

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

In the Matter of)	
)	
Metropolitan Edison Company)	
Jersey Central Power and Light Company)	
Pennsylvania Electric Company)	
GPU Nuclear, Inc.)	
)	
Three Mile Island Nuclear Station, Unit 2)	Docket No. 50-320
)	License No. DPR-73

ORDER APPROVING TRANSFER OF LICENSE AND DRAFT
CONFORMING LICENSE AMENDMENT (EA-20-136)

I.

Metropolitan Edison Company, Jersey Central Power and Light Company, Pennsylvania Electric Company, and GPU Nuclear, Inc. (collectively, the FirstEnergy Companies) hold Possession Only License (POL) No. DPR-73 for the Three Mile Island Nuclear Station, Unit No. 2 (TMI-2). The FirstEnergy Companies are authorized to possess, maintain, and decommission TMI-2, which is located on Three Mile Island in the Susquehanna River in Londonderry Township, Dauphin County, Pennsylvania. The TMI-2 facility is located about 10 miles southeast of Harrisburg.

TMI-2 was a 2,770 megawatts thermal pressurized light-water reactor supplied by Babcock & Wilcox that was issued an operating license on February 8, 1978, and began commercial operations on December 30, 1978. On March 28, 1979, TMI-2 experienced an accident which resulted in severe damage to the reactor core. Subsequently, approximately 99 percent of the fuel and damaged core material was removed from the TMI-2 reactor vessel and associated systems and shipped to the U.S. Department of Energy Idaho National Laboratory. After the completion of accident recovery operations, TMI-2 was placed in a Post-Defueling Monitored Storage (DPMS)

state on September 14, 1993, with a possession only license that authorizes the possession of byproduct and special nuclear materials but not the operation of the reactor.

II.

By application dated November 12, 2019, as supplemented by letters dated December 12, 2019, March 18, 2020, and June 12, 2020 and email dated September 2, 2020 (Agencywide Documents Access and Management System (ADAMS) Accession Nos. ML19325C600, ML20013E535, ML20079D788, ML20198M413, and ML20275A326, respectively), the FirstEnergy Companies and TMI-2 Solutions, LLC (TMI-2 Solutions) (collectively, the applicants), pursuant to Section 184, "Inalienability of Licenses," of the Atomic Energy Act of 1954, as amended, and Title 10 of the Code of Federal Regulations (10 CFR) 50.80, "Transfer of licenses," requested that the U.S. Nuclear Regulatory Commission (NRC, the Commission) consent to the transfer from the FirstEnergy Companies to TMI-2 Solutions of POL No. DPR-73 for TMI-2. The applicants requested that the NRC consent to the transfer in order to implement the accelerated decommissioning of TMI-2. The applicants also requested that the NRC approve a conforming amendment to POL No. DPR-73 for TMI-2 to reflect the proposed transfer pursuant to 10 CFR 50.90, "Application for amendment of license, construction permit, or early site permit."

On March 26, 2020, the NRC published in the *Federal Register* (FR) an opportunity to request a hearing and to comment on the license transfer application (85 FR 17102). In response, on April 15, 2020, the Pennsylvania Department of Environmental Protection (PADEP) and Eric Epstein and Three Mile Island Alert separately filed hearing requests. On August 10, 2020, PADEP withdrew its hearing request, stating that it had executed a settlement agreement with the applicants

addressing its concerns for purposes of the license transfer application. The hearing request from Eric Epstein and Three Mile Island Alert remains pending before the Commission. The hearing, if granted, will not be completed prior to the approval of the license transfer application.

The NRC also received four comment submissions on the license transfer application (available at www.regulations.gov under docket NRC-2020-0082). Comments from PADEP sought to develop a record for the NRC's use in its evaluation of adequate financial resources to satisfactorily decommission TMI-2. The second commenter requested careful review of the application by the NRC with possible congressional oversight and consultation with the Pennsylvania Public Utility Commission. This commenter also expressed concerns about the adequacy of the funds to complete decommissioning and the efficiency of decommissioning TMI-2 while TMI-1 is planned to be decommissioned many years later. The third commenter expressed support for PADEP's concerns and for congressional hearings, while the fourth commenter did not address any issues related to the application. The NRC staff considered the issues raised in the hearing requests pending before the Commission and these comments as part of its evaluation of the application.

