

NUCLEAR REGULATORY COMMISSION

**[Docket Nos. 50-445, 50-446, 72-74, 50-334, 50-412, 72-1043, 50-346, 72-14, 50-440,
and 72-69; NRC-2023-0100]**

Vistra Operations Company LLC and Energy Harbor Nuclear Corp.;

**Comanche Peak Nuclear Power Plant, Unit Nos. 1 and 2; Beaver Valley Power
Station, Unit Nos. 1 and 2; Davis-Besse Nuclear Power Station, Unit No. 1; Perry
Nuclear Power Plant, Unit No. 1; and the Associated Independent Spent Fuel
Storage Installations;**

Consideration of Approval of Transfer of Licenses and Conforming Amendments

AGENCY: Nuclear Regulatory Commission.

ACTION: Application for direct and indirect transfer of licenses; opportunity to comment, request a hearing, and petition for leave to intervene.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC, the Commission) received and is considering approval of an application filed by Vistra Operations Company LLC (VistraOps) and Energy Harbor Nuclear Corp. (collectively, the applicants) on April 14, 2023, as supplemented by letter dated April 20, 2023. The application seeks NRC approval of the indirect transfer of control of Facility Operating License Nos. NFP-87 and NFP-89 for Comanche Peak Nuclear Power Plant, Unit Nos. 1 and 2 (Comanche Peak), respectively, and its generally licensed independent spent fuel storage installation (ISFSI); the indirect transfer of control of Renewed Facility Operating License Nos. DPR-66, NPF-73, and NPF-3 for Beaver Valley Power Station, Unit Nos. 1 and 2 (Beaver Valley), and Davis-Besse Nuclear Power Station, Unit No. 1 (Davis-Besse), respectively, and Facility Operating License No. NPF-58 for the Perry Nuclear Power Plant, Unit No. 1 (Perry), and their associated generally licensed ISFSIs

(collectively, the EH Facilities); and the direct transfer of the operating authority for the EH Facilities to VistraOps. The NRC is also considering amending the licenses for administrative purposes to reflect the proposed transfer. The application contains sensitive unclassified non-safeguards information (SUNSI).

DATES: Submit comments by June 21, 2023. A request for a hearing must be filed by June 12, 2023. Any potential party as defined in § 2.4 of title 10 of the *Code of Federal Regulations* (10 CFR), who believes access to SUNSI is necessary to respond to this notice must follow the instructions in Section VI of the SUPPLEMENTARY INFORMATION section of this notice.

ADDRESSES: You may submit comments by any of the following methods; however, the NRC encourages electronic comment submission through the **Federal rulemaking website**:

- **Federal rulemaking website:** Go to <https://www.regulations.gov> and search for Docket ID **NRC-2023-0100**. Address questions about Docket IDs in Regulations.gov to Stacy Schumann; telephone: 301-415-0624; email: Stacy.Schumann@nrc.gov. For technical questions, contact the individual listed in the “For Further Information Contact” section of this document.

- **Mail comments to:** Office of Administration, Mail Stop: TWFN-7-A60M, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, ATTN: Program Management, Announcements and Editing Staff.

For additional direction on obtaining information and submitting comments, see “Obtaining Information and Submitting Comments” in the SUPPLEMENTARY INFORMATION section of this document.

FOR FURTHER INFORMATION CONTACT: Robert Kuntz, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001; telephone: 301-415-3733; email: Robert.Kuntz@nrc.gov.

SUPPLEMENTARY INFORMATION:

I. Obtaining Information and Submitting Comments

A. Obtaining Information

Please refer to Docket ID **NRC-2023-0100** when contacting the NRC about the availability of information for this action. You may obtain publicly available information related to this action by any of the following methods:

- **Federal Rulemaking Website:** Go to <https://www.regulations.gov> and search for Docket ID **NRC-2023-0100**.

- **NRC's Agencywide Documents Access and Management System (ADAMS):** You may obtain publicly available documents online in the ADAMS Public Documents collection at <https://www.nrc.gov/reading-rm/adams.html>. To begin the search, select "Begin Web-based ADAMS Search." For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1-800-397-4209, 301-415-4737, or by email to PDR.Resource@nrc.gov. The license transfer application dated April 14, 2023, and supplemental letter dated April 20, 2023, are available in ADAMS under Accession Nos. ML23104A423 and ML23110A788, respectively.

- **NRC's PDR:** You may examine and purchase copies of public documents, by appointment, at the NRC's PDR, Room P1 B35, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852. To make an appointment to visit the PDR, please send an email to PDR.Resource@nrc.gov or call 1-800-397-4209 or 301-415-4737, between 8 a.m. and 4 p.m. eastern time (ET), Monday through Friday, except Federal holidays.

B. Submitting Comments

The NRC encourages electronic comment submission through the **Federal rulemaking website** (<https://www.regulations.gov>). Please include Docket ID **NRC-2023-0100** in your comment submission.

The NRC cautions you not to include identifying or contact information that you do not want to be publicly disclosed in your comment submission. The NRC will post all comment submissions at <https://www.regulations.gov> as well as enter the comment submissions into ADAMS. The NRC does not routinely edit comment submissions to remove identifying or contact information.

If you are requesting or aggregating comments from other persons for submission to the NRC, then you should inform those persons not to include identifying or contact information that they do not want to be publicly disclosed in their comment submission. Your request should state that the NRC does not routinely edit comment submissions to remove such information before making the comment submissions available to the public or entering the comment into ADAMS.

II. Introduction

The NRC is considering the issuance of an order under 10 CFR 50.80 approving the transfer of control of the NRC licenses for Comanche Peak, Beaver Valley, Davis-Besse, and Perry and their associated general ISFSI licenses. Specifically, according to the application, under the proposed transaction, VistraOps would become an indirect owner and the licensed operator of Beaver Valley, Davis-Besse, and Perry. Comanche Peak Power Company LLC would remain the licensed owner of Comanche Peak and VistraOps would remain the licensed operator of Comanche Peak; however, for business and tax purposes, the transaction would also create new indirect subsidiaries of VistraOps, resulting in an indirect transfer of control of the Comanche Peak licenses.

The NRC is also considering amending the licenses for administrative purposes to reflect the proposed transfer.

No physical changes to the facilities or operational changes are being proposed in the application.

The NRC's regulations at 10 CFR 50.80 state that no license, or any right thereunder, shall be transferred, directly or indirectly, through transfer of control of the license, unless the Commission gives its consent in writing. The Commission will approve an application for the direct transfer of a license if the Commission determines that the proposed transferee is qualified to hold the license, and that the transfer is otherwise consistent with applicable provisions of law, regulations, and orders issued by the Commission. The Commission will approve an application for the indirect transfer of a license if the Commission determines that the proposed transfer will not affect the qualifications of the licensee to hold the license, and that the transfer is otherwise consistent with applicable provisions of law, regulations, and orders issued by the Commission.

Before issuance of the proposed conforming license amendments, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act), and the Commission's regulations.

As provided in 10 CFR 2.1315, unless otherwise determined by the Commission with regard to a specific application, the Commission has determined that any amendment to the license of a utilization facility that does no more than conform the license to reflect the transfer action involves no significant hazards consideration. No contrary determination has been made with respect to this specific license amendment application. In light of the generic determination reflected in 10 CFR 2.1315, no public

comments with respect to significant hazards considerations are being solicited, notwithstanding the general comment procedures contained in 10 CFR 50.91.

III. Opportunity to Comment

Within 30 days from the date of publication of this notice, persons may submit written comments regarding the license transfer application, as provided for in 10 CFR 2.1305. The Commission will consider and, if appropriate, respond to these comments, but such comments will not otherwise constitute part of the decisional record. Comments should be submitted as described in the ADDRESSES section of this document.

IV. Opportunity to Request a Hearing and Petition for Leave to Intervene

Within 20 days after the date of publication of this notice, any person (petitioner) whose interest may be affected by this action may file a request for a hearing and petition for leave to intervene (petition) with respect to the action. Petitions shall be filed in accordance with the Commission's "Agency Rules of Practice and Procedure" in 10 CFR part 2. Interested persons should consult 10 CFR 2.309. If a petition is filed, the presiding officer will rule on the petition and, if appropriate, a notice of a hearing will be issued.

Petitions must be filed no later than 20 days from the date of publication of this notice in accordance with the filing instructions in the "Electronic Submissions (E-Filing)" section of this document. Petitions and motions for leave to file new or amended contentions that are filed after the deadline will not be entertained absent a determination by the presiding officer that the filing demonstrates good cause by satisfying the three factors in 10 CFR 2.309(c)(1)(i) through (iii).

A State, local governmental body, Federally recognized Indian Tribe, or designated agency thereof, may submit a petition to the Commission to participate as a

party under 10 CFR 2.309(h) no later than 20 days from the date of publication of this notice. Alternatively, a State, local governmental body, Federally recognized Indian Tribe, or agency thereof may participate as a non-party under 10 CFR 2.315(c).

For information about filing a petition and about participation by a person not a party under 10 CFR 2.315, see ADAMS Accession No. ML20340A053 (<https://adamswebsearch2.nrc.gov/webSearch2/main.jsp?AccessionNumber=ML20340A053>) and on the NRC's public website at <https://www.nrc.gov/about-nrc/regulatory/adjudicatory/hearing.html#participate>.

V. Electronic Submissions (E-Filing)

All documents filed in NRC adjudicatory proceedings, including documents filed by an interested State, local governmental body, Federally recognized Indian Tribe, or designated agency thereof that requests to participate under 10 CFR 2.315(c), must be filed in accordance with 10 CFR 2.302. The E-Filing process requires participants to submit and serve all adjudicatory documents over the internet, or in some cases, to mail copies on electronic storage media, unless an exemption permitting an alternative filing method, as further discussed, is granted. Detailed guidance on electronic submissions is located in the "Guidance for Electronic Submissions to the NRC" (ADAMS Accession No. ML13031A056) and on the NRC's public website at <https://www.nrc.gov/site-help/e-submittals.html>.

To comply with the procedural requirements of E-Filing, at least 10 days prior to the filing deadline, the participant should contact the Office of the Secretary by email at Hearing.Docket@nrc.gov, or by telephone at 301-415-1677, to (1) request a digital identification (ID) certificate, which allows the participant (or its counsel or representative) to digitally sign submissions and access the E-Filing system for any proceeding in which it is participating; and (2) advise the Secretary that the participant

will be submitting a petition or other adjudicatory document (even in instances in which the participant, or its counsel or representative, already holds an NRC-issued digital ID certificate). Based upon this information, the Secretary will establish an electronic docket for the proceeding if the Secretary has not already established an electronic docket.

Information about applying for a digital ID certificate is available on the NRC's public website at <https://www.nrc.gov/site-help/e-submittals/getting-started.html>. After a digital ID certificate is obtained and a docket created, the participant must submit adjudicatory documents in Portable Document Format. Guidance on submissions is available on the NRC's public website at <https://www.nrc.gov/site-help/electronic-sub-ref-mat.html>. A filing is considered complete at the time the document is submitted through the NRC's E-Filing system. To be timely, an electronic filing must be submitted to the E-Filing system no later than 11:59 p.m. ET on the due date. Upon receipt of a transmission, the E-Filing system time-stamps the document and sends the submitter an email confirming receipt of the document. The E-Filing system also distributes an email that provides access to the document to the NRC's Office of the General Counsel and any others who have advised the Office of the Secretary that they wish to participate in the proceeding, so that the filer need not serve the document on those participants separately. Therefore, applicants and other participants (or their counsel or representative) must apply for and receive a digital ID certificate before adjudicatory documents are filed to obtain access to the documents via the E-Filing system.

A person filing electronically using the NRC's adjudicatory E-Filing system may seek assistance by contacting the NRC's Electronic Filing Help Desk through the "Contact Us" link located on the NRC's public website at <https://www.nrc.gov/site-help/e-submittals.html>, by email to MSHD.Resource@nrc.gov, or by a toll-free call at

1-866-672-7640. The NRC Electronic Filing Help Desk is available between 9 a.m. and 6 p.m., ET, Monday through Friday, except Federal holidays.

Participants who believe that they have good cause for not submitting documents electronically must file an exemption request, in accordance with 10 CFR 2.302(g), with their initial paper filing stating why there is good cause for not filing electronically and requesting authorization to continue to submit documents in paper format. Such filings must be submitted in accordance with 10 CFR 2.302(b)-(d). Participants filing adjudicatory documents in this manner are responsible for serving their documents on all other participants. Participants granted an exemption under 10 CFR 2.302(g)(2) must still meet the electronic formatting requirement in 10 CFR 2.302(g)(1), unless the participant also seeks and is granted an exemption from 10 CFR 2.302(g)(1).

Documents submitted in adjudicatory proceedings will appear in the NRC's electronic hearing docket, which is publicly available at <https://adams.nrc.gov/ehd>, unless excluded pursuant to an order of the presiding officer. If you do not have an NRC-issued digital ID certificate as previously described, click "cancel" when the link requests certificates and you will be automatically directed to the NRC's electronic hearing dockets where you will be able to access any publicly available documents in a particular hearing docket. Participants are requested not to include personal privacy information such as social security numbers, home addresses, or personal phone numbers in their filings unless an NRC regulation or other law requires submission of such information. With respect to copyrighted works, except for limited excerpts that serve the purpose of the adjudicatory filings and would constitute a Fair Use application, participants should not include copyrighted materials in their submission.

The Commission will issue a notice or order granting or denying a hearing request or intervention petition, designating the issues for any hearing that will be held

and designating the Presiding Officer. A notice granting a hearing will be published in the *Federal Register* and served on the parties to the hearing.

For further details with respect to this application, see the application dated April 14, 2023 (ADAMS Accession No. ML23104A423), as supplemented by letter dated April 20, 2023 (ADAMS Accession No. ML23110A788).

**VI. Access to Sensitive Unclassified Non-Safeguards Information
for Contention Preparation**

Any person who desires access to proprietary, confidential commercial information that has been redacted from the application should contact the applicants by telephoning Jack Hicks, (254) 897-6725, and Phil Lashley, (330) 696-7208, for the purpose of negotiating a confidentiality agreement or a proposed protective order with the applicant. If no agreement can be reached, persons who desire access to this information may file a motion with the Secretary and addressed to the Commission that requests the issuance of a protective order.

Dated: May 17, 2023.

For the Nuclear Regulatory Commission.

/RA/

Robert F. Kuntz, Senior Project Manager,
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