

report for the Secretary of Labor and, if warranted, to receive testimony from additional witnesses.

Members of the public are encouraged to file a written statement pertaining to the topic by submitting 20 copies on or before September 28, 1999, to Sharon Morrissey, Executive Secretary, ERISA Advisory Council, U.S. Department of Labor, Room N-5677, 200 Constitution Avenue, NW, Washington, DC 20210. Individuals or representatives of organizations wishing to address the Working Group should forward their request to the Executive Secretary or telephone (202) 219-8753. Oral presentation will be limited to 10 minutes, but an extended statement may be submitted for the record. Individuals with disabilities, who need special accommodations, should contact Sharon Morrissey by September 28, at the address indicated in this notice.

Organizations or individuals may also submit statements for the record without testifying. Twenty (20) copies of such statements should be sent to the Executive Secretary of the Advisory Council at the above address. Papers will be accepted and included in the record of the meeting if received on or before September 28.

Signed at Washington, D.C. this 15th day of September, 1999.

Richard McGahey,

Assistant Secretary, Pension and Welfare Benefits Administration.

[FR Doc. 99-24521 Filed 9-20-99; 8:45 am]

BILLING CODE 4510-29-M

DEPARTMENT OF LABOR

Pension and Welfare Benefits Administration

Working Group Exploring the Possibility of Using Surplus Pension Assets To Secure Retiree Health Benefits Advisory Council on Employee Welfare and Pension Benefits Plans; Notice of Meeting

Pursuant to the authority contained in Section 512 of the Employee Retirement Income Security Act of 1974 (ERISA), 29 U.S.C. 1142, a public meeting will be held Tuesday, October 5, 1999, of the Advisory Council on Employee Welfare and Pension Benefit Plans Working Group assigned to explore the possibility of using surplus pension assets to secure retiree health benefits.

The session will take place in Room N-3437 A-B, U.S. Department of Labor Building, Second and Constitution Avenue, NW, Washington, D.C. 20210. The purpose of the open meeting, which will run from 1:00 p.m. to

approximately 3:30 p.m., is for working group members to formulate recommendations for the committee's report, due for completion by the end of the Advisory Council year on November 14.

Members of the Public are encouraged to file a written statement pertaining to the topic by submitting 20 copies on or before September 28, 1999, to Sharon Morrissey, Executive Secretary, ERISA Advisory Council, U.S. Department of Labor, Room N-5677, 200 Constitution Avenue, NW, Washington, D.C. 20210. Individuals or representatives of organizations wishing to address the Working Group should forward their request to the Executive Secretary or telephone (202) 219-8753. Oral presentations will be limited to 10 minutes, but an extended statement may be submitted for the record. Individuals with disabilities, who need special accommodations, should contact Sharon Morrissey by September 28, at the address indicated in this notice.

Organizations or individuals may also submit statements for the record without testifying. Twenty (20) copies of such statements should be sent to the Executive Secretary of the Advisory Council at the above address. Papers will be accepted and included in the record of the meeting if received on or before September 28.

Signed at Washington, D.C. this 15th day of September 1999.

Richard McGahey,

Assistant Secretary, Pension and Welfare Benefits Administration.

[FR Doc. 99-24522 Filed 9-20-99; 8:45 am]

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DEPARTMENT OF LABOR

Pension and Welfare Benefits Administration

Working Group Studying Issues Surrounding the Trend in the Defined Benefit Plan Market With a Focus on Employer-Sponsored Hybrid Plans Advisory Council on Employee Welfare and Pension Benefits Plans; Notice of Meeting

Pursuant to the authority contained in Section 512 of the Employee Retirement Income Security Act of 1974 (ERISA), 29 U.S.C. 1142, a public meeting will be held on Wednesday, October 6, 1999, of the Advisory Council on Employee Welfare and Pension Benefit Plans Working Group assigned to study issues surrounding trends in the defined benefit market with a focus on employer-sponsored hybrid plans.

The purpose of the open meeting, which will run from 9:00 a.m. to approximately 1:00 p.m. in Room N-3427 A-B, U.S. Department of Labor Building, Second and Constitution Avenue NW, Washington, DC 20210, is for working group members to conclude taking testimony on account balance plans and to begin drafting its report for the Secretary of Labor.

