

5. The decommissioning trust agreements for Peach Bottom Units 2 and 3 shall provide that:

(a) The use of assets in both the qualified and non-qualified funds shall be limited to expenses related to decommissioning of each unit as defined by the NRC in its regulations and issuances, and as provided in the unit's license and any amendments thereto. However, upon completion of decommissioning, as defined above, the assets may be used for any purpose authorized by law.

(b) Investments in the securities or other obligations of PSE&G or affiliates thereof, or their successors or assigns, shall be prohibited. In addition, except for investments tied to market indexes or other non-nuclear sector mutual funds, investments in any entity owning one or more nuclear power plants shall be prohibited.

(c) No disbursements or payments from the trust shall be made by the trustee until the trustee has first given the NRC 30 days notice of the payment. In addition, no disbursements or payments from the trust shall be made if the trustee receives prior written notice of objection from the Director, Office of Nuclear Reactor Regulation.

(d) The trust agreement shall not be modified in any material respect without prior written notification to the Director, Office of Nuclear Reactor Regulation.

(e) The trustee, investment advisor, or anyone else directing the investments made in the trust shall adhere to a "prudent investor" standard, as specified in 18 CFR 35.32(3) of the Federal Energy Regulatory Commission's regulations.

6. PSEG Nuclear shall not take any action that would cause PSEG Power LLC or its parent companies to void, cancel, or diminish the commitment to fund an extended plant shutdown as represented in the application for approval of the transfer of the Peach Bottom Units 2 and 3 licenses from PSE&G to PSEG Nuclear.

7. Before the completion of the transfer of the interests in Peach Bottom Units 2 and 3 to PSEG Nuclear as previously described herein, PSEG Nuclear shall provide to the Director, Office of Nuclear Reactor Regulation, satisfactory documentary evidence that PSEG Nuclear has obtained the appropriate amount of insurance required of licensees under 10 CFR Part 140 of the Commission's regulations.

8. After receipt of all required regulatory approvals of the subject transfer, PSE&G shall inform the Director, Office of Nuclear Reactor Regulation, in writing of such receipt,

and of the date of closing of the transfer to no later than seven business days prior to the date of closing. Should the transfer not be completed by December 31, 2000, this Order shall become null and void, provided, however, on application and for good cause shown, such date may be extended.

*It is further ordered* that, consistent with 10 CFR 2.1315(b), license amendments for Peach Bottom Units 2 and 3 that make changes, as indicated in Enclosure 2 to the cover letter forwarding this Order, to conform the licenses to reflect the subject license transfers are approved. Such amendments shall be issued and made effective at the time the proposed license transfers are completed.

This Order is effective upon issuance. For further details with respect to this Order, see the transfer application dated July 23, 1999, as supplemented October 22, 1999, and a related application dated June 4, 1999, pertaining to the Hope Creek and Salem facilities, incorporated by reference in the submittal of July 23, 1999, and the request for conforming amendments dated July 1, 1999, as supplemented August 11 and September 1, 1999, which are available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC. Publicly available records will be accessible electronically from the ADAMS Public Library component on the NRC Web site, <http://www.nrc.gov> (the Electronic Reading Room).

Dated at Rockville, Maryland, this 16th day of February 2000.

For the Nuclear Regulatory Commission.

**Samuel J. Collins,**

*Director, Office of Nuclear Reactor Regulation.*

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## **NUCLEAR REGULATORY COMMISSION**

**[Docket Nos. 50-272 and 50-311]**

### **Public Service Electric and Gas Company; Philadelphia Electric Company (PECO Energy Company); Delmarva Power and Light Company, Atlantic City Electric Company, (Salem Nuclear Generating Station, Units 1 and 2); Order Approving Transfer of Licenses and Conforming Amendments**

#### **I.**

Public Service Electric and Gas Company (PSE&G), Philadelphia Electric Company (PECO Energy

Company), Delmarva Power and Light Company, and Atlantic City Electric Company are the joint owners of the Salem Nuclear Generating Station, Units 1 and 2 (Salem), located in Salem County, New Jersey. They hold Facility Operating Licenses Nos. DPR-70 and DPR-75 issued by the U.S. Nuclear Regulatory Commission (NRC or Commission) on August 13, 1976, and May 20, 1981, respectively, pursuant to Part 50 of Title 10 of the Code of Federal Regulations (10 CFR Part 50). Under these licenses, PSE&G (currently owner of 42.59 percent of each Salem unit) is authorized to possess, use, and operate Salem Units 1 and 2.

