

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

COMMISSIONERS:

DOCKETED 7/23/99

Greta Joy Dicus, Chairman
Nils J. Diaz
Edward McGaffigan, Jr.
Jeffrey S. Merrifield

SERVED 7/23/99

_____)
)
 In the Matter of)
)
 DUQUESNE LIGHT COMPANY, AND) Docket Nos. 50-334-LT & 50-412-LT
 FIRSTENERGY NUCLEAR OPERATING)
 COMPANY, PENNSYLVANIA POWER)
 COMPANY)
)
 (Beaver Valley Power Station,) (License Nos. DPR-66, NPF-73)
 Units 1 and 2)
 _____)

CLI-99-23

MEMORANDUM AND ORDER

In this Memorandum and Order, we address a June 3, 1999, petition to intervene filed by Local 29, International Brotherhood of Electrical Workers with regards to a proposed transfer of interests in the Beaver Valley Power Station from Duquesne Light Company (DLC) to FirstEnergy Corporation. In separate answers filed on June 16, 1999, DLC and FirstEnergy opposed Local 29's petition and argued that it did not have standing to intervene and had failed to raise a valid contention.

On June 23, 1999, Local 29 filed a reply in which it stated:

It bears repeating that Local 29 has not requested a hearing, is not opposing the transfer, and is not seeking to delay Commission action on the application. It is only seeking to ensure that the Commission has full and complete information about the proposed operating conditions at the plant before it takes action on the application.⁽¹⁾

The Commission's newly promulgated rules for license transfer set out two possible avenues to address issues that may arise from license transfer applications: written comments or hearings.⁽²⁾ In this instance, Local 29 has filed a "petition to intervene" but has explicitly stated that it has not requested a hearing. In the absence of a hearing request, there is no potential adjudicatory proceeding in which to intervene. Accordingly, we must deny Local 29's "petition to intervene" and treat it as a submission of comments on the license transfer application pursuant to 10 C.F.R. §2.1305. We note that our denial of the petition here in no way reflects a judgment regarding the merits of the concerns raised by the petitioner. The Commission will consider and, if appropriate, respond to Local 29's comments in accordance with §2.1305. We are referring the comment to the NRC staff for its consideration as it reviews the license transfer application. See General Public Utility Nuclear Corp. (Three Mile Island Nuclear Station, Unit 1), CLI-99-2, 49 NRC 23, 24 n.2 (1999).

For the foregoing reasons, the petition is denied.

IT IS SO ORDERED.

For the Commission⁽³⁾
[Original Signed by

Annette L. Vietti-Cook

Annette L. Vietti-Cook
Secretary of the Commission

Dated at Rockville, Maryland,
this 23rd day of July, 1999.

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1. Reply of Local 29, International Brotherhood of Electrical Workers (June 23, 1999) at 2-3.
 2. Streamlined Hearing Process for NRC Approval of License Transfers, 63 Fed. Reg. 66721 (December 3, 1998).
 3. Commissioner Diaz was not available for affirmation of this Memorandum and Order. Had he been present, he would have affirmed the Memorandum and Order.