Members of the public are encouraged to file a written statement pertaining to the topic by submitting 20 copies on or before September 28, 1999, to Sharon Morrissey, Executive Secretary, ERISA Advisory Council, U.S. Department of Labor, Room N-5677, 200 Constitution Avenue, NW, Washington, DC 20210. Individuals or representatives of organizations wishing to address the Working Group should forward their request to the Executive Secretary or telephone (202) 219-8753. Oral presentations will be limited to 10 minutes, but an extended statement may be submitted for the record. Individuals with disabilities, who need special accommodations, should contact Sharon Morrissey by September 28, at the address indicated in this notice.

Organizations or individuals also may submit statements for the record without testifying. Twenty (20) copies of such statements should be sent to the executive Secretary of the Advisory Council at the above address. Papers will be accepted and included in the record of the meeting if received on or before September 28.

Signed at Washington, DC this 15th day of September, 1999.

Richard McGahey,

Assistant Secretary, Pension and Welfare Benefits Administration.

[FR Doc. 99-24523 Filed 9-20-99; 8:45 am]

BILLING CODE 4510-29-M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50-255]

Consumers Energy Company; Notice of Consideration of Issuance of Amendment to Facility Operating License and Opportunity for a Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. DPR-20, issued to the Consumers Energy Company (the licensee), for operation of the Palisades Plant, located in Van Buren County, Michigan.

The proposed amendment would represent a full conversion from the current Technical Specifications (CTS)

to a set of improved Technical Specifications (ITS) based on the Improved Standard Technical Specifications (ISTS) in NUREG-1432, "Standard Technical Specifications, Combustion Engineering Plants," Revision 1, dated April 1995. The ISTS in NUREG-1432 have been developed through working groups composed of both NRC staff members and industry representatives, and have been endorsed by the NRC staff as part of an industry-wide initiative to standardize and improve the technical specifications for nuclear power plants. As part of this submittal, the licensee has applied the criteria contained in the Commission's "Final Policy Statement on Technical Specification Improvements for Nuclear Power Reactors" (Final Policy Statement), published in the **Federal Register** on July 22, 1993 (58 FR 39132), to the CTS, and, using NUREG-1432 as a basis, developed a proposed set of ITS for Palisades. The criteria in the Final Policy Statement were subsequently added to 10 CFR 50.36, "Technical Specifications," in a rule change that was published in the **Federal Register** on July 19, 1995 (60 FR 36953) and became effective on August 18, 1995.

The licensee has categorized the proposed changes to the CTS into four general groupings. These groupings are characterized as administrative changes, relocated changes, more restrictive changes, and less restrictive changes.

Administrative changes are those that involve restructuring, renumbering, rewording, interpretation, and complex rearranging of requirements and other changes not affecting technical content or substantially revising an operating requirement. The reformatting, renumbering, and rewording processes reflect the attributes of NUREG-1432 and do not involve technical changes to the CTS. The proposed changes include (a) providing the appropriate numbers, etc., for NUREG-1432 bracketed information (information that must be supplied on a plant-specific basis, and which may change from plant to plant), (b) identifying plant-specific wording for system names, etc., and (c) changing NUREG-1432 section wording to conform to existing licensee practices. Such changes are administrative in nature and do not impact initiators of analyzed events or assumed mitigation of accident or transient events.

Relocated changes are those involving relocation of requirements and surveillances for structures, systems, components, or variables that do not meet the criteria for inclusion in technical specifications. Relocated changes are those CTS requirements that do not satisfy or fall within any of the

four criteria specified in the Final Policy Statement and may be relocated to appropriate licensee-controlled documents.