#### **II.**

By application dated June 4, 1999, as supplemented October 22, 1999 (collectively referred to as the application herein), PSE&G requested approval of the proposed transfer of PSE&G's rights under the operating licenses for both Salem units to a new, affiliated nuclear generating company, PSEG Nuclear Limited Liability Company (PSEG Nuclear). PSEG Nuclear would assume title to PSE&G's interest in both units following approval of the proposed license transfers and would become exclusively responsible for the operation and maintenance of and the performance of eventual decommissioning activities for Salem Units 1 and 2. No physical changes or significant change in the day-to-day management and operations of the Salem units are proposed in the application. The proposed transfers do not involve any change with respect to the non-operating ownership interest in Salem Units 1 and 2 held by PECO Energy Company, Delmarva Power and Light Company, and Atlantic City Electric Company.

PSE&G also requested approval of conforming license amendments to reflect the transfers. The amendments would replace references to Public Service Electric and Gas Company, or PSE&G, with PSEG Nuclear.

Approval of the transfers and conforming license amendments was requested pursuant to 10 CFR 50.80 and 50.90. Notice of the application for approval and an opportunity for a hearing was published in the **Federal Register** on June 30, 1999 (64 FR 35192). No hearing requests were filed.

Pursuant to 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 Commission shall give its consent in writing. Upon review of the information submitted in the application and other information

before the Commission, the NRC staff has determined that PSEG Nuclear is qualified to hold the license for each Salem unit to the same extent the licenses are now held by PSE&G, and that the transfer of the licenses, as previously described herein, is otherwise consistent with applicable provisions of law, regulations, and orders issued by the Commission, subject to the conditions described herein. The NRC staff has further found that the application for the proposed license amendments 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 the proposed license amendments 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 the proposed license amendments will not be inimical to the common defense and security or to the health and safety of the public; and the issuance of the proposed license amendments will be in accordance with 10 CFR Part 51 of the Commission's regulations, and all applicable requirements have been satisfied. The foregoing findings are supported by a Safety Evaluation dated February 16, 2000.

### III.

Accordingly, pursuant to Sections 161b, 161i, and 184 of the Atomic Energy Act of 1954, as amended, 42 U.S.C. §§ 2201(b), 2201(i), and 2234; and 10 CFR 50.80, IT IS HEREBY ORDERED that the license transfers referenced above are approved, subject to the following conditions:

1. For purposes of ensuring public health and safety, PSEG Nuclear shall provide decommissioning funding assurance, to be held in decommissioning trust(s) for Salem Units 1 and 2 upon the transfer of the respective licenses to PSEG Nuclear, of no less than the following amounts: Salem Unit 1: \$113.5 million, Salem Unit 2: \$88.8 million. Any amounts held in any decommissioning trust(s) maintained by PSE&G for Salem Units 1 and 2 after such license transfers subject to the limitations in Paragraph 2 below, may be credited towards the amounts required under this paragraph.

2. Any decommissioning trust funds established by PSE&G for Salem Units 1

and 2 to comply with NRC regulations shall be transferred to PSEG Nuclear upon the transfer of the respective licenses, or following the transfer of the licenses but no later than one year from the date of issuance of this Order. In the event the decommissioning trust funds are not transferred by PSE&G to PSEG Nuclear at the time the license transfers are effected, PSE&G shall remain subject to the NRC's authority under Section 161 of the Atomic Energy Act to issue orders to protect health and to minimize danger to life or property regarding any and all matters concerning such decommissioning trust funds, until such time as the decommissioning trust funds are transferred to PSEG Nuclear.

3. PSEG Nuclear shall take all necessary steps to ensure that the decommissioning trust(s) are maintained in accordance with the application for the transfer of the Salem Units 1 and 2 licenses and the requirements of this Order and the related safety evaluation.

