determines to be in controversy among the parties.''

The hybrid procedures in section 134 provide for oral argument on matters in controversy, preceded by discovery under the Commission's rules and the designation, following argument of only those factual issues that involve a genuine and substantial dispute, together with any remaining questions of law, to be resolved in an adjudicatory hearing. Actual adjudicatory hearings are to be held on only those issues found to meet the criteria of section 134 and set for hearing after oral argument.

The Commission's rules implementing section 134 of the NWPA are found in 10 CFR Part 2, Subpart K, ''Hybrid Hearing Procedures for Expansion of Spent Fuel Storage Capacity at Civilian Nuclear Power Reactors.'' Under those rules, any party to the proceeding may invoke the hybrid hearing procedures by filing with the presiding officer a written request for oral argument under 10 CFR 2.1109. To be timely, the request must be filed together with a request for hearing/petition to intervene, filed in accordance with 10 CFR 2.309. If it is determined a hearing will be held, the presiding officer must grant a timely request for oral argument. The presiding officer may grant an untimely request for oral argument only upon a showing of good cause by the requesting party for the failure to file on time and after providing the other parties an opportunity to respond to the untimely request. If the presiding officer grants a request for oral argument, any hearing held on the application must be conducted in accordance with the hybrid hearing procedures. In essence, those procedures limit the time available for discovery and require that an oral argument be held to determine whether any contentions must be resolved in an adjudicatory hearing. If no party to the proceeding timely requests oral argument, and if all untimely requests for oral argument are denied, then the usual procedures in 10 CFR Part 2, Subpart L apply.

For further details with respect to this action, see the application for amendment dated September 13, 2005, which is available for public inspection at the Commission's PDR, located at One White Flint North, File Public Area O1 F21, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available records will be accessible from the Agencywide Documents Access and Management System's (ADAMS) Public Electronic Reading Room on the Internet at the NRC Web site, *http://www.nrc.gov/reading-rm/adams.html.* Persons who do not have access to ADAMS or who encounter problems in accessing the documents located in ADAMS, should contact the NRC PDR Reference staff by telephone at 1–800–397–4209, (301) 415–4737, or by e-mail to *pdr@nrc.gov.*

Dated at Rockville, Maryland, this 9th day of November 2005.

For the Nuclear Regulatory Commission.

Farideh E. Saba,

Project Manager, Section 1, Project Directorate II, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.

[FR Doc. E5–6395 Filed 11–18–05; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–334 and 50–412, License Nos. DPR–66 and NPF–73; Docket No. 50–346, License No. NPF–3; Docket No. 50–440, License No. NPF–58]

In The Matter of Pennsylvania Power Company; Ohio Edison Company; OES Nuclear, Inc.; The Cleveland Electric Illuminating Company; the Toledo Edison Company; Firstenergy Nuclear Operating Company; Beaver Valley Power Station, Units 1 and 2; Davis-Besse Nuclear Power Station, Unit 1; Perry Nuclear Power Plant, Unit 1; Order Approving Transfer of Licenses and Conforming Amendments

I.

FirstEnergy Nuclear Operating Company (FENOC) and Pennsylvania Power Company (Penn Power), Ohio Edison Company (Ohio Edison), OES Nuclear, Inc. (OES Nuclear), the Cleveland Electric Illuminating Company (Cleveland Electric), and the Toledo Edison Company (Toledo Edison), are holders of Facility Operating License Nos. DPR–66, NPF–73, NPF–3 and NPF–58, which authorize the possession, use, and operation of Beaver Valley Power Station, Units 1 (BVPS 1) and 2 (BVPS 2; together with BVPS 1, BVPS), Davis-Besse Nuclear Power Station, Unit 1 (Davis-Besse), and Perry Nuclear Power Plant, Unit 1 (Perry), respectively. FENOC is licensed by the U.S. Nuclear Regulatory Commission (NRC, the Commission) to operate BVPS, Davis-Besse, and Perry (the facilities). The facilities are located at the licensees' sites in Beaver County, Pennsylvania, Ottawa County, Ohio, and Lake County, Ohio, respectively.

II.

By letter dated May 18, 2005, FENOC submitted an application requesting approval of direct license transfers that would be necessary in connection with the following proposed transfers to FirstEnergy Nuclear Generation Corp. (FENGenCo), a new nuclear generation subsidiary of FirstEnergy: Penn Power's 65-percent undivided ownership interest in BVPS 1, 13.74-percent undivided ownership interest in BVPS 2, and 5.25-percent undivided ownership interest in Perry.

