

SUMMARY: The Copyright Office of the Library of Congress is announcing the suspension of the proceeding to distribute the 1995–98 digital audio recording technology (“DART”) royalties in the Musical Works Funds from May 16, 2000, to June 16, 2000. The 180-day arbitration period for the proceeding will resume on June 16, 2000.

EFFECTIVE DATE: June 16, 2000.

ADDRESSES: All hearings and meetings for the 1995–98 DART distribution proceeding shall take place in the James Madison Memorial Building, Room LM–414, First and Independence Avenue, SE, Washington, DC 20540.

FOR FURTHER INFORMATION CONTACT: David O. Carson, General Counsel, or Tanya M. Sandros, Senior Attorney, Copyright Arbitration Royalty Panel (“CARP”), P.O. Box 70977, Southwest Station, Washington, DC 20024. Telephone: (202) 707–8380. Telefax: (202) 252–3423.

SUPPLEMENTARY INFORMATION:

Background

On April 10, 2000, the Copyright Office published a notice in the **Federal Register** announcing that the initiation of the 180-day arbitration period for the distribution of the 1995–98 digital audio recording technology (“DART”) royalties in the Musical Works Funds would begin on April 10, 2000. 65 FR 19025 (April 10, 2000). The notice also announced the two arbitrators selected by the Librarian to serve on the Copyright Arbitration Royalty Panel (“CARP”) for the proceeding. In accordance with 17 U.S.C. 802(b), the two arbitrators selected a third arbitrator to serve as the chairperson of the panel. However, on May 25, 2000, the third arbitrator resigned from the position of chairperson out of concern that potential conflicts of interest, which were not known to the arbitrator at the time of selection, may exist under § 251.32. Because of these concerns, the Copyright Office canceled the initial meeting between the parties and the original panel of arbitrators that had been set for May 16, 2000.

Section 251.6(f) provides that when an arbitrator is unable to continue to serve on a CARP before the commencement of hearings in a proceeding, the Librarian “will suspend the proceeding.” The notice published today serves as notice that the proceeding is suspended from May 16, 2000, to June 16, 2000. The 180-day arbitration period will resume on June 16, 2000. Section 251.6(f) further provides that if the resulting vacancy was “previously occupied by the

chairperson, the two remaining arbitrators shall select, the replacement from the arbitrator list, and the person chosen shall serve as chairperson.” Accordingly, the remaining two arbitrators selected a new chairperson.

Selection of Arbitrators

In accordance with § 251.64 of the CARP rules, the arbitrators selected for this proceeding are: The Honorable Cheryl I. Niro (Chairperson), The Honorable John B. Farmakides, The Honorable Harold Himmelman.

Initiation of the Proceeding

In accordance with § 251.8(a) of the CARP rules, which provides that a suspended proceeding will resume “from the time and point at which it was suspended,” the 180-day period to determine the distribution of the 1995–98 digital audio recording technology (“DART”) royalties in the Musical Works Funds, resumes on June 16, 2000. Thus, the 180-day period arbitration period recommences on June 16, 2000, and the arbitrators shall file their written report with the Librarian of Congress by November 13, 2000, in accordance with § 251.53 of 37 CFR.

A meeting between the participants in the distribution proceeding and the arbitrators shall take place on Monday, June 19, 2000, at 1 p.m. at the Library of Congress, James Madison Building, LM–414, First and Independence Avenue, SE, Washington, DC, to discuss the hearing schedule and any other procedural matters. The meeting is open to the public. Scheduling of the 1995–98 DART royalty distribution proceedings, as required by 37 CFR 251.11(b), as soon as it is available.

Dated: June 9, 2000.

David O. Carson,
General Counsel.

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**NUCLEAR REGULATORY
COMMISSION**

[Docket No. 50–458]

**Entergy Operations, Inc.; Notice of
Consideration of Issuance of
Amendment to Facility Operating
License and Opportunity for a Hearing**

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. NPF–47, issued to Entergy Operations, Inc. (the licensee), for operation of the River Bend Station, Unit 1, located approximately two miles east of the

Mississippi River in West Feliciana Parish, Louisiana.

The proposed amendment would allow an increase in power level from 2894 megawatts thermal to 3039 megawatts thermal.

Before issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission’s regulations.

By July 14, 2000, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission’s “Rules of Practice for Domestic Licensing Proceedings” in 10 CFR part 2. Interested persons should consult a current copy of 10 CFR 2.714 which is available at the Commission’s Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and accessible electronically through the ADAMS Public Electronic Reading Room link at the NRC Web site (<http://www.nrc.gov>). If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner’s right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner’s property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner’s interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been

admitted as a party may amend the petition without requesting leave of the Board up to 15 days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than 15 days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of the contention and a concise 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 Mark Wetterhahn, Esq., Winston & Strawn, 1400 L Street, NW, Washington, DC, 20005-3502, 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 July 30, 1999, as supplemented by letters dated April 3 and May 9, 2000, which is available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and accessible electronically through the ADAMS Public Electronic Reading Room link at the NRC Web site (<http://www.nrc.gov>).

Dated at Rockville, Maryland, this 5th day of June 2000.

For the Nuclear Regulatory Commission.

Stuart A. Richards,

Director, Project Directorate IV and Decommissioning, Division of Licensing Project Management, Office of Nuclear Reactor Regulation

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NUCLEAR REGULATORY COMMISSION

[Docket No. 50-440]

FirstEnergy Nuclear Operating Company; Notice of Consideration of Issuance of Amendment to Facility Operating License, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. NPF-58, issued to FirstEnergy Nuclear Operating Company (the licensee), for operation of the Perry Nuclear Power Plant, Unit 1, located in Lake County, Ohio.

The proposed amendment would permit changes to the Perry Nuclear

Power Plant Updated Safety Analysis Report (USAR) to incorporate descriptions (in the form of text, tables, and drawings) of modifications to the Emergency Service Water (ESW) alternate intake sluice gate. The modifications will include: (1) Installation of a safety-related Class 1E selector switch that will be used to disable the automatic opening function of the sluice gate during warm weather and (2) installation of a non-safety inflatable sealing device on the gates between the ESW forebay and the alternate intake tunnel. The modifications are designed to increase overall reliability of the ESW system and to eliminate undesired operation of the ESW pumps.

Before issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

The Commission has made a proposed determination that the amendment request involves no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not: (1) Involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. The proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

The new selector switch is procured as safety-related Class 1E, is fully qualified environmentally and seismically, and is also qualified in regard to mechanical and electrical operational cycles. Based on these characteristics, the switch is deemed to be highly reliable and will not introduce any new failure modes to the gate control circuit. In addition, the key operated feature of the selector switch ensures that inadvertent positioning of the switch, *i.e.*, an operator error, is not possible. Re-positioning of the switch will be procedurally controlled and will require conscious operator action along with use of a key. Therefore, it is concluded that addition of the new selector switch will not introduce any new failure modes and it will not cause or create any malfunctions of equipment.

The new inflatable seal and supporting mechanical equipment was procured as non-safety. The frequent verification of sluice gate seal integrity assures that the seals will be