4. If the assets of any decommissioning trust maintained by PSE&G for Salem Units 1 and 2 are retained in such trust following the transfer of the respective license to PSEG Nuclear instead of being transferred to any trust established by PSEG Nuclear, PSE&G shall maintain the assets as retained in such trust in accordance with the application for the transfer of the licenses.

5. The decommissioning trust agreement for Salem Units 1 and 2 shall provide that:

(a) The use of assets in both the qualified and non-qualified funds shall be limited to expenses related to decommissioning of each unit as defined by the NRC in its regulations and issuances, and as provided in the unit's license and any amendments thereto. However, upon completion of decommissioning, as defined above, the assets may be used for any purpose authorized by law.

(b) Investments in the securities or other obligations of PSE&G or affiliates thereof, or their successors or assigns, shall be prohibited. In addition, except for investments tied to market indexes or other non-nuclear sector mutual funds, investments in any entity owning one or more nuclear power plants shall be prohibited.

(c) No disbursements or payments from the trust shall be made by the trustee until the trustee has first given the NRC 30 days notice of the payment. In addition, no disbursements or payments from the trust shall be made if the trustee receives prior written notice of objection from the Director, Office of Nuclear Reactor Regulation.

(d) The trust agreement shall not be modified in any material respect without prior written notification to the Director, Office of Nuclear Reactor Regulation.

(e) The trustee, investment advisor, or anyone else directing the investments made in the trust shall adhere to a "prudent investor" standard, as specified in 18 CFR 35.32(3) of the Federal Energy Regulatory Commission's regulations.

6. PSEG Nuclear shall not take any action that would cause PSEG Power LLC or its parent companies to void, cancel, or diminish the commitment to fund an extended plant shutdown as represented in the application for approval of the transfer of the Salem Units 1 and 2 licenses from PSEG to PSEG Nuclear.

7. Before the completion of the transfer of the interest in Salem Units 1 and 2 to PSEG Nuclear as previously described herein, PSEG Nuclear shall provide to the Director, Office of Nuclear Reactor Regulation, satisfactory documentary evidence that PSEG Nuclear has obtained the appropriate amount of insurance required of licensees under 10 CFR Part 140 of the Commission's regulations.

8. After receipt of all required regulatory approvals of the subject transfer, PSEG shall inform the Director, Office of Nuclear Reactor Regulation, in writing of such receipt, and of the date of closing of the transfer no later than seven business days prior to the date of closing. Should the transfer not be completed by December 31, 2000, this Order shall become null and void, provided, however, on application and for good cause shown, such date may be extended.

*It is further ordered* that, consistent with 10 CFR 2.1315(b), license amendments that make changes, as indicated in Enclosure 2 to the cover letter forwarding this Order, to conform each Salem license to reflect the subject license transfers are approved. Such amendments shall be issued and made effective at the time the proposed license transfers are completed.

This Order is effective upon issuance.

For further details with respect to this Order, see the initial application dated June 4, 1999, and the supplement dated October 22, 1999, which are available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC. Publicly available documents will be accessible electronically from the ADAMS Public Library component on the NRC Web site <http://www.nrc.gov> (the Electronic Reading Room).

Dated: Dated at Rockville, Maryland, this 16th day of February 2000.

For the Nuclear Regulatory Commission.

**Samuel J. Collins,**

*Director, Office of Nuclear Reactor Regulation.*

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## NUCLEAR REGULATORY COMMISSION

[Docket No. 50-354]

### Public Service Electric and Gas Company, Atlantic City Electric Company (Hope Creek Generating Station); Order Approving Transfer of License and Conforming Amendment

#### I.

Public Service Electric and Gas Company (PSE&G) and Atlantic City Electric Company are the joint owners of the Hope Creek Generating Station (HCGS), located in Salem County, New Jersey. They hold Facility Operating License No. NPF-57 issued by the U.S. Nuclear Regulatory Commission (NRC or Commission) on July 25, 1986, pursuant to Part 50 of Title 10 of the Code of Federal Regulations (10 CFR Part 50). Under this license, PSE&G (currently owner of 95 percent of HCGS) is authorized to act as agent for Atlantic City Electric Company and has exclusive responsibility and control over the physical construction, operation, and maintenance of the facility.

