



[7590-01-P]

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50-333 and 72-012; License No. DPR-59; NRC-2016-0195]

In the Matter of Entergy Nuclear FitzPatrick, LLC, Entergy Nuclear Operations, Inc.,
and Exelon Generation Company, LLC; James A. FitzPatrick Nuclear Power Plant

AGENCY: Nuclear Regulatory Commission.

ACTION: Direct transfer of license; order.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is issuing an order approving the transfer of the James A. FitzPatrick Nuclear Power Plant Renewed Facility Operating License No. DPR-59, and the transfer of the generally licensed FitzPatrick Independent Spent Fuel Storage Installation from Entergy Nuclear FitzPatrick, LLC and Entergy Nuclear Operations, Inc. to Exelon Generation Company, LLC.

DATES: The Order was issued on March 1, 2017, and is effective for one year.

ADDRESSES: Please refer to Docket ID **NRC-2016-0195** 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-2016-0195**. Address questions about NRC dockets to Carol Gallagher;

telephone: 301-415-3463; e-mail: 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 e-mail to pdr.resource@nrc.gov. The ADAMS accession number for each document referenced in this document (if that document is available in ADAMS) is provided the first time that a document is referenced.

- **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.

FOR FURTHER INFORMATION CONTACT: Dr. Diane L. Render, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington DC 20555-0001; telephone: 301-415-3629; e-mail: Diane.Render@nrc.gov.

SUPPLEMENTARY INFORMATION: The text of the Order is attached.

Dated at Rockville, Maryland, this 1st day of March 2017.

For the Nuclear Regulatory Commission.

Diane L. Render, Ph.D., Project Manager,
Plant Licensing Branch I,
Division of Operating Reactor Licensing,
Office of Nuclear Reactor Regulation.

Attachment: – Order Approving Direct Transfer of License and Approving Conforming Amendment

UNITED STATES OF AMERICA

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50-333 and 72-012; License No. DPR-59; NRC-2016-0195]

**In the Matter of Entergy Nuclear FitzPatrick, LLC, Entergy Nuclear Operations, Inc.,
and Exelon Generation Company, LLC; James A. FitzPatrick Nuclear Power Plant**

**ORDER APPROVING DIRECT TRANSFER OF LICENSE AND APPROVING
CONFORMING AMENDMENT**

I.

Entergy Nuclear FitzPatrick, LLC (ENF) and Entergy Nuclear Operations, Inc. (ENO) (collectively, Entergy) are the owner and operator, respectively, of the James A. FitzPatrick Nuclear Power Plant (FitzPatrick) and are the co-holders of Renewed Facility Operating License No. DPR-59 and the general license for the FitzPatrick Independent Spent Fuel Storage Installation (ISFSI). FitzPatrick is a General Electric boiling-water reactor located in Oswego County, New York.

II.

By application dated August 18, 2016, as supplemented by letter dated November 29, 2016, Entergy and Exelon Generation Company, LLC (Exelon) jointly requested, pursuant to Title 10 of the *Code of Federal Regulations* (10 CFR), section 50.80 (10 CFR 50.80), that the U.S. Nuclear Regulatory Commission (NRC) consent to the direct transfer of the FitzPatrick renewed facility operating license and the FitzPatrick ISFSI general license from Entergy to Exelon. Future references to FitzPatrick include the general license for the FitzPatrick ISFSI.

In response to the request by Entergy and Exelon for consent to the direct transfer of the FitzPatrick renewed facility operating license and the FitzPatrick ISFSI general license, the NRC published a notice entitled, "James A. FitzPatrick Nuclear Power Plant; Consideration of Approval of Transfer of License and Conforming Amendment," in the *Federal Register* on September 15, 2016 (81 FR 63500). The NRC received 22 comments and no hearing requests. All comments were in support of the proposed action.

Under 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 NRC shall give its consent in writing. Upon review of the information in the application, and other information before the NRC, and relying upon the representations and agreements contained in the application, the NRC staff has determined that Exelon is qualified to hold the FitzPatrick renewed facility operating license and the FitzPatrick ISFSI general license. The NRC staff has also determined that the transfer of these licenses is otherwise consistent with the applicable provisions of law, regulations, and orders issued by the NRC, pursuant thereto, subject to the condition set forth below.

Upon review of the application for a conforming license amendment to reflect this transfer, the NRC staff has determined that the application for the conforming license 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; the facility will operate in conformity with the application, the provisions of the Act, and the rules and regulations of the Commission; there is reasonable assurance that the activities authorized by this 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; the issuance of this amendment will not be inimical to the common defense and security or to the health and safety of the public; and the issuance of this amendment will be in accordance with

10 CFR part 51 of the Commission's regulations and all applicable requirements will have been satisfied.

The findings set forth above are supported by an NRC safety evaluation dated March 1, 2017, and available under Agencywide Documents Access and Management System (ADAMS) Accession No. ML17041A196.

III.

Accordingly, pursuant to Sections 161b, 161i, and 184 of the Atomic Energy Act of 1954, as amended (the Act), 42 USC §§ 2201(b), 2201(i), and 2234; and 10 CFR 50.80, IT IS HEREBY ORDERED that the application regarding the proposed direct license transfer is approved, subject to the following condition:

Prior to the completion of the license transfer, Exelon Generation Company, LLC shall provide satisfactory documentary evidence to the Director of the Office of Nuclear Reactor Regulation that it has obtained the appropriate amount of insurance required of a licensee under 10 CFR part 140 and 10 CFR part 50.

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 cover letter forwarding this Order, to conform the license to reflect the subject direct license transfer is approved. The amendment shall be issued and made effective at the time the proposed direct license transfer is completed.

IT IS FURTHER ORDERED that, after receipt of all required regulatory approvals of the proposed direct license transfer, Exelon shall inform the Director of the Office of Nuclear Reactor Regulation in writing of such receipt, and of the date of closing of the transfer, no later than 2 business days prior to the date of the closing of the direct license transfer. Should the

proposed direct license transfer not be completed within 1 year of this Order's date of issuance, this Order shall become null and void, provided, however, 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 August 18, 2016 (ADAMS Accession No. ML16235A081), as supplemented by letter dated November 29, 2016 (ADAMS Accession No. ML16335A104), and the NRC's nonproprietary Safety Evaluation dated March 1, 2017 (ADAMS Accession No. ML17041A196), which are available for public inspection at the Commission's Public Document Room (PDR), located at One White Flint North, Public File Area O1 F21, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available documents created or received at the NRC are accessible electronically through ADAMS in the NRC Library at <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 or 301-415-4737, or by e-mail to pdr.resource@nrc.gov.

Dated at Rockville, Maryland, this 1st day of March 2017.

FOR THE NUCLEAR REGULATORY COMMISSION

William M. Dean, Director,
Office of Nuclear Reactor Regulation.

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