By letter dated June 1, 2005, FENOC submitted a second application requesting approval of direct license transfers that would be necessary in connection with the following proposed transfers to FENGenCo: Ohio Edison's 35-percent undivided ownership interest in BVPS 1 and 20.22-percent undivided ownership interest in BVPS 2; OES Nuclear's 17.42-percent undivided ownership interest in Perry; Cleveland Electric's 24.47-percent undivided ownership interest in BVPS 2, 44.85-percent undivided ownership interest in Perry, and 51.38-percent undivided ownership interest in Davis-Besse; and, Toledo Edison's 1.65-percent undivided ownership interest in BVPS 2, 19.91-percent undivided ownership interest in Perry, and 48.62-percent undivided ownership interest in Davis-Besse.

Supplemental information was provided by letters dated July 15 and October 31, 2005, (hereinafter, the May 18 and June 1, 2005, applications and supplemental information will be referred to collectively as the ''applications''). FENOC also requested approval of conforming license amendments that would reflect the proposed transfer of ownership of Penn Power's interests in BVPS and Perry to FENGenCo; delete the references to Penn Power in the licenses; authorize FENGenCo to possess the respective ownership interests in BVPS and Perry; reflect the proposed transfer of ownership interests in BVPS, Davis-Besse, and Perry from Ohio Edison, OES Nuclear, Cleveland Electric, and Toledo Edison (Ohio Companies) to FENGenCo; delete the Ohio Companies from the licenses; and, authorize FENGenCo to possess the respective ownership interests in BVPS, Davis-Besse, and Perry being transferred by the Ohio Companies. Ohio Edison's 21.66-percent leased interest in BVPS 2, Toledo Edison's 18.26-percent leased interest in BVPS 2, and Ohio Edison's 12.58-percent leased interest in Perry would not be changed. No physical changes to the facilities or operational changes were proposed in the applications. After completion of the proposed transfers, FENGenCo and, to a limited extent, Ohio Edison and Toledo Edison, would

be the sole owners of the facilities; the role of FENOC would be unchanged.

Approval of the transfer of the facility operating licenses and conforming license amendments is requested by FENOC pursuant to Sections 50.80 and 50.90 of Title 10 of the Code of Federal Regulations (10 CFR). Notices of the requests for approval and opportunity for a hearing were published in the **Federal Register** on August 2, 2005 (70 FR 44390–44395). No comments were received. Two petitions for leave to intervene pursuant to 10 CFR 2.309 were received on August 22, 2005, from the City of Cleveland, Ohio, and American Municipal Power-Ohio, Inc. A joint motion to lodge by the City of Cleveland, Ohio and Municipal Power Ohio, Inc., was received on September 12, 2006. The petitions and motion are under consideration by the Commission.

Pursuant to 10 CFR 50.80, no license, or any right thereunder, shall be transferred, directly or indirectly, through transfer of control of the license, unless the Commission shall give its consent in writing. Upon review of the information in the application and other information before the Commission, and relying upon the representations and agreements contained in the application, the NRC staff has determined that FENGenCo is qualified to hold the ownership interests in the facilities previously held by Penn Power and the Ohio Companies, and that the transfers of undivided ownership interests in the facilities to FENGenCo described in the applications are otherwise consistent with applicable provisions of law, regulations, and orders issued by the Commission, subject to the conditions set forth below. The NRC staff has further found that the applications for the proposed license amendments comply with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations set forth in 10 CFR Chapter I. The facilities will operate in conformity with the applications, the provisions of the Act and the rules and regulations of the Commission; there is reasonable assurance that the activities authorized by the proposed license amendments can be conducted without endangering the health and safety of the public and that such activities will be conducted in compliance with the Commission's regulations; the issuance of the proposed license amendments will not be inimical to the common defense and security or to the health and safety of the public; and the issuance of the proposed amendments will be in accordance with 10 CFR Part 51 of the Commission's regulations and all applicable requirements have been satisfied.

The findings set forth above are supported by an NRC safety evaluation dated November 15, 2005.

III.