Pursuant to 10 CFR 50.80, no license for a production or utilization facility, or any right thereunder, shall be transferred, either voluntarily or involuntarily, directly or indirectly, through transfer of control of the license to any person, unless the Commission gives its consent in writing. Upon review of the information in the application for license transfer, as supplemented, and other information before the Commission, and relying upon the representations and agreements contained in the application, the NRC staff has determined that TMI-2 Solutions is qualified to hold the licenses and that the transfer, as described in the application, is otherwise consistent

with applicable provisions of law, regulations, and orders issued by the Commission pursuant thereto, subject to the conditions set forth below.

Upon review of the information in the application for a conforming administrative license amendment, as supplemented, the NRC staff has determined that:

- (1) The application for amendment complies 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.
- (2) The facility will operate in conformity with the application, the provisions of the Act, and the rules and regulations of the Commission.
- (3) There is reasonable assurance that the activities authorized by the amendment 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.
- (4) The issuance of the amendment will not be inimical to the common defense and security or to the health and safety of the public.
- (5) The issuance of the amendment is 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 staff safety evaluation dated November 30, 2020, which is available at ADAMS Accession No. ML20279A373.

III.

Accordingly, pursuant to Sections 161b, 161i, and 184 of the Act, 42 U.S.C. Sections 2201(b), 2201(i), and 2234; and 10 CFR 50.80 and 10 CFR 50.90, IT IS

HEREBY ORDERED that the application for license transfer, as described herein, is approved, subject to the following conditions:

- (1) Prior to the closing of the license transfer, TMI-2 Solutions shall provide the Director of the NRC's Office of Nuclear Material Safety and Safeguards satisfactory documentary evidence that it has obtained the appropriate amount of insurance required of a licensee under 10 CFR 140.11(a)(4) and 10 CFR 50.54(w), consistent with the exemptions issued for TMI-2 on August 8, 1994, and July 27, 1999.
- (2) The NRC staff's approval of this license transfer is subject to the Commission's authority to rescind, modify, or condition the approved transfer based on the outcome of any post-effectiveness hearing on the license transfer application.

IT IS FURTHER ORDERED that, consistent with 10 CFR 2.1315(b), the license amendment that makes changes, as indicated in Enclosure 2 to the letter transmitting this Order, to reflect the subject license transfer, is approved. The amendment shall be issued and made effective at the time the proposed transfer actions are completed.

IT IS FURTHER ORDERED that after receipt of all required regulatory approvals of the proposed transfer actions, TMI-2 Solutions shall inform the Director of the NRC's Office of Nuclear Material Safety and Safeguards in writing of such receipt, and of the date of the closing of the transfer, no later than 5 business days before the date of the closing of the transfer. Should the proposed transfer not be completed within 1 year of the date of this Order, 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 application dated November 12, 2019, as supplemented by letters dated December 12, 2019, March 18, 2020, and June 12, 2020; and e-mail dated September 2, 2020 (ADAMS Accession Nos. ML19325C600, ML20013E535, ML20079D788, ML20188A048, and ML20275A326, respectively), and the associated NRC staff safety evaluation dated November 30, 2020

(ADAMS Accession No. ML20279A373), which are available for public inspection electronically through ADAMS in the NRC Library at <https://www.nrc.gov/reading-rm/adams.html>. Persons who do not have access to ADAMS or who encounter problems accessing the documents located in ADAMS should contact the NRC Public Document Room reference staff by telephone at 1-800-397-4209 or 301-415-4737, or by e-mail to pdr.resource@nrc.gov.

Dated: December 2, 2020.

FOR THE NUCLEAR REGULATORY COMMISSION.

John W. Lubinski, Director,
Office of Nuclear Material Safety
and Safeguards.