



**Date:** July 26, 2016

**To:** THE TRUSTEES

**From:** THE PRESIDENT and CHIEF EXECUTIVE OFFICER

**Subject:** Authorization to Terminate Nuclear Decommissioning Obligations and Transfer Nuclear Decommissioning Trust Funds

SUMMARY

The Trustees are requested to authorize the (1) termination of nuclear decommissioning obligations for the James A. FitzPatrick Nuclear Power Plant ("JAF") and the Indian Point 3 Nuclear Power Plant ("IP3"), (2) transfer, subject to approval by the Nuclear Regulatory Commission ("NRC"), of the nuclear decommissioning trust funds ("Decommissioning Funds") for JAF and IP3 to Entergy Nuclear Operations, Inc. ("ENOI"), and (3) execution of a transfer agreement with ENOI, and any other agreements, to effectuate such transfer.

BACKGROUND

On November 21, 2000, the Authority completed the sale of JAF to Entergy Nuclear Fitzpatrick, LLC ("ENF") and the sale of IP3 to Entergy Nuclear Indian Point 3, LLC ("ENIP"). In connection with the sale, the Authority entered into decommissioning agreements ("Decommissioning Agreements") with ENF and ENIP relating to decommissioning obligations and ownership of the Decommissioning Funds.

The Decommissioning Funds are maintained for the purpose of funding the nuclear decommissioning of the plants and were funded by the Authority during the period of its ownership. The Authority is the beneficial owner of the Decommissioning Funds. No disbursements or payments may be made from the Decommissioning Funds, other than for ordinary administrative expenses, until the trustee has (a) first given the NRC 30 days' notice and (b) not received prior written notice of objection from the NRC. As of May 31, 2016, the value of the Decommissioning Funds were: JAF - \$707,489,771.82; IP3 - \$772,000,057.09.

Under the Decommissioning Agreements:

- The Authority retained decommissioning obligations for each plant. The obligation for each plant is limited to the lesser of the Inflation Adjusted Cost Amount or the balance of the Decommissioning Fund. The Inflation Adjusted Cost Amount ("IACA") for a plant means a fixed estimated decommissioning cost amount adjusted in accordance with the effect of increases and decreases in the Nuclear Regulatory Commission ("NRC") minimum cost estimate amounts applicable to the plant.
- If the Authority is required to decommission pursuant to a Decommissioning Agreement, Entergy Nuclear, Inc. would be obligated to enter into a fixed price contract with the Authority to decommission the plant, the price being equal to the lower of the plant's IACA or Decommissioning Fund amount.

- After the original expiration dates of a plant's NRC license, the Authority has the option of terminating its decommissioning obligation by transferring the plant's Decommissioning Fund to the current plant owner. At the time of such transfer, the Authority will be entitled to be paid an amount (the "Transfer Amount") equal to the excess of the amount in the plant's Decommissioning Fund over the IACA, if any.

ENOI is the NRC-licensed operator of JAF and IP3 and an affiliate of ENF and ENIP.

The operating license for JAF expired in 2014 and was renewed by the NRC for 20 years to 2034. The operating license for IP3 expired in 2015. ENOI has continued to operate IP3 under the existing license until the NRC makes a final determination on the license renewal application.

## DISCUSSION

The Authority has not operated in the nuclear energy industry since the sale of JAF and IP3 in 2000.

Now that the original license expiration dates for JAF and IP3 have passed, the Authority has the option to terminate its decommissioning obligations by transferring the Decommissioning Funds to ENOI.

The termination and transfer will be pursuant to a transfer agreement between the Authority and ENOI. The Transfer Payment for each plant is currently zero dollars since the IACA is greater than the balance of the Decommissioning Fund. However, the transfer agreement will provide for ENOI to make a lump sum payment of \$8 million to the Authority in connection with the transfer. The lump sum payment would be in lieu of other payments, including potential future payments, which may be owed to the Authority under the Decommissioning Agreements. In addition, ENOI will assume all of the Authority's decommissioning obligations under the Decommissioning Agreements.

The transfer of the Decommissioning Funds would be subject to the receipt of approval from the NRC.

## FISCAL INFORMATION

There are no expenditures by the Authority in connection with the (1) termination of the nuclear decommissioning obligations for JAF and IP3, (2) transfer, subject to approval by the NRC, of the Decommissioning Funds for JAF and IP3 to ENOI, and (3) execution of a transfer agreement with ENOI, and any other agreements, to effectuate such transfer.

## RECOMMENDATION

The Treasurer recommends that the Trustees authorize the (1) termination of the Authority's nuclear decommissioning obligations for JAF and IP3, (2) transfer, subject to approval by the NRC, of the Decommissioning Funds for JAF and IP3 to ENOI and (3) execution of a transfer agreement with ENOI, and any other agreements, to effectuate such transfer.

For the reasons stated, I recommend the approval of the above-requested action by adoption of the resolution below.

Gil C. Quiniones  
President and Chief Executive Officer

## **RESOLUTION**

RESOLVED, That the President and Chief Executive Officer, or his designee, is hereby authorized on behalf of the Authority to (1) terminate the Authority's nuclear decommissioning obligations for the James A. FitzPatrick Nuclear Power Plant ("JAF") and the Indian Point 3 Nuclear Power Plant ("IP3"), (2) transfer, subject to approval by the Nuclear Regulatory Commission, the nuclear decommissioning trust funds ("Decommissioning Funds") for JAF and IP3 to Entergy Nuclear Operations, Inc. ("ENOI"), and (3) execute a transfer agreement with ENOI, and any other agreements, to effectuate such transfer; and be it further

RESOLVED, That the Chairman, the Vice Chairman, the President and Chief Executive Officer, the Chief Operating Officer, the Executive Vice President and General Counsel, the Executive Vice President and Chief Financial Officer are, and each of them hereby is, authorized on behalf of the Authority to do any and all things, take any and all actions and execute and deliver any and all certificates, agreements and other documents to effectuate the foregoing resolution, subject to the approval of the form thereof by the Executive Vice President and General Counsel.