

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

In the Matter of

CLEVELAND ELECTRIC ILLUMINATING COMPANY)
CENTERIOR SERVICE COMPANY)
DUQUESNE LIGHT COMPANY)
OHIO EDISON COMPANY)
PENNSYLVANIA POWER COMPANY)
TOLEDO EDISON COMPANY)
(Perry Nuclear Power Plant,)
Unit No. 1))

Docket No. 50-440

ORDER APPROVING TRANSFER OF LICENSE
FOR PERRY NUCLEAR POWER PLANT

I.

Cleveland Electric Illuminating Company (CEI), Centerior Service Company (CSC), Duquesne Light Company, Ohio Edison Company (Ohio Edison), Pennsylvania Power Company, and Toledo Edison Company are the licensees of Perry Nuclear Power Plant, Unit No. 1 (PNPP Unit 1). CEI and CSC act as agents for themselves, and the other licensees and have exclusive responsibility for and control over the physical construction, operation, and maintenance of PNPP Unit 1 as reflected in Operating License No. NPF-58. The Nuclear Regulatory Commission (NRC) issued License No. NPF-58 on March 18, 1986, pursuant to Part 50 of Title 10 of the Code of Federal Regulations (10 CFR Part 50). Ohio Edison holds title to 17.42 percent of PNPP Unit 1 and leases another 12.58 percent of PNPP Unit 1 pursuant to the sale and leaseback transactions previously authorized by Amendment 2 to License No. NPF-58. The facility is located on the shore of Lake Erie in Lake County, Ohio, approximately 35 miles northeast of Cleveland, Ohio.

II.

Under cover of a letter dated November 17, 1995, from Shaw, Pittman, Potts and Trowbridge, Ohio Edison submitted its request for approval of its intended transfer of its 17.42-percent ownership interest (less the ownership interest in the accompanying transmission facilities) to a newly formed wholly owned subsidiary, OES Nuclear Inc. (OES). The sale effecting the transfer would include a provision that would allow Ohio Edison to convert a steam purchase agreement to a lease to itself at some time in the future. The other licensees would remain the same and would not be affected by the proposed transfer. By letter dated November 22, 1995, CEI submitted a license amendment request to reflect the proposed change in Ohio Edison ownership. On December 11, 1995, a notice of proposed ownership transfer was published in the Federal Register (60 FR 63548).

The transfer of Facility Operating License No. NPF-58 is subject to the consent of the NRC as described by 10 CFR 50.80(a). Ohio Edison will remain as a licensee of PNPP Unit 1 and proposes to add OES as an additional licensee. Ohio Edison would make payments to OES in an amount sufficient for OES to pay its expenses and would retain full responsibility for the costs of operating, maintaining, and decommissioning the interest in PNPP Unit 1 transferred to OES. OES will be an "electric utility" as defined in 10 CFR 50.2, and thus is exempt from further financial qualifications review as specified in 10 CFR 50.33(f). Ohio Edison will continue to be an "electric utility" as defined in 10 CFR 50.2, and thus is also exempt from any further financial qualifications review. Given the financial arrangement between Ohio Edison and OES, and that both will be licensees, the transfer will result in no adverse impact with respect to financial qualifications.

Since CEI and CSC are the only authorized operators and the transfer would not affect their staff, plant operations would not be affected by the transfer. OES will be bound by the existing antitrust license conditions now obligating Ohio Edison, and Ohio Edison will remain obligated to these same antitrust license conditions after the proposed transfer. Ohio Edison has also asserted that it and OES are not owned, controlled, or dominated by an alien, a foreign corporation, or a foreign government.

On the basis of a review of the information in the letters of November 17 and 22, 1995, and other information before the Commission, the NRC staff finds that adding OES as an additional licensee will not adversely affect protection of public health and safety or the common defense and security. Therefore, the NRC staff concludes that OES is qualified to hold the license to the extent and for the purposes that Ohio Edison is now authorized to hold the license with respect to its 17.42-percent ownership interest and that the transfer, subject to the conditions set forth herein, is otherwise consistent with applicable provisions of law, regulations, and orders issued by the Commission.

III.

By January 29, 1996, any person adversely affected by this order may file a request for a hearing with respect to issuance of the order. Any person requesting a hearing shall set forth with particularity how such person's interest is adversely affected by this order and shall address the criteria set forth in 10 CFR 2.714(d).

If a hearing is to be held, the Commission will issue an order designating the time and place of such hearing.

If a hearing is held concerning this order, the issue to be considered

at any such hearing will be whether this order should be sustained.

Any request for a hearing must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, Attention: Docketing and Services Branch, or may be delivered to the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, by the above date. Copies should also be sent to the Office of the General Counsel and to the Director, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and to Gerald Charnoff, Shaw, Pittman, Potts and Trowbridge, 2300 N Street NW., Washington, DC 20037.

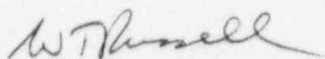
IV.

Accordingly, pursuant to Sections 161b, 161i, and 184 of the Atomic Energy Act of 1954, as amended, 42 USC §§ 2201(b), 2201(i), and 2234, and 10 CFR 50.80, IT IS HEREBY ORDERED that the Commission consents to the proposed transfer of the license described herein between Ohio Edison and OES subject to the following: (1) an approved amendment consistent with the contents of and reflecting this order must be issued after the transfer adding OES as an owner of PNPP Unit 1 for Facility Operating License No. NPF-58, which when issued by the NRC would become effective as of the date of issuance; (2) should the transfer not be completed by January 31, 1996, this order will become null and void, unless upon application and for good cause shown this date is extended.

This order is effective upon issuance. For further details with respect to this action, see the application for transfer dated November 17, 1995, and the application for amendment dated November 22, 1995, which are available for public inspection at the Commission's Public Document Room, the Gelman

Building, 2120 L Street, NW., Washington, DC, and at the local public document room located at the Perry Public Library, 3753 Main Street, Perry, Ohio.

FOR THE NUCLEAR REGULATORY COMMISSION



William T. Russell, Director
Office of Nuclear Reactor Regulation

Dated at Rockville, Maryland,
this 20th day of December 1995

Building, 2120 L Street, NW., Washington, DC, and at the local public document room located at the Perry Public Library, 3753 Main Street, Perry, Ohio.

FOR THE NUCLEAR REGULATORY COMMISSION
Original Signed By
WILLIAM T. RUSSELL
William T. Russell, Director
Office on Nuclear Reactor Regulation

Dated at Rockville, Maryland,
this 20th day of December 1995

DOCUMENT NAME: G:\PERRY\M94075.ORD

*See previous concurrence.

To receive a copy of this document, indicate in the box: "C" = Copy without enclosures "E" = Copy with enclosures "N" = No copy

OFFICE	PD33:LA	E	TECH ED*		PD33:PM	E	OGC		PD33:PD	E
NAME	DFoster-Cunseen		MMejac		JHopkins:bjm		S. Hom*		GMarcus	# for
DATE	12/18/95	AC	12/12/95		12/18/95	A	12/15/95		12/18/95	

OFFICE	DRPW:D		NRR:ADP		NRR:D	WJH
NAME	JRoe	AC	RZimmerman	AC	WRussell	
DATE	12/18/95		12/19/95		12/20/95	

OFFICIAL RECORD COPY