

U. S. NUCLEAR REGULATORY COMMISSION
CLEVELAND ELECTRIC ILLUMINATING COMPANY, ET AL.

DOCKET NO. 50-440

NOTICE OF DENIAL OF AMENDMENT TO FACILITY OPERATING LICENSE
AND OPPORTUNITY FOR A HEARING

The U. S. Nuclear Regulatory Commission (the Commission) has denied in part a request by the licensees for amendment to Facility Operating License No. NPF-58, issued to Cleveland Electric Illuminating Company, Duquesne Light Company, Ohio Edison Company, Pennsylvania Power Company and Toledo Edison Company (the licensees), for operation of the Perry Nuclear Power Plant, Unit No. 1 (the facility) located in Lake County, Ohio.

The licensees' application for the amendment was dated February 9, 1988. Notice of consideration of issuance of the amendment was published in the FEDERAL REGISTER on April 6, 1988 (53 FR 11377).

The amendment, as proposed by the licensees, would consist of the following changes to the Technical Specifications (Appendix A to Facility Operating License No. NPF-58):

1. The proposed amendment to the Perry Nuclear Power Plant Technical Specifications would modify the note to Technical Specification Table 4.8.1.1.2-1 to allow that appropriate overhauls to a like-new condition can be used to reduce the number of previous test failures, if the overhaul performed would correct deficiencies which were directly responsible for past diesel generator test failures. The requirement for having the overhaul, including appropriate post-maintenance operation and testing, approved by the manufacturer and the requirement for a demonstration of reliability by testing would remain intact.

2. The proposed amendment would also expand the applicability of a footnote on Table 4.8.1.1.2-1 to apply both to the case where more than 1 failure was experienced in the last 20 starts and the case where more than 4 failures were experienced in the last 100 starts. Presently the footnote applies only in the former case.

3. The proposed amendment would also change the reporting requirements to be on a per-diesel-generator basis rather than a per-nuclear-unit basis.

The portion of the application which would allow an appropriate overhaul to like-new condition as justification for reducing the number of previous test failures has been denied. Without adequate specificity or bounding criteria for the components affected by previous valid failures, or the acceptance criteria employed for determining when an "appropriate overhaul" has been completed, other than "as approved by the manufacturer," the staff has no basis for approval of the proposed TS or subsequent inspection for compliance were it to be approved. The staff instead evaluated the particular case presented by the licensees and granted a one-time waiver to the requirement for performing a complete overhaul to rezero the failure count. The amendment would allow removal of four of the previous six test failures from consideration in the failure count.

The licensees were notified of the Commission's denial of this request by letter dated May 18, 1988. The third change requested by the licensees' application has been approved by Amendment No. 12. The second change requested is being held in abeyance. Notice of issuance of Amendment No. 12 will be published in the Commission's regular biweekly FEDERAL REGISTER notice.

By June 27 , 1988, the licensees may demand a hearing with respect to the denial described above and any persons whose interest may be affected by this proceeding may file a written petition for leave to intervene.

A request for a hearing or petition for leave to intervene must be filed with the Secretary of the Commission, U. S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch, or may be delivered to the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C., by the above date.


A copy of the petition should also be sent to the General Counsel, U. S. Nuclear Regulatory Commission, Washington, D.C., 20555, and to Jay Silberg, Esq., Shaw, Pittman, Potts & Trowbridge, 2300 N Street, N.W., Washington, D.C., 20037, attorney for the licensees.

For further details with respect to this action, see (1) the application for amendment dated February 9, 1988, and (2) the Commission's Safety Evaluation issued with Amendment No. 12 to NPF-58 dated May 18, 1988, which are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C., and at the Perry Public Library, 3753 Main Street, Perry, Ohio 44081. A copy of item (2) may be obtained upon request addressed to the U. S.

Nuclear Regulatory Commission, Washington, D.C., 20555, Attention:
Division of Reactor Projects - III, IV, V & Special Projects.

Dated at Rockville, Maryland this 18th day of May, 1988.

FOR THE NUCLEAR REGULATORY COMMISSION


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Division of Reactor Projects - III,
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