

filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, Intellisync Corporation, San Jose, CA has withdrawn as a party to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and Mobile Enterprise Alliance, Inc. intends to file additional written notification disclosing all changes in membership.

On June 24, 2004, Mobile Enterprise Alliance, Inc. filed its original notification pursuant to section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to section 6(b) of the Act on July 23, 2004 (69 FR 44062).

The last notification was filed with the Department on September 9, 2005. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on October 6, 2005 (70 FR 58472).

Dorothy B. Fountain,

Deputy Director of Operations, Antitrust Division.

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DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—SWRI Biodiesel Fuel/Water Separation Cooperative R&D Program

Notice is hereby given that, on December 6, 2005, pursuant to section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* ("the Act"), SwRI Biodiesel Fuel/Water Separation Cooperative R&D Program ("SwRI") has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing (1) the identities of the parties to the venture and (2) the nature and objectives of the venture. The notifications were filed for the purpose of invoking the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances.

Pursuant to section 6(b) of the Act, the identities of the parties to the venture are: Champion Laboratories, Albion, IL; Donaldson Company, Inc., Minneapolis, MN; Fleetguard, Inc., Cookeville, TN; Lydall Filtration/Separation Inc., Rochester, NH; and RACOR, Modesto,

CA. In addition, SwRI wishes to disclose that the Department of Energy is providing financial assistance to the research project through its award of Contract No. SP0600-05-D-5502; Delivery Order No. 0003.

The general area of SwRI's planned activity will be to evaluate the filtration performance of fuel filters composed of water repellent cellulose media, water repellent synthetic media, and water coalescer. The biodiesel diesel fuels used for this study will be produced from methyl soyate, yellow grease, and repeseed. Each test filter will be evaluated using the SAE J1488 emulsified test method at 0, 5, 12.5, and 20% biodiesel fuel concentrations in ultra low sulfur diesel fuel. A Design of Experiment will be generated to ensure randomized testing.

Membership in this group research project remains open, and the participants intend to file additional written notification disclosing all changes in membership or planned activities.

Dorothy B. Fountain,

Deputy Director of Operations, Antitrust Division.

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NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50-334, 50-412, 50-346 and 50-440; License Nos. DPR-66 and NPF-73, NPF-3 and NPF-58]

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 Superceding Order of November 15, 2005 Approving Transfer of Licenses and Conforming Amendments

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 Licenses 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.

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 Corporation (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 5.24-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 except those continuing to hold

leased interests; 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, 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 §§ 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, 2005. 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.

On November 15, 2005, the Commission issued, "Order Approving Transfer of Licenses and Conforming Amendments Relating to Beaver Valley Power Station, Units 1 and 2, Davis-Besse Nuclear Power Station, Unit 1, and Perry Nuclear Power Plant, Unit 1." Subsequently, the NRC staff determined that corrections were needed to the cover letter, Order, conforming amendments and safety evaluations. This Order contains the correction and supercedes the Order issued on November 15, 2005.

The findings set forth above are supported by a corrected NRC safety evaluation dated December 16, 2005.

Accordingly, pursuant to Sections 161b, 161i, 161o, and 184 of the Act, 42 U.S.C. 2201(b), 2201(i), 2201(o), 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 this 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 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.

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 supercedes the Order issued on November 15, 2005, and is effective as of December 16, 2005.

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 revised non-proprietary safety evaluation dated December 16, 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 16th day of December 2005.

For The Nuclear Regulatory Commission.

J.E. Dyer,

Director, Office of Nuclear Reactor Regulation.

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NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50-321 and 50-366]

Southern Nuclear Operating Company, Inc., Edwin I. Hatch Nuclear Plant, Unit Nos. 1 and 2; Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (NRC) is considering issuance of an exemption from Title 10 of the Code of Federal Regulations (10 CFR), Part 50, section 50.55a(b)(2)(ix)(G), for Facility Operating License Nos. DRP-57 and NPF-5, issued to Southern Nuclear Operating Company, Inc. (the licensee), for operation of the Edwin I. Hatch Nuclear Plant, Unit Nos. 1 and 2 (Hatch), located in Appling County, Georgia. Therefore, as required by 10 CFR 51.21, the NRC is issuing this environmental assessment and finding of no significant impact.

Environmental Assessment

Identification of the Proposed Action

The proposed action would exempt the licensee from the requirements of 10 CFR 50.55a(b)(2)(ix)(G) and allow the licensee to perform a general visual examination of the accessible surface areas of the containment vessel pressure retaining vent system, in lieu of the VT-3 examination required by 10 CFR.

The proposed action is in accordance with the licensee's application dated March 30, 2005, as supplemented by letters dated August 2 and 24, 2005.

The Need for the Proposed Action

During the 3rd 10-year inservice inspection (ISI) interval, which ends December 31, 2005, the licensee's code of record, the 1992 American Society of Mechanical Engineers, Boiler and Pressure Vessel Code (ASME Code), including the 1992 addenda, required a VT-3 examination of the accessible surface areas of the boiling water reactor (BWR) vent system. For the 3rd 10-year ISI interval, by letter dated July 19, 2000, the licensee requested in Relief Request RR-MC-9 to perform a general visual examination in lieu of the VT-3 examination. The licensee explained that the proposed alternative was sufficient to detect the types of corrosion expected in the BWR vent system. This request was approved by the NRC by letter dated October 4, 2000.

For the 4th 10-year ISI interval, the licensee's code of record will be the 2001 edition through the 2003 addenda of the ASME Code. Modifications to the ASME Code and 10 CFR 50.55a have relocated the

requirement to perform the VT-3 examination from the ASME Code to 10 CFR 50.55a(b)(2)(ix)(G). The licensee believes that the examination provisions previously authorized through Relief Request RR-MC-9 have proven to be sufficient to maintain the structural integrity and leak-tightness of the containment surfaces, and, therefore, serve the underlying purpose of the rule. The licensee is requesting to continue the use of similar provisions during the 4th ISI interval through an exemption.

Environmental Impacts of the Proposed Action

The NRC has completed its safety evaluation of the proposed action and concludes that performing a general visual examination as part of maintaining the integrity of the coating system will ensure the integrity of the coated vent system components, providing an acceptable level of quality and safety.

The details of the NRC staff's safety evaluation will be provided in the exemption that will be issued as part of the letter to the licensee approving the exemption from the regulation.

The proposed action will not significantly increase the probability or consequences of accidents. No changes are being made in the types of effluents that may be released off site. There is no significant increase in the amount of any effluent released off site. There is no significant increase in occupational or public radiation exposure. Therefore, there are no significant radiological environmental impacts associated with the proposed action.

With regard to potential nonradiological impacts, the proposed action does not have a potential to affect any historic sites. It does not affect nonradiological plant effluents and has no other environmental impact.

Therefore, there are no significant nonradiological environmental impacts associated with the proposed action.

Accordingly, the NRC concludes that there are no significant environmental impacts associated with the proposed action.

Environmental Impacts of the Alternatives to the Proposed Action

As an alternative to the proposed action, the staff considered denial of the proposed action (*i.e.*, the "no-action" alternative). Denial of the application would result in no change in current environmental impacts. The environmental impacts of the proposed action and the alternative action are similar.

Alternative Use of Resources

The action does not involve the use of any different resources than those