



UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D.C. 20555-0001

April 3, 2019

Ms. Margrethe Kearney
Ms. Andrene Dabaghi
Environmental Law and Policy Center
35 East Wacker Drive, Suite 1600
Chicago, IL 60601

SUBJECT: FENOC FLEET - LETTER TO PETITIONERS ON THE DIRECTOR'S DECISION
RE: 10 CFR 2.206 PETITION FOR THE CITIZEN COMPLAINT AND REQUEST
FOR AN ENFORCEMENT ACTION WITH REGARD TO FIRSTENERGY
NUCLEAR FACILITY OPERATIONS IN OHIO AND PENNSYLVANIA

Dear Ms. Kearney and Ms. Dabaghi:

This letter responds to the petition you filed with the Executive Director for Operations (EDO) of the U.S. Nuclear Regulatory Commission (NRC) pursuant to Section 2.206 of Title 10 of the *Code of Federal Regulations* (10 CFR 2.206) on March 27, 2018 (Agencywide Documents Access and Management System (ADAMS) Accession No. ML18094A642), as supplemented on October 8, 2018 (ADAMS Accession No. ML18282A242).

In your petition, you requested enforcement actions against FirstEnergy Corp. (FE), FirstEnergy Solutions (FES), FirstEnergy Nuclear Generation (NG), and FirstEnergy Nuclear Operating Company (FENOC) for failure to comply with nuclear decommissioning funding requirements under 42 United States Code Annotated (U.S.C.A.), Section 2201(x)(1), for the Beaver Valley Power Station, Units 1 and 2; Davis-Besse Nuclear Power Station, Unit 1; and Perry Nuclear Power Plant, Unit 1, which are nuclear plants located in Ohio and Pennsylvania.

You met with the petition review board (PRB) on June 19, 2018, to clarify the bases for your petition. The transcript of this meeting was treated as a supplement to the petition and is available in ADAMS at Accession No. ML18194A395.

On August 27, 2018 (ADAMS Accession No. ML18220B314), the NRC staff acknowledged receiving your petition and stated that pursuant to 10 CFR 2.206 your petition was being referred to me for action and that it would be acted upon within a reasonable time.

As explained in the proposed director's decision (ADAMS Accession No. ML18309A157), the PRB recommended denying your request to issue demands for information because the licensees are required to provide the information requested, as applicable, in the next decommissioning funding status reports, which were submitted to the NRC on March 31, 2019 (ADAMS Accession No. ML19074A242) and will be reviewed by the NRC staff. The PRB also came to the initial recommendation to deny your request to issue a notice of violation and notice of civil penalties to FE, FES, NG, and FENOC, and your request to issue an order suspending the NG's and FENOC's licenses as current information available to the NRC does not demonstrate that the entities are out of compliance with NRC regulations. Therefore, there is an insufficient basis on which to take enforcement action, issue civil penalties, or suspend a license.

The staff sent a copy of the proposed director's decision, reflecting the initial recommendations described above, to you and to the licensee for comment on January 8, 2019 (ADAMS Accession No. ML18309A228). You responded with comments on January 22, 2019 (ADAMS Accession No. ML19037A340), and the licensee did not provide any comments. The comments and the staff's response to them are included as an attachment to the director's decision.

For the reasons provided in the enclosed director's decision (DD-19-01), I have determined that the actions requested in the petition will not be granted in whole or in part. A copy of the Director's Decision will be filed with the Secretary of the Commission for the Commission to review in accordance with 10 CFR 2.206(c). As provided for by this regulation, the decision will constitute the final action of the Commission 25 days after the date of the decision unless the Commission, on its own motion, institutes a review of the decision within that time. The documents cited in the enclosed decision are available in ADAMS for inspection at the Commission's Public Document Room, located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland, and from the ADAMS Public Library component on the NRC's Web site, <http://www.nrc.gov> (the NRC Library).

The notice of "Issuance of the Director's Decision Under 10 CFR 2.206" will be filed with the Office of the Federal Register for publication.

I would like to acknowledge your efforts in bringing the issues to the attention of the NRC. Please feel free to contact Bhalchandra K. Vaidya, petition manager, at Bhalchandra.Vaidya@nrc.gov, or by telephone at 301-415-3308, to discuss any questions related to this petition.

Sincerely,

/RA/

Ho K. Nieh, Director
Office of Nuclear Reactor Regulation

Docket Nos. 50-334, 50-412, 50-346,
and 50-440

Enclosure:
Director's Decision DD-19-01

cc: see next page

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Listserv

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 DATED APRIL 3, 2019

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UShoop, NRR

JColeman, RIII

ADAMS Accession Nos.

Package ML18094A605;

Letter ML19052A042;

Enclosure: 2.206 DD ML19052A040

(*) By email

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ENCLOSURE
DIRECTOR'S DECISION