

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

In the Matter of	)	
	)	
Dominion Energy Kewaunee, Inc.	)	
	)	
Kewaunee Power Station and ISFSI	)	Docket Nos. 50-305 and 72-64
EA-22-030	)	License No. DPR-43
	)	

ORDER APPROVING INDIRECT TRANSFER OF LICENSE  
AND DRAFT CONFORMING LICENSE AMENDMENT

I.

Dominion Energy Kewaunee, Inc. (DEK) is the holder of Renewed Facility Operating License No. DPR-43 for Kewaunee Power Station (KPS) and the general license for the KPS independent spent fuel storage installation (ISFSI), and Dominion Nuclear Projects, Inc. (Dominion) is the parent entity of DEK. KPS permanently ceased power operations on May 7, 2013, and DEK certified to the U.S. Nuclear Regulatory Commission (NRC) by letter dated May 14, 2013 (Agencywide Documents Access and Management System (ADAMS) Accession No. ML13135A209) that as of May 14, 2013 all the fuel was permanently removed from the KPS reactor vessel and placed into the KPS spent fuel pool. Accordingly, pursuant to Title 10 of the *Code of Federal Regulations* (10 CFR) Section 50.82(a)(2), the KPS license no longer authorizes operation of the KPS reactor or emplacement or retention of fuel into the KPS reactor vessel. KPS was a two-loop pressurized-water reactor designed by Westinghouse Electric Corporation and licensed by the NRC to generate an approximate maximum power output of 1772 megawatts-thermal in the Town of Carlton along the coast of Lake Michigan in Kewaunee County, Wisconsin.

II.

By letter dated May 10, 2021 (ADAMS Accession No. ML21131A141), as supplemented by letters dated May 13, 2021 (ADAMS Accession No. ML21145A118), October 28, 2021 (ADAMS Accession No. ML21301A177), February 16, 2022 (ADAMS Accession No. ML22047A057), and March 15, 2022 (ADAMS Accession No. ML22076A065), DEK and EnergySolutions, LLC (EnergySolutions) (together, the Applicants) requested that the NRC consent to the indirect transfer of control of Renewed Facility Operating License No. DPR-43 for KPS and the general license for the KPS ISFSI. Pursuant to Section 184, "Inalienability of Licenses," of the Atomic Energy Act of 1954, as amended (AEA), and 10 CFR 50.80, "Transfer of licenses," and 10 CFR 72.50, "Transfer of license," the Applicants requested indirect transfer of control of the licenses from DEK's parent entity, Dominion, to EnergySolutions. In addition, pursuant to 10 CFR 50.90, "Application for amendment of license, construction permit, or early site permit," the Applicants requested that the NRC approve a conforming administrative amendment to Renewed Facility Operating License No. DPR-43 to reflect, concurrent with the transfer, the proposed transfer and the planned name change from DEK to Kewaunee Solutions, Inc. (Kewaunee Solutions). By letter dated March 15, 2022, the Applicants requested that the NRC approve the withdrawal of the previous commitment made by letter dated February 16, 2022 and replace it with a new commitment that Kewaunee Solutions will retain in place, and assume responsibility for, the implementation of the current NRC-approved quality assurance program for KPS. This commitment shall remain in effect until the Kewaunee Solutions Decommissioning Quality Assurance Program for KPS is approved by the NRC and implemented at the site.

Upon an NRC approval of the license transfer application and the consummation of the proposed transfer transaction, the same legal entity would remain the KPS licensee, and its name would change from DEK to Kewaunee Solutions. Kewaunee Solutions would continue to hold title to and ownership of any real estate encompassing the KPS site, any improvements to

the site, and title to and ownership of spent nuclear fuel. Kewaunee Solutions would have responsibility for all licensed activities at the KPS site, including responsibility under the license to complete decommissioning pursuant to NRC regulations. However, Kewaunee Solutions would operate under new management and would be a direct and wholly owned subsidiary of EnergySolutions.

On October 12, 2021, the NRC published in the *Federal Register* (FR) (86 FR 56731) a notice of consideration of approval of the license transfer application and of a conforming amendment to the license to reflect the proposed transfer. This notice provided an opportunity to request a hearing within 20 days and an opportunity to comment within 30 days. No hearing requests or comments were received.

In accordance with 10 CFR 50.80, no license for a production or utilization facility, or any right thereunder, shall be transferred, 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. In accordance with 10 CFR 72.50, no license or any part included in a license for an ISFSI shall be transferred, either voluntarily or involuntarily, directly or indirectly, through transfer of control of the license to any person, unless the NRC gives its consent in writing. Upon review of the information in the license transfer application, as supplemented, and other information before the Commission, and relying upon the representations and agreements contained in the application, the NRC staff has determined that Kewaunee Solutions, as a direct and wholly owned subsidiary of EnergySolutions, is qualified to be the holder of Renewed Facility Operating License No. DPR-43 for KPS and the general license for the KPS ISFSI and that transfer of the licenses is otherwise consistent with applicable provisions of law, regulations, and orders issued by the Commission pursuant thereto, subject to the conditions set forth below.

