

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.*

[FR Doc. 00-4255 Filed 2-22-00; 8:45 am]

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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

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 HCGS license from PSE&G to PSEG Nuclear.

7. Before the completion of the transfer of the interest in HCGS 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 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), a 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 license transfer is approved. Such amendment shall be issued and made effective at