Accordingly, pursuant to Sections 161b, 161i, and 184 of the Act, 42 U.S.C. §§ 2201(b), 2201(i), and 2234; and 10 CFR 50.80, it is hereby ordered that the direct transfers of the licenses, as described herein, to FENGenCo are approved, subject to the following conditions:

(1) On the closing date(s) of the transfers to FENGenCo of their interests in BVPS 1, BVPS 2, Davis-Besse, and Perry, Penn Power, Cleveland Electric, Ohio Edison, OES Nuclear, and Toledo Edison shall transfer to FENGenCo all of each transferor's respective accumulated decommissioning funds for BVPS 1, BVPS 2, Davis-Besse, and Perry, except for funds associated with the leased portions of Perry and BVPS 2, and tender to FENGenCo additional amounts equal to remaining funds expected to be collected in 2005, as represented in the application dated June 1, 2005, but not yet collected by the time of closing. All of the funds shall be deposited in separate external trust funds for each of these four reactors in the same amounts as received with respect to each unit to be segregated from other assets of FENGenCo and outside its administrative control, as required by NRC regulations, and FENGenCo shall take all necessary steps to ensure that these external trust funds are maintained in accordance with the requirements of the order approving the transfer of the licenses and consistent with the safety evaluation supporting the order and in accordance with the requirements of 10 CFR Section 50.75, ''Reporting and recordkeeping for decommissioning planning.''

(2) By the date of closing of the transfer of the ownership interests in BVPS 1, BVPS 2, and Perry, from Penn Power to FENGenCo, FENGenCo shall obtain a parent company guarantee from FirstEnergy in an initial amount of at least $80 million (in 2005 dollars) to provide additional decommissioning funding assurance regarding such ownership interests. Required funding levels shall be recalculated annually and, as necessary, FENGenCo shall either obtain appropriate adjustments to the parent company guarantee or otherwise provide any additional decommissioning funding assurance necessary for FENGenCo to meet NRC requirements under 10 CFR 50.75.

(3) The Support Agreements described in the applications dated May 18, 2005 (up to $80 million), and June 1, 2005 (up to $400 million), shall be effective consistent with the representations contained in the applications. FENGenCo shall take no action to cause FirstEnergy, or its successors and assigns, to void, cancel, or modify the Support Agreements without the prior written consent of the NRC staff, except, however, the $80 million Support Agreement in connection with the transfer of the Penn Power interests may be revoked or rescinded if and when the $400 million support agreement described in the June 1, 2005 application becomes effective. FENGenCo shall inform the Director of the Office of Nuclear Reactor Regulation, in writing, no later than 10 days after any funds are provided to FENGenCo by FirstEnergy under either Support Agreement.

(4) Prior to completion of the transfers of the licenses, FENGenCo shall provide the Director of the Office of Nuclear Reactor Regulation satisfactory documentary evidence that it has obtained the appropriate amount of insurance required of licensees under 10 CFR Part 140 of the Commission's regulations.

(5) It is further ordered that, consistent with 10 CFR 2.1315(b), license amendments that make changes, as indicated in Enclosures 2 through 5 to the cover letter forwarding this Order, to conform the licenses to reflect the subject direct license transfers are approved. FirstEnergy has indicated that the Pennsylvania transfers described in the May 18, 2005, application and the Ohio transfers described in the June 1, 2005, application, will take place at the same time. The amendments shall be issued and made effective at the time the proposed direct license transfers are completed.

It is further ordered that FENOC shall inform the Director of the Office of Nuclear Reactor Regulation in writing of the date of closing of the transfer of the Penn Power, Cleveland Electric, Ohio Edison, OES Nuclear, and Toledo Edison interests in BVPS 1, BVPS 2, Davis-Besse, and Perry no later than 5 business days prior to closing. Should the transfer of the licenses not be completed by December 31, 2006, this Order shall become null and void, provided; however, that upon written application and for good cause shown, such date may be extended by order.

This Order is effective upon issuance.

For further details with respect to this Order, see the initial applications dated May 18 and June 1, 2005, as supplemented by letters dated July 15 and October 31, 2005, and the non-proprietary safety evaluation dated November 15, 2005, which are available for public inspection at the Commission's Public Document Room (PDR), located at One White Flint North, Public File Area 01 F21, 11555 Rockville Pike (first floor), Rockville, Maryland and accessible electronically from the Agencywide Documents Access and Management System (ADAMS) Public Electronic Reading Room on the Internet at the NRC Web site, *http://www.nrc.gov/reading-rm/*

adams.html. Persons who do not have access to ADAMS or who encounter problems in accessing the documents located in ADAMS, should contact the NRC PDR Reference staff by telephone at 1–800–397–4209, 301–415–4737, or by e-mail to *pdr@nrc.gov.*

Dated at Rockville, Maryland, this 15 day of November 2005.

For the Nuclear Regulatory Commission.

J.E. Dyer,

Director, Office of Nuclear Reactor Regulation.

