

**UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION  
BEFORE THE COMMISSION**

In the Matter of	)	
	)	
FIRSTENERGY NUCLEAR OPERATING COMPANY	)	Docket Nos. 50-346
FIRSTENERGY NUCLEAR GENERATION, LLC	)	50-440
	)	50-334
	)	50-412
(Davis Besse Nuclear Power Station, Unit 1)	)	
(Perry Nuclear Power Plant, Unit 1)	)	
(Beaver Valley Nuclear Power Station, Unit 1)	)	
(Beaver Valley Nuclear Power Station, Unit 2)	)	
	)	

**Re: Notification of Updates Relevant to Pending Proceeding**

Dear Ms. Vietti-Cook,

On August 9, 2019, FirstEnergy Nuclear Operating Company, on behalf of itself and FirstEnergy Nuclear Generation Company (together the “Applicants”), submitted an Answer (“Answer”)<sup>1</sup> opposing the Petition for Leave to Intervene and Hearing Request (“Petition”)<sup>2</sup> filed by the Environmental Law & Policy Center (“ELPC”). The Petition challenges the Applicants’ April 26, 2019 application for transfer of control of the licenses for the above-captioned nuclear power stations (the “Application”).

To keep the Commission informed as to “new information that is relevant and material to the matters being adjudicated”<sup>3</sup> in this proceeding, the Applicants hereby notify the Commission of the submission of two supplements to the Application since the Answer was submitted that pertain to contentions proposed in ELPC’s Petition.

**(1) L-19-219, Supplement to Application for Order Consenting to Transfer of Licenses and Conforming License Amendments (EPID-L-2019-LLM-0000) (Sept. 25, 2019) (ADAMS Accession No. ML19268A053).**

ELPC’s Contention 1 challenges the adequacy of the nuclear decommissioning trust (“NDT”) for BVPS-1, citing the funding shortfall identified in the Application. Petition at 7-8.

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<sup>1</sup> *Applicants’ Answer Opposing the Environmental Law & Policy Center’s Petition to Intervene and Hearing Request* (Aug. 9, 2019) (ADAMS Accession No. ML19221B725).

<sup>2</sup> *The Environmental Law & Policy Center Petition to Intervene and Hearing Request* (July 17, 2019) (ADAMS Accession No. ML19198A329).

<sup>3</sup> *Tenn. Valley Aut.* (Browns Ferry Nuclear Plant, Units 1, 2 and 3), ALAB-677, 15 NRC 1387, 1394 (1982).

As the Answer discusses, at 22, the Applicants proposed in their May 31, 2019 supplement to the Application (Accession No. ML19151A531) a condition to the NRC order approving the license transfer stating that by closing of the transfer, “the Applicants shall take all necessary steps to ensure that the decommissioning funding assurance mechanism to address any shortfall identified for BVNPS-1 is implemented and maintained consistent with the Safety Evaluation supporting this order.”

In support of this commitment, this supplement provides a form of the provisional decommissioning trust agreement to be used to resolve the BVPS-1 NDT shortfall. The Applicants in this supplement reiterated their commitment to resolve the BPVS-1 NDT shortfall on or prior to the date the license transfer transaction is consummated.

**(2) L-19-217, Supplement to Application for Order Consenting to Transfer of Licenses and Conforming License Amendments (EPID-L-2019-LLM-0000) (Sept. 25, 2019) (ADAMS Accession No. ML19268B133).**

ELPC’s Contention 2 generically challenges the Applicants’ and their post-emergence affiliates’ financial qualifications. This supplement updates the financial qualifications analysis in the Application. This update is in response to a decision made in July 2019 by the Applicants to continue operation of Davis-Besse Nuclear Power Station, Unit 1, and Perry Nuclear Power Plant, Unit 1, following passage of recent Ohio legislation.<sup>4</sup>

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<sup>4</sup> This supplement also references an August 29, 2019 supplement to the Application (Accession No. ML19241A462), which the Answer noted would be forthcoming (at 6), updating the Application to reflect the continued operation of the Ohio plants in light of the recently passed Ohio legislation, along with some additional changes to the planned corporate structure and upstream ownership percentages post-closing.

Respectfully Submitted,

/S/ Signed (electronically) by Amy C. Roma

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October 1, 2019

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**CERTIFICATE OF SERVICE**

I hereby certify that on October 1, 2019 copies of the above **Notification of New Material Information Relevant to Pending Proceeding** have been served through the U.S. Nuclear Regulatory Commission E-Filing system on the participants of the above-captioned proceeding.

Respectfully Submitted,

/S/ Signed (electronically) by Amy C. Roma  
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October 1, 2019