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A person filing electronically using the NRC's adjudicatory E-Filing system may seek assistance by contacting the NRC Meta System Help Desk through the "Contact Us" link located on the NRC's public Web site at <http://www.nrc.gov/site-help/e-submittals.html>, by email to [MSHD.Resource@nrc.gov](mailto:MSHD.Resource@nrc.gov), or by a toll-free call at 1-866-672-7640. The NRC Meta System Help Desk is available between 8 a.m. and 8 p.m., Eastern Time, Monday through Friday, excluding government holidays.

Participants who believe that they have a good cause for not submitting documents electronically must file an exemption request, in accordance with 10 CFR 2.302(g), with their initial paper filing requesting authorization to continue to submit documents in paper format. Such filings must be submitted by: (1) First class mail addressed to the Office of the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, Attention: Rulemaking and Adjudications Staff; or (2) courier, express mail, or expedited delivery service to the Office of the Secretary, Sixteenth Floor, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852, Attention: Rulemaking and Adjudications Staff. Participants filing a document in this manner are responsible for serving the document on all other participants. Filing is considered complete by first-class mail as of the time of deposit in the mail, or by courier, express mail, or expedited

delivery service upon depositing the document with the provider of the service. A presiding officer, having granted an exemption request from using E-Filing, may require a participant or party to use E-Filing if the presiding officer subsequently determines that the reason for granting the exemption from use of E-Filing no longer exists.

Documents submitted in adjudicatory proceedings will appear in the NRC's electronic hearing docket which is available to the public at <http://ehd1.nrc.gov/ehd/>, unless excluded pursuant to an order of the Commission, or the presiding officer. Participants are requested not to include personal privacy information, such as social security numbers, home addresses, or home phone numbers in their filings, unless an NRC regulation or other law requires submission of such information. However, in some instances, a request to intervene will require including information on local residence in order to demonstrate a proximity assertion of interest in the proceeding. With respect to copyrighted works, except for limited excerpts that serve the purpose of the adjudicatory filings and would constitute a Fair Use application, participants are requested not to include copyrighted materials in their submission.

For further details with respect to this action, see the application for license amendment dated August 11, 2014 (ADAMS Accession No. ML14223A780), as supplemented by letters dated April 6, 2015 (ADAMS Accession No. ML15097A386), and July 16, 2015 (ADAMS Accession No. ML15197A256).

*Attorney for licensee:* Damon D. Obie, Associate General Counsel, Talen Energy Supply, LLC, 835 Hamilton St., Suite 150, Allentown, PA 18101.

*NRC Branch Chief:* Douglas A. Broadus.

Dated at Rockville, Maryland, this 23rd day of July 2015.

For the Nuclear Regulatory Commission.

**Jeffrey A. Whited,**

*Project Manager, Plant Licensing Branch I-2, Division of Operating Reactor Licensing, Office of Nuclear Reactor Regulation.*

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## **NUCLEAR REGULATORY COMMISSION**

**[NRC-2014-0131]**

### **Open Phase Conditions in Electric Power System**

**AGENCY:** Nuclear Regulatory Commission.

**ACTION:** Branch technical position-final; issuance.

**SUMMARY:** The U.S. Nuclear Regulatory Commission (NRC) is issuing a final version of Branch Technical Position (BTP) 8-9, "Open Phase Conditions in Electric Power System," of NUREG-0800, "Standard Review Plan for the Review of Safety Analysis Reports for Nuclear Power Plants: LWR Edition."

**DATES:** The effective date of this Branch Technical Position is August 31, 2015.

**ADDRESSES:** Please refer to Docket ID NRC-2014-0131 when contacting the NRC about the availability of information regarding this document. You may obtain publicly-available information related to this document using any of the following methods:

- *Federal Rulemaking Web site:* Go to <http://www.regulations.gov> and search for Docket ID NRC-2014-0131. Address questions about NRC dockets to Carol Gallagher; telephone: 301-415-3463; email: [Carol.Gallagher@nrc.gov](mailto:Carol.Gallagher@nrc.gov). For technical questions, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.

- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly available documents online in the ADAMS Public Documents collection at <http://www.nrc.gov/reading-rm/adams.html>. To begin the search, select "ADAMS Public Documents" and then select "Begin Web-based ADAMS Search." For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1-800-397-4209, 301-415-4737, or by email to [pdr.resource@nrc.gov](mailto:pdr.resource@nrc.gov). The ADAMS accession number for each document referenced in this notice (if that document is available in ADAMS) is provided the first time that a document is referenced. The final version for BTP 8-9, "Open Phase Conditions in Electric Power System," is available under ADAMS Accession No. ML15057A085. A redline strikeout comparing the proposed and final revision of the document can be found in ADAMS under Accession No. ML15056A316.

- *NRC's PDR:* You may examine and purchase copies of public documents at the NRC's PDR, Room O1-F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

- The NRC posts its issued staff guidance on the NRC's external Web page (<http://www.nrc.gov/reading-rm/doc-collections/nuregs/staff/sr0800/>).

**FOR FURTHER INFORMATION CONTACT:** Mark D. Notich, Office of New Reactors,

U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, telephone: 301-415-6992, email: [Mark.Notich@nrc.gov](mailto:Mark.Notich@nrc.gov).

#### SUPPLEMENTARY INFORMATION:

##### I. Background

On June 5, 2014 (79 FR 32580), the NRC published for public comment the proposed version of BTP 8-9, "Open Phase Conditions in Electric Power System," in Chapter 8, "Electrical Power," of NUREG-0800. The staff received many comments on the draft BTP. A summary of the comments and the staff's disposition of the comments are available in a separate document, "Response to Public Comments on Draft Standard Review Plan, BTP 8-9, Open Phase Conditions in Electric Power System" (ADAMS Accession No. ML15056A521). The BTP is guidance to the NRC Staff for reviewing applications for licenses for nuclear power reactors under 10 CFR parts 50 and 52 and amendments to licenses issued under parts 50 and 52. The NRC Staff intends to reference the BTP in NUREG-0800 for the same purpose.

##### II. Backfitting and Issue Finality

Branch Technical Position 8-9 provides guidance to the staff for reviewing applications for a construction permit and an operating license under part 50 of Title 10 of the *Code of Federal Regulations* (10 CFR), "Domestic Licensing of Production and Utilization Facilities," with respect to compliance with General Design Criteria 17, "Electric Power Systems," of Appendix A, "General Design Criteria for Nuclear Power Plants." BTP 8-9 also provides guidance for reviewing an application for a standard design approval, a standard design certification, a combined license, and a manufacturing license under 10 CFR part 52, "Licenses, Certifications, and Approvals for Nuclear Power Plants," with respect to those same subject matters.

Issuance of BTP 8-9 does not constitute backfitting as defined in 10 CFR 50.109 (the Backfit Rule) nor is it inconsistent with the issue finality provisions in 10 CFR part 52. The NRC's position is based upon the following considerations.

##### 1. The BTP 8-9 Positions Would Not Constitute Backfitting, Inasmuch as the SRP Is Internal Guidance to NRC Staff

The BTP provides internal guidance to the NRC staff on how to review an application for NRC regulatory approval in the form of licensing. Changes in internal staff guidance are not matters for which either nuclear power plant

applicants or licensees are protected under either the Backfit Rule or the issue finality provisions of 10 CFR part 52.

##### 2. Application of BTP 8-9 to Existing Licensees

The NRC staff may consider imposing the positions described in the BTP on existing licenses, the NRC staff will address backfit considerations in any plant-specific action it takes. If, in the future, the NRC staff seeks to impose a position in the BTP on holders of already issued licenses in a manner that does not provide issue finality as described in the applicable issue finality provision, then the staff must make the showing as set forth in the Backfit Rule or address the criteria for avoiding issue finality as described in the applicable issue finality provision.

##### 3. Backfitting and Issue Finality Do Not—With Limited Exceptions Not Applicable Here—Protect Current or Future Applicants

Applicants and potential applicants are not, with certain exceptions, protected by either the Backfit Rule or any issue finality provisions under 10 CFR part 52. Neither the Backfit Rule nor the issue finality provisions under 10 CFR part 52—with certain exclusions—were intended to apply to every NRC action that substantially changes the expectations of current and future applicants.

The exceptions to the general principle are applicable whenever an applicant references a 10 CFR part 52 license (e.g., an early site permit) or NRC regulatory approval (e.g., a design certification rule) with specified issue finality provisions. The NRC staff does not, at this time, intend to impose the positions represented in the SRP in a manner that is inconsistent with any issue finality provisions. If, in the future, the staff seeks to impose a position in the BTP section in a manner that does not provide issue finality as described in the applicable issue finality provision, then the staff must address the criteria for avoiding issue finality as described in the applicable issue finality provision.

##### III. Congressional Review Act

This action is a rule as defined in the Congressional Review Act (5 U.S.C. 801-808). However, the Office of Management and Budget has not found it to be a major rule as defined in the Congressional Review Act.

Dated at Rockville, Maryland, this 22nd day of July 2015.

For the Nuclear Regulatory Commission.

**Lawrence Burkhardt,**

*Acting Chief, New Reactor Rulemaking and Guidance Branch, Division of Advanced Reactors and Rulemaking, Office of New Reactors.*

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#### NUCLEAR REGULATORY COMMISSION

[Docket No. 50-286; NRC-2012-0236]

##### Entergy Nuclear Operations, Inc.; Indian Point Nuclear Generating, Unit No. 3

**AGENCY:** Nuclear Regulatory Commission.

**ACTION:** License amendment application; withdrawal by applicant.

**SUMMARY:** The Nuclear Regulatory Commission (NRC) has granted the request of Entergy Nuclear Operations, Inc., to withdraw its application dated August 14, 2012, for a proposed amendment to Facility Operating License No. DPR-64 for Indian Point Nuclear Generating, Unit No. 3. The proposed change would have changed the licensing basis for the emergency diesel generator fuel oil storage tank requirements, revised Technical Specification (TS) 3.8.3, "Diesel Fuel Oil, and Starting Air," and relocated the specific numerical values for fuel oil storage requirements from the TSs to the TS Bases in accordance with Technical Specification Task Force (TSTF) Traveler TSTF-501, Revision 1, "Relocate Stored Fuel Oil and Lube Oil Volume Values to Licensee Control."

**ADDRESSES:** Please refer to Docket ID NRC-2012-0236 when contacting the NRC about the availability of information regarding this document. You may obtain publicly-available information related to this document using any of the following methods:

- *Federal Rulemaking Web site:* Go to <http://www.regulations.gov> and search for Docket ID NRC-2012-0236. Address questions about NRC dockets to Carol Gallagher; telephone: 301-415-3463; email: [Carol.Gallagher@nrc.gov](mailto:Carol.Gallagher@nrc.gov). For technical questions, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.

- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly available documents online in the ADAMS Public Documents collection at <http://www.nrc.gov/reading-rm/adams.html>. To begin the search, select "ADAMS Public Documents" and then