

date, and in no event less than \$65,000; and (c) The transaction will enable the Plan to liquidate most of Parcel 1, which is too narrow for training uses, while retaining enough of Parcel 1 for continued use as Parcel 2 access to a major thoroughfare.

FOR FURTHER INFORMATION CONTACT:

Ronald Willett of the Department, telephone (202) 219-8881. (This is not a toll-free number.)

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and/or section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest of disqualified person from certain other provisions of the Act and/or the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(b) of the act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) Before an exemption may be granted under section 408(a) of the Act and/or section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries and protective of the rights of participants and beneficiaries of the plan;

(3) The proposed exemptions, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and/or the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction; and

(4) The proposed exemptions, if granted, will be subject to the express condition that the material facts and representations contained in each application are true and complete, and that each application accurately describes all material terms of the transaction which is the subject of the exemption.

Signed at Washington, DC, this 26th day of July, 1996.

Ivan Strasfeld,

*Director of Exemption Determinations,
Pension and Welfare Benefits Administration,
U.S. Department of Labor.*

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**NUCLEAR REGULATORY
COMMISSION**

[Docket No. 50-440]

**Cleveland Electric Illuminating
Company, et al.; 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), OES Nuclear, Inc. (OES), 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 Facility 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 leases 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 December 29, 1995, from Shaw, Pittman, Potts and Trowbridge, Ohio Edison submitted its request dated December 28, 1995, for approval of its intended transfer of its 12.58-percent ownership interest in the "common facilities" regarding the PNPP Unit 1 to its wholly owned subsidiary, OES. The "common facilities" include fuel-handling and storage facilities and equipment, radioactive waste processing facilities and equipment, service equipment (including laboratory equipment, computer equipment, and machine shop equipment), site security systems equipment, health physics equipment, makeup and discharge water

systems, tunnels and equipment, furniture, training equipment, and the reactor simulator. This request supplements an earlier request to transfer a 17.42-percent ownership interest in PNPP Unit 1 from Ohio Edison to OES, which the NRC approved by order dated December 20, 1995. The other licensees would remain the same and would not be affected by the proposed transfer. On May 8, 1996, a notice of proposed ownership transfer was published in the Federal Register (61 FR 20840), and on June 25, 1996, an Environmental Assessment and Finding of No Significant Impact was published in the Federal Register (61 FR 32860).

The transfer of License No. NPF-58 is subject to the consent of the NRC as described in 10 CFR 50.80(a). Ohio Edison and OES will remain licensees of PNPP Unit 1. Ohio Edison would make sufficient payments to OES 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 "common facilities" transferred to OES. OES is 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 are 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 is bound by the existing antitrust license conditions, 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 letter of December 29, 1995, and the application of December 28, 1995, and other information before the Commission, the NRC staff finds that the transfer of Ohio Edison's 12.58-percent ownership interest in the "common facilities" to OES will not be inimical to the common defense and security or to the health and safety of the public. 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 such 12.58-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 August 30, 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 20555-0001, and to Gerald Charnoff, Esquire, of 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 U.S.C. §§ 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 from Ohio Edison to OES, subject to the following: Should the transfer not be completed by September 30, 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 December 28, 1995, under cover of letter dated December 29, 1995, which is 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.

Dated at Rockville, Maryland this 25th day of July 1996.

William T. Russell,

Director, Office of Nuclear Reactor Regulation.

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BILLING CODE 7590-01-P

Biweekly Notice

Applications and Amendments to Facility Operating Licenses Involving No Significant Hazards Considerations

I. Background

Pursuant to Public Law 97-415, the U.S. Nuclear Regulatory Commission (the Commission or NRC staff) is publishing this regular biweekly notice. Public Law 97-415 revised section 189 of the Atomic Energy Act of 1954, as amended (the Act), to require the Commission to publish notice of any amendments issued, or proposed to be issued, under a new provision of section 189 of the Act. This provision grants the Commission the authority to issue and make immediately effective any amendment to an operating license upon a determination by the Commission that such amendment involves no significant hazards consideration, notwithstanding the pendency before the Commission of a request for a hearing from any person.

This biweekly notice includes all notices of amendments issued, or proposed to be issued from July 6, 1996, through July 19, 1996. The last biweekly notice was published on July 17, 1996 (61 FR 37295).

Notice Of Consideration Of Issuance Of Amendments To Facility Operating Licenses, Proposed No Significant Hazards Consideration Determination, And Opportunity For A Hearing

The Commission has made a proposed determination that the following amendment requests involve no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. The basis for this

proposed determination for each amendment request is shown below.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination.

Normally, the Commission will not issue the amendment until the expiration of the 30-day notice period. However, should circumstances change during the notice period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 30-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received before action is taken. Should the Commission take this action, it will publish in the Federal Register a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

Written comments may be submitted by mail to the Chief, Rules Review and Directives Branch, Division of Freedom of Information and Publications Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, and should cite the publication date and page number of this Federal Register notice. Written comments may also be delivered to Room 6D22, Two White Flint North, 11545 Rockville Pike, Rockville, Maryland from 7:30 a.m. to 4:15 p.m. Federal workdays. Copies of written comments received may be examined at the NRC Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC. The filing of requests for a hearing and petitions for leave to intervene is discussed below.

By August 30, 1996, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10