions for the protection of the environment:

- (1) The licensee will conduct transmission line construction cleanup, restoration, and maintenance in accordance with criteria set forth in the U.S. Department of the Interior Publication "Environmental Criteria for Electric Transmission Systems" - 1970.

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