[FR Doc. E5–6394 Filed 11–18–05; 8:45 am]

BILLING CODE 7590–01–P

SECURITIES AND EXCHANGE COMMISSION

Issuer Delisting; Notice of Application of McRae Industries, Inc. To Withdraw Its Class A Common Stock, $1.00 Par Value and Class B Common Stock, $1.00 Par Value, From Listing and Registration on the American Stock Exchange LLC File No. 1–08578

November 15, 2005.

On November 7, 2005, McRae Industries, Inc., a Delaware corporation (''Issuer''), filed an application with the Securities and Exchange Commission (''Commission''), pursuant to Section 12(d) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 12d2–2(d) thereunder,[2] to withdraw its class A common stock $1.00 par value, and B common stock, $1.00 par value, (collectively ''Securities''), from listing and registration on the American Stock Exchange LLC (''Amex'').

On September 22, 2005, the Board of Directors (''Board'') of the Issuer unaminously approved resolutions to withdraw the Securities from listing and registration on Amex. The Issuer stated the following reasons, factored into the Board's decision to withdraw the Securities from Amex: (1) The Board has previously adopted resolutions approving a reverse/forward stock split of the Securities for the purpose of permitting the Issuer to deregister the Securities under the Act (''the transaction'') and calling a special meeting of stockholders for the purpose of obtaining stockholder approval of the transaction; (2) one of the primary purposes of the transaction is to realize cost savings as a result of no longer having to prepare and file periodic reports with the Commission, and so long as the Securities are listed on Amex, the Issuer will need to continue to prepare and file periodic reports with the Commission; (3) the Board believes that the Issuer's stockholders will approve the transaction and following the implementation of the transaction, the Securities would become ineligible for listing on Amex; (4) the Issuer could incur a fee of up to $5,000 from Amex for implementing the transaction while the Securities are still listed on Amex whereas no fee would result from implementing the transaction after delisting the Securities from Amex; (5) to ensure that as a result of implementing the transaction, the Issuer avoids the expense that would be incurred in preparing a Form 10–Q for the Issuer's first quarter of fiscal year 2006, it is necessary for the Issuer to submit to the Commission an application to withdraw the Securities from listing on Amex in advance of the special meeting; (6) as a result of filing an application to withdraw the Securities from listing on Amex prior to the special meeting, the Securities may be delisted from Amex even if the transaction is not implemented and even if the Issuer's stockholders do not approve the transaction, but in such case the Securities would still be registered under the Act, the Issuer would still be required to file periodic reports with the Commission, and the Securities would be eligible to be quoted on an inter-dealer quotation system such as the Nasdaq SmallCap Market or the OCT Bulletin Board; (7) the Issuer estimates the potential cost savings from delisting from Amex to be in the range of $15,000 annually; and (8) the Securities are currently quoted on the Pink Sheets, and following delisting from Amex, stockholders would continue to be able to trade their shares in the over-the-counter markets or private transactions.

The Issuer stated that it has met the requirements of Amex's rules governing an issuer's voluntary withdrawal of a security from listing and registration by complying with all the applicable laws in effect in Delaware, the state in which it is incorporated, and by providing Amex with the required documents for withdrawal from Amex.

The Issuer's application relates solely to the withdrawal of the Security from listing on Amex and from registration under Section 12(b) of the Act,[3] and shall not affect its obligation to be registered under Section 12(g) of the Act.[4]

Any interested person may, on or before December 12, 2005, comment on the facts bearing upon whether the application has been made in accordance with the rules of Amex, and what terms, if any, should be imposed by the Commission for the protection of investors. All comment letters may be submitted by either of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/delist.shtml*); or
- Send an e-mail to *rule-comments@sec.gov.* Please include the File Number 1–08578 or;

Paper Comments

- Send paper comments in triplicate to Jonathan G. Katz, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–9303.

All submissions should refer to File Number 1–08578. This file number should be included on the subject line if e-mail is used. To help us process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/delist.shtml*). Comments are also available for public inspection and copying in the Commission's Public Reference Room. All comments received will be posted without change; we do not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly.

The Commission, based on the information submitted to it, will issue an order granting the application after the date mentioned above, unless the Commission determines to order a hearing on the matter.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[5]

Jonathan G. Katz,

Secretary.

[FR Doc. E5–6397 Filed 11–18–05; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

Sunshine Act Meeting

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Public Law 94–409, that the Securities and Exchange Commission will hold the following meeting during the week of November 21, 2005:

[1] 15 U.S.C. 78*l*(d).

[2] 17 CFR 240.12d2–2(d).

[3] 15 U.S.C. 78*l*(b).

[4] 15 U.S.C. 78*l*(g).

[5] 17 CFR 200.30–3(a)(1).