

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 J. W. Durham, Sr., Esquire, Sr. V.P. and General Counsel, PECO Energy Company, 2301 Market Street, Philadelphia, PA 19101, 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 May 5, 1997, 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 Government Publications Section, State Library of Pennsylvania, (REGIONAL DEPOSITORY) Education Building, Walnut Street and Commonwealth Avenue, Box 1601, Harrisburg, PA 17105.

Dated at Rockville, Maryland, this 18th day of June 1997.

For the Nuclear Regulatory Commission.
Chester Poslusny,
*Acting Director, Project Directorate I-2,
Division of Reactor Projects—I/II, Office of
Nuclear Reactor Regulation.*

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NUCLEAR REGULATORY COMMISSION

[Docket No. 50-346]

Toledo Edison Company; et al.; Order Approving Application Regarding Merger Agreement Between Centerior Energy Corporation and Ohio Edison Company

I

Toledo Edison Company (TE), The Cleveland Electric Illuminating Company (CEI), and Centerior Service Company (CSC) are the licensees of the Davis-Besse Nuclear Power Station, Unit 1. TE and CSC (both of which are wholly owned subsidiaries of Centerior Energy Corporation) are authorized to act as agents for CEI, and have exclusive responsibility and control over the physical construction, operation, and maintenance of the facility as reflected in Operating License No. NPF-3. The U.S. Nuclear Regulatory Commission (NRC) issued License No. NPF-3 on April 22, 1977, pursuant to Part 50 of Title 10 of the Code of Federal Regulations (10 CFR Part 50). The facility is located on the shore of Lake Erie in Ottawa County, Ohio, approximately 21 miles east of Toledo, Ohio.

II

By letter dated December 13, 1996, TE and CSC, on behalf of themselves and CEI, informed the Commission of a proposed merger of Centerior Energy Corporation and Ohio Edison Company (OE), resulting in the formation of a new

holding company, FirstEnergy Corporation, which would replace Centerior Energy Corporation. Supplemental information was submitted by letter dated February 12, 1997.

Under the proposed merger, TE, CEI, CSC, and OE will become wholly owned subsidiaries of FirstEnergy Corporation. The current licensees will continue to hold the license, and no direct transfer of the license will result from the merger. On April 14, 1997, a notice of consideration of approval of application regarding corporate restructuring was published in the **Federal Register** (62 FR 18156). An Environmental Assessment and Finding of No Significant Impact was published in the **Federal Register** on May 13, 1997 (62 FR 26330).

Under 10 CFR 50.80, no license shall be transferred, directly or indirectly, through transfer of control of the license, unless the Commission gives its consent in writing. Upon review of the information submitted in the letter of December 13, 1996, and other information before the Commission, the NRC staff has determined that the proposed merger will not affect the qualifications of TE, CEI, and CSC as holders of Facility Operating License No. NPF-3, and that the transfer of control of the license, to the extent effected by the merger, is otherwise consistent with applicable provisions of law, regulations, and orders issued by the Commission, subject to the conditions set forth herein. These findings are supported by a Safety Evaluation dated June 19, 1997.

III

Accordingly, pursuant to Sections 161b, 161i, 161o, and 184 of the Atomic Energy Act of 1954, as amended; 42 U.S.C. 2201(b), 2201(i), 2201(o), and 2234; and 10 CFR 50.80, *It Is Hereby Ordered* that the Commission approves the application regarding the merger agreement between Centerior Energy Corporation and OE, subject to the following: (1) TE, CEI, and CSC shall provide the Director of the Office of Nuclear Reactor Regulation a copy of any application, at the time it is filed, to transfer (excluding grants of security interests or liens) from such licensee to its parent or to any other affiliated company, facilities for the production, transmission, or distribution of electric energy having a depreciated book value exceeding 10 percent of such licensee's consolidated net utility plant, as recorded on the licensee's books of account; and (2) should the merger not be completed by June 30, 1998, this Order shall become null and void

unless, upon application and for good cause shown, this date is extended.

This Order is effective upon issuance.

IV

By July 25, 1997, 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.

The issue to be considered at any such hearing shall 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: 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. 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.