#### II.

By application dated June 4, 1999, as supplemented October 22, 1999 (collectively referred to as the application herein), PSE&G requested approval of the proposed transfer of PSE&G's rights under the operating license for HCGS to a new, affiliated nuclear generating company, PSEG Nuclear Limited Liability Company (PSEG Nuclear). PSEG Nuclear would assume title to PSE&G's interest in the facility following approval of the proposed license transfer and would become exclusively responsible for the operation and maintenance of, and the performance of eventual decommissioning activities for HCGS. No physical changes or significant change in the day-to-day management and operations of HCGS are proposed in the application. The proposed transfer does not involve any change with respect to the non-operating ownership interest in HCGS held by Atlantic City Electric Company.

PSE&G also requested approval of a conforming license amendment to reflect the transfer. The amendment would replace references to Public Service Electric and Gas Company, or PSE&G, with PSEG Nuclear.

Approval of the transfer and conforming license amendment was requested pursuant to 10 CFR 50.80 and 50.90. Notice of the application for approval and an opportunity for a hearing was published in the **Federal Register** on June 30, 1999 (64 FR 35193). No hearing requests were filed.

Pursuant to 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 Commission shall give its consent in writing. Upon review of the information submitted in the application and other information before the Commission, the NRC staff has determined that PSEG Nuclear is qualified to hold the license to the same extent the license is now held by PSE&G, and that the transfer of the license, as previously described herein, is otherwise consistent with applicable provisions of law, regulations, and orders issued by the Commission, subject to the conditions described herein. The NRC staff has further found that the application for the proposed 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 the proposed license 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 the proposed license amendment will not be inimical to the common defense and security or to the health and safety of the public; and the issuance of the proposed license amendment will be in accordance with 10 CFR Part 51 of the Commission's regulations, and all applicable requirements have been satisfied. The foregoing findings are supported by a Safety Evaluation dated February 14, 2000.

#### III.

Accordingly, pursuant to Sections 161b, 161i, and 184 of the Atomic Energy Act of 1954, as amended, 42 U.S.C. 2201(b), 2201(i), and 2234; and 10 CFR 50.80, *it is hereby ordered* that the license transfer referenced above is

approved, subject to the following conditions:

1. For purposes of ensuring public health and safety, PSEG Nuclear shall provide no less than \$159.0 million decommissioning funding assurance, to be held in decommissioning trust(s) for HCGS upon the transfer of the HCGS license to PSEG Nuclear. Any amounts held in any decommissioning trust(s) maintained by PSE&G for HCGS after such license transfer subject to the limitations in Paragraph 2 below, may be credited towards the amount required under this paragraph.

2. Any decommissioning trust funds established by PSE&G for HCGS to comply with NRC regulations shall be transferred to PSEG Nuclear upon the transfer of the license, or following the transfer of the license but no later than one year from the date of issuance of this Order. In the event the decommissioning trust funds are not transferred by PSE&G to PSEG Nuclear at the time the license transfer is effected, PSE&G shall remain subject to the NRC's authority under Section 161 of the Atomic Energy Act to issue orders to protect health and to minimize danger to life or property regarding any and all matters concerning such decommissioning trust funds, until such time as the decommissioning trust funds are transferred to PSEG Nuclear.

3. PSEG Nuclear shall take all necessary steps to ensure that the decommissioning trust(s) are maintained in accordance with the application for the transfer of the HCGS license and the requirements of this Order and the related safety evaluation.

4. If the assets of any decommissioning trust maintained by PSE&G for HCGS are retained in such trust following the transfer of the HCGS license to PSEG Nuclear instead of being transferred to any trust established by PSEG Nuclear, PSE&G shall maintain the assets as retained in such trust in accordance with the application for the transfer of the HCGS license.

5. The decommissioning trust agreement for HCGS shall provide that:

(a) The use of assets in both the qualified and non-qualified funds shall be limited to expenses related to decommissioning of the unit as defined by the NRC in its regulations and issuances, and as provided in the unit's license and any amendments thereto. However, upon completion of decommissioning, as defined above, the assets may be used for any purpose authorized by law.

(b) Investments in the securities or other obligations of PSE&G or affiliates thereof, or their successors or assigns, shall be prohibited. In addition, except