The licensee's application of the screening criteria is described in its January 26, 1998, application. The affected structures, systems, components, or variables are not assumed to be initiators of analyzed events and are not assumed to mitigate accident or transient events. The requirements and surveillances for these affected structures, systems, components, or variables will be relocated from the CTS to administratively controlled documents such as the Final Safety Analysis Report (FSAR), the ITS Bases, the Operating Requirements Manual (ORM), or other licensee-controlled documents. Changes made to these documents will be made pursuant to 10 CFR 50.59 or other appropriate and acceptable change control mechanisms, and may be made without prior NRC review and approval. In addition, the affected structures, systems, components, or variables are addressed in existing surveillance procedures that are also subject to 10 CFR 50.59. These proposed changes will not impose or eliminate any requirements.

More restrictive changes are those involving more stringent requirements compared to the CTS for operation of the facility. These more stringent requirements do not result in operation that will alter assumptions relative to the mitigation of an accident or transient event. The more restrictive requirements will not alter the operation of process variables, structures, systems, and components described in the safety analyses. For each requirement in the CTS that is more restrictive than the corresponding requirement in NUREG-1432 that the licensee proposes to retain in the ITS, the licensee has provided an explanation of why it has concluded that retaining the more restrictive requirement is desirable to ensure safe operation of the facility because of specific design features of the plant.

Less restrictive changes are those where CTS requirements are relaxed or eliminated, or new plant operational flexibility is provided. The more significant less restrictive requirements are justified on a case-by-case basis. When requirements have been shown to provide little or no safety benefit, their removal from the technical specifications may be appropriate. In most cases, relaxations previously granted to individual plants on a plant-specific basis were the result of (a) generic NRC actions, (b) new NRC staff positions that have evolved from

technological advancements and operating experience, or (c) resolution of Owners Groups' comments on the ISTS. Generic relaxations contained in NUREG-1432 were reviewed by the NRC staff and found to be acceptable because they are consistent with current licensing practices and NRC regulations. The licensee's design information will be reviewed to determine if the specific design and licensing bases are consistent with the technical bases for the model requirements in NUREG-1432, thus providing a basis for the ITS, or if relaxation of the requirements in the CTS is warranted based on the justifications provided by the licensee.

These administrative, relocated, more restrictive, and less restrictive changes to the requirements of the CTS do not result in operations that will alter assumptions relative to mitigation of an analyzed accident or transient event.

In addition to the proposed changes solely involving the conversion, there are also changes proposed that are different from the requirements in both the CTS and the ISTS. These proposed beyond-scope issues to the ITS conversion are as follows:

1. ITS 3.0.3 and related specifications that specify time to reach MODE 4: The CTS do not include an equivalent classification to ISTS MODE 4. To maintain consistency with the ISTS, the licensee proposed a definition for MODE 4 and a time limit to reach the new MODE 4. The proposed time limit is greater than the time limit in the ISTS.

2. ITS 3.3.1: The frequency of the channel functional test associated with certain reactor protective system and engineered safety features instrumentation was proposed to be increased from 31 to 92 days.

3. ITS 3.4.1: The CTS require restoration of reactor inlet temperature within 30 minutes if the temperature limit is exceeded. The proposed ITS would require the primary coolant system (PCS) cold leg temperature (equivalent to the CTS reactor inlet temperature) and additional specified parameters to be restored to within the specified limits within 2 hours.

4. ITS 3.4.1: The proposed ITS surveillance requirement regarding verification of PCS total flow rate differs from the ISTS by allowing additional methods of flow measurement other than the "precision heat balance" specified in the ISTS to be used.

5. ITS 3.4.6: The proposed ITS actions for PCS loops while in MODE 4 contain several wording deviations from the ISTS.

6. ITS 3.4.10: The proposed ITS applicability modes for pressurizer

safety valves differ from both the ISTS and the CTS.

7. ITS 3.4.14: The proposed ITS requirements for isolation valves in high pressure lines with an inoperable pressure isolation valve differ from both the ISTS and the CTS.

8. ITS 3.5.3: The CTS does not contain any ECCS requirements when the reactor is not critical. The proposed ITS requirements differ from those in the ISTS.

9. ITS 3.6.6, 3.7.5, 3.7.7, and 3.7.8: The proposed requirements for the containment cooling, auxiliary feedwater, component cooling water, and service water systems differ from both the CTS and ISTS. The proposed specifications would permit one or more trains of these systems to be inoperable, provided the systems are capable of providing at least 100 percent of the required flow or cooling capacity. This approach is similar to ISTS 3.5.2.

10. ITS 3.7.12: The proposed applicability requirements for the fuel handling area ventilation system differ from both the CTS and ISTS.

11. ITS 3.8.4: The proposed action requirements for DC electrical sources differ from both the CTS and ISTS.

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

By October 21, 1999, 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 CFR Part 2. Interested persons should consult a current copy of 10 CFR 2.714 which is available 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 Van Wylen Library, Hope College, Holland, Michigan 49423-3698. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the designated Atomic Safety and Licensing

Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to 15 days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than 15 days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. Petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any

limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, Attention: Rulemakings and Adjudications Staff, or may be delivered to the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, by the above date. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, and to Mr. Arunas T. Udrys, Esquire, Consumers Energy Company, 212 West Michigan Avenue, Jackson, Michigan 49201, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the presiding Atomic Safety and Licensing Board that the petition and/or request should be granted based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)-(v) and 2.714(d).

If a request for a hearing is received, the Commission's staff may issue the amendment after it completes its technical review and prior to the completion of any required hearing if it publishes a further notice for public comment of its proposed finding of no significant hazards consideration in accordance with 10 CFR 50.91 and 50.92.

For further details with respect to this action, see the application for amendment dated January 26, 1998, as supplemented April 30, September 14, October 12, and November 9, 1998, and March 1, March 22, March 30, April 7, May 3, June 4, June 11, June 17, July 19, and July 30, 1999, which are 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 Van Wylen Library, Hope College, Holland, Michigan 49423-3698.

Dated at Rockville, Maryland, this 15th day of September 1999.

For the Nuclear Regulatory Commission.
Robert G. Schaaf,
*Project Manager, Section 1, Project
 Directorate III, Division of Licensing Project
 Management, Office of Nuclear Reactor
 Regulation.*

[FR Doc. 99-24574 Filed 9-20-99; 8:45 am]

BILLING CODE 7590-01-P

SECURITIES AND EXCHANGE COMMISSION

[Rel. No. IC-24015; No. 812-11624]

Evergreen Variable Annuity Trust, et al.; Notice of Application

September 15, 1999.

AGENCY: Securities and Exchange
Commission ("SEC" or "Commission").

ACTION: Notice of Application for an
amended order pursuant to Section 6(c)
of the Investment Company Act of 1940
("Act") granting relief from Sections
9(a), 13(a), 15(a) and 15(b) of the Act
and Rules 6e-2(b)(15) and 6e-
3(T)(b)(15) thereunder.

Summary of Application

Applicants seek an amended order to
permit shares of any current or future
series of the Evergreen Variable Annuity
Trust ("Trust") and shares of any other
investment company that is designed to
fund insurance products or to serve as
an investment vehicle for qualified
pension and retirement plans and for
which Evergreen Asset Management
Corp. ("Evergreen Asset") or any of its
affiliates may now or in the future serve
as investment adviser, administrator,
manager, principal underwriter or
sponsor (the Trust and such other
investment company are hereinafter
referred to collectively as the "Funds")
to be sold and held by the investment
adviser of any Fund (the "Adviser" and,
collectively, the "Advisers") or any of
the Adviser's affiliates.

Applicants

Evergreen Variable Annuity Trust and
Evergreen Asset Management Corp.

Filing Date

The application was originally filed
on May 21, 1999, and amended and
restituted on July 30, 1999.

Hearing and Notification of Hearing

An order granting the application will
be issued unless the SEC orders a
hearing. Interested persons may request
a hearing by writing the Secretary of the
SEC and serving Applicants with a copy
of the request, in person or by mail.
Hearing requests should be received by
the SEC by 5:30 p.m. on October 12,

1999, and should be accompanied by
proof of service on Applicants, in the
form of an affidavit or, for lawyers, a
certificate of service. Hearing requests
should state the nature of the writer's
interest, the reason for the request, and
the issues contested. Persons who wish
to be notified of a hearing may request
notification of a hearing by writing to
the Secretary of the SEC.

ADDRESSES: Secretary, SEC, 450 Fifth
Street, NW, Washington, DC 20549-
0609. Applicants, c/o Sullivan &
Worcester, LLP, 1025 Connecticut
Avenue, NW, Washington, DC 20036,
Attention: Robert N. Hickey, Esq.

FOR FURTHER INFORMATION CONTACT:
Michael D. Pappas, Senior Counsel, or
Susan M. Olson, Branch Chief, Office of
Insurance Products, Division of
Investment Management at (202) 942-
0670.

SUPPLEMENTARY INFORMATION: The
following is a summary of the
application. The complete application is
available for a fee from the SEC's Public
Reference Branch, 450 Fifth Street, NW,
Washington, DC 20549-0102, (202-942-
8090).

Applicant's Representations

1. The Trust was organized in June
1994 as a Massachusetts business trust
and is registered as an open-end
management investment company
under the Act. The Trust was
reorganized as a Delaware business trust
on April 30, 1998. The Trust consists of
separately managed series and
additional series of the Trust may be
created in the future.

2. Evergreen Asset serves as Adviser
for certain of the Trust's series.
Evergreen Asset is a wholly-owned
subsidiary of First Union National Bank
of North Carolina ("FUNB"). FUNB and
certain of its other investment advisory
affiliates serve as Advisers to certain
funds or series of the Trust. FUNB is a
national bank, which is a wholly-owned
subsidiary (except for director's
qualifying shares) of First Union
Corporation, the sixth largest bank
holding company in the nation (based
on June 30, 1999 total assets). Evergreen
Asset is registered under the Investment
Advisers Act of 1940.

3. Shares of the Funds are currently
offered to separate accounts of various
unaffiliated insurance companies to
serve as the investment medium for
variable annuity contracts and variable
life insurance policies issued by such
companies ("Participating Insurance
Companies"). Shares of the Funds also
may be offered to qualified pension and
retirement plans outside the separate
account context ("Qualified Plans"). In

addition, shares of a Fund may also be
offered to an Adviser or an affiliate of
the Adviser for the purposes of
providing necessary capital required by
Section 14(a) of the Act or for other
investment purposes, in compliance
with Treasury Regulation 1.817-5(f)(3).

4. On March 5, 1996, the Commission
issued an order granting relief with
respect to shares of the Funds to be sold
to and held by (a) variable annuity and
variable life insurance separate accounts
of both affiliated and unaffiliated
Participating Insurance Companies and
(b) Qualified Plans (Investment
Company Act Release No. 21806, File
No. 812-9856) (the "Original Order").
The Applicants incorporated by
reference into their application the
Application for the Original Order and
any amendments thereto, the Notice of
Application for the Original Order and
the Original Order.¹

5. The Original Order did not address
the sale of shares of the Funds to the
Advisers or their affiliates in
compliance with Treasury Regulation
1.817-5(f)(3) representing seed money
or other investments in a Fund.
Applicants propose that the Funds be
permitted to offer and sell their shares
to Advisers and their affiliates in
compliance with Treasury Regulation
1.817-5(f)(3).

Applicants' Legal Analysis

1. Section 6(c) of the Act provides, in
part, that the Commission, by order
upon application, may conditionally or
unconditionally exempt any person,
security or transaction, or any class or
classes of persons, securities or
transactions from any provision of the
Act or the rules or regulations
thereunder, if and to the extent that
such exemption is necessary or
appropriate in the public interest and
consistent with the protection of
investors and the purposes fairly
intended by the policy and provisions of
the Act.

2. Applicants request that the
Commission issue an amended order
pursuant to Section 6(c) of the Act for
exemptions from the provisions of
Sections 9(a), 13(a), 15(a) and 15(b)
of the Act and Rules 6e-2(b)(15) and 6e-
3(T)(b)(15) (and any comparable rule)
thereunder, respectively, to the extent
necessary to permit shares of the Funds
to be sold to and held by the Funds'
Advisers or any of its affiliates in
compliance with Treasury Regulation

¹ Applicants represent that all of the facts asserted
in the Application for the Original Order and any
amendments thereto remain true and accurate in all
material respects to the extent that such facts are
relevant to any relief on which Applicants continue
to rely.