For further details with respect to this action, see the application dated December 13, 1996, as supplemented February 12, 1997, and the Safety Evaluation dated June 19, 1997, 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 University of Toledo, William Carlson Library, Government Documents Collection, 2801 West Bancroft Avenue, Toledo, Ohio.

Dated at Rockville, Maryland, this 19th day of June 1997.

For The U.S. Nuclear Regulatory Commission.

Frank J. Miraglia, Jr.,

Acting Director, Office of Nuclear Reactor Regulation.

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NUCLEAR REGULATORY COMMISSION

[Docket No. 50-334]

Duquesne Light Company, et al.; Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an exemption from certain requirements of its regulations for Facility Operating License No. DPR-66, issued to Duquesne Light Company, et al. (the licensee), for operation of the Beaver Valley Power Station, Unit No. 1 (BVPS-1), located in Beaver County, Pennsylvania.

Environmental Assessment

Identification of Proposed Action

The proposed action would exempt the licensee from the requirements of 10 CFR 70.24, which require a monitoring system that will energize clear audible alarms if accidental criticality occurs in each area in which special nuclear material is handled, used, or stored. The proposed action would also exempt the licensee from the requirements to maintain emergency procedures for each area in which this licensed special nuclear material is handled, used, or stored to ensure that all personnel withdraw to an area of safety upon the sounding of the alarm, to familiarize personnel with the evacuation plan, and to designate responsible individuals for determining the cause of the alarm, and to place radiation survey instruments in accessible locations for use in such an emergency.

The proposed action is in accordance with the licensee's application for exemption dated December 18, 1996, as supplemented by letters dated April 10 and June 11, 1997.

The Need for the Proposed Action

The purpose of 10 CFR 70.24 is to ensure that if a criticality were to occur during the handling of special nuclear material, personnel would be alerted to that fact and would take appropriate action. At a commercial nuclear power plant the inadvertent criticality with which 10 CFR 70.24 is concerned could occur during fuel handling operations. The special nuclear material that could be assembled into a critical mass at a commercial nuclear power plant is in the form of nuclear fuel; the quantity of other forms of special nuclear material that is stored on site is small enough to preclude achieving a critical mass. Because the fuel is not enriched beyond a nominal 5.0 weight percent Uranium-

235 and because commercial nuclear plant licensees have procedures and design features that prevent inadvertent criticality, the staff has determined that an inadvertent criticality is highly unlikely as a result of the handling of special nuclear material at a commercial power reactor. The requirements of 10 CFR 70.24, therefore, are not necessary to ensure the safety of personnel during the handling of special nuclear materials at commercial power reactors.

Environmental Impacts of the Proposed Action

The Commission has completed its evaluation of the proposed action and concludes that there is no significant environmental impact if the exemption is granted. Inadvertent or accidental criticality will be precluded through compliance with the BVPS-1 Technical Specifications (TSs), the design of the fuel storage racks providing geometric spacing of fuel assemblies in their storage locations, and administrative controls imposed on fuel handling procedures. TSs requirements specify reactivity limits for the fuel storage racks and minimum spacing between the fuel assemblies in the storage racks.

Appendix A of 10 CFR Part 50, "General Design Criteria for Nuclear Power Plants," Criterion 62, requires that the criticality in the fuel storage and handling system be prevented by physical systems or processes, preferably by use of geometrically-safe configurations. This is met at BVPS-1, as identified in the TSs and the Updated Final Safety Analysis Report (UFSAR). BVPS-1 TS 5.3.1.2 states that the new fuel storage racks are designed and shall be maintained with a nominal 21-inch center-to-center distance between fuel assemblies placed in the storage racks. This spacing requirement ensures that k_{eff} will be ≤ 0.95 if the loaded new fuel storage racks are flooded with unborated water and that k_{eff} will be ≤ 0.98 if the loaded new fuel storage racks are moderated by aqueous foam. UFSAR Section 9.12.1.1 (Prevention of Fuel Storage Criticality) states that new fuel assemblies will be stored dry and vertically in the new fuel storage racks with a minimum center-to-center spacing of 21 inches.

The proposed exemption would not result in any significant radiological impacts. The proposed exemption would not affect radiological plant effluents nor cause any significant occupational exposures since the TSs, design controls (including geometric spacing of fuel assembly storage spaces) and administrative controls preclude inadvertent criticality. The amount of