Upon review of the application, as supplemented, for a conforming administrative license amendment to reflect the transfer, the NRC staff has determined that:

- (1) The application for amendment complies with the standards and requirements of the AEA and the Commission's regulations set forth in 10 CFR Chapter I.
- (2) The facility will operate in conformity with the application, the provisions of the AEA, and the Commission's regulations.
- (3) There is reasonable assurance that the activities authorized by the amendment can be conducted without endangering the health and safety of the public and that such activities will be conducted in compliance with the Commission's regulations.
- (4) The issuance of the amendment will not be inimical to the common defense and security or to the health and safety of the public.
- (5) The issuance of the amendment is in accordance with 10 CFR Part 51, "Environmental Protection Regulations for Domestic Licensing and Related Regulatory Functions," of the Commission's regulations and all applicable requirements have been satisfied.

The findings set forth above are supported by an NRC staff safety evaluation dated March 31, 2022, which is publicly available at ADAMS Accession No. ML22014A394.

### III.

Accordingly, pursuant to Sections 161b, 161i, and 184 of the AEA; 42 United States Code §§ 2201(b), 2201(i), and 2234; and 10 CFR 50.80, 10 CFR 72.50, and 10 CFR 50.90, IT IS HEREBY ORDERED that the license transfer application, as described herein, is approved, subject to the following conditions:

- (1) At least two business days before the planned closing date of the purchase transaction, EnergySolutions shall provide the Director of the NRC's Office of Nuclear Material Safety and Safeguards (NMSS) satisfactory documentary evidence of the establishment of, as of closing, a dedicated subaccount within the KPS decommissioning trust fund or a Back-Up Nuclear Decommissioning Trust containing

\$7 million (approximately one year's worth of estimated ISFSI operation and maintenance (O&M) costs). Energy*Solutions* shall also provide the Director of NMSS satisfactory documentary evidence of the establishment of, as of closing, a parent support agreement providing that Energy*Solutions* shall obtain a performance bond if a settlement agreement with the U.S. Department of Energy (DOE) on DOE reimbursements for spent fuel management expenses is not entered into by January 1, 2024. The performance bond will be effective January 1, 2024 in the amount of, at least, \$8 million, and it will be renewed annually. This amount covers the annual amount of ISFSI O&M costs projected for 2024–2030. The parent support agreement will provide that the performance bond value, combined with the aggregate trust fund values, will be sufficient for radiological decommissioning and ISFSI O&M costs at KPS at all times.

- (2) At least two business days before the planned closing date of the purchase transaction, Energy*Solutions* shall provide the Director of NMSS satisfactory documentary evidence that the appropriate amount of insurance required of a licensee under 10 CFR 140.11(a)(4) and 10 CFR 50.54(w) has been obtained.

IT IS FURTHER ORDERED that after receipt of all required regulatory approvals of the indirect license transfer, the Applicants shall inform the Director of NMSS in writing of such receipt and of the date of the closing of the transfer no later than five business days prior to the date of the closing of the transfer. Should the indirect license transfer not be completed within one year of the date of this order, this order shall become null and void, provided, however, that upon written application and for good cause shown, such date may be extended by order. The conditions of this order may be amended upon application by the Applicants and approval by the NRC.

IT IS FURTHER ORDERED that consistent with 10 CFR 2.1315(b), the license amendment that makes changes, as indicated in Enclosure 2, "DRAFT CONFORMING LICENSE AMENDMENT TO RENEWED FACILITY OPERATING LICENSE NO. DPR-43 DOCKET NO. 50-305," to the letter transmitting this order, to reflect the subject license transfer, is approved. The amendment shall be issued and made effective at the time the proposed transfer actions are completed.

This order is effective upon issuance.

For further details with respect to this order, see the application dated May 10, 2021, as supplemented by letters dated May 13, 2021, October 28, 2021, February 16, 2022, and March 15, 2022, and the associated NRC staff safety evaluation dated March 31, 2022, which are available for public inspection electronically through ADAMS in the NRC Library at <https://www.nrc.gov/reading-rm/adams.html>. Persons who do not have access to ADAMS or who encounter problems accessing the documents located in ADAMS should contact the NRC Public Document Room reference staff by telephone at 1-800-397-4209 or 301-415-4737 or by email to [pdr.resource@nrc.gov](mailto:pdr.resource@nrc.gov).

Dated: March 31, 2022.

FOR THE NUCLEAR REGULATORY COMMISSION.



Signed by Lubinski, John  
on 03/31/22

John W. Lubinski, Director,  
Office of Nuclear Material Safety  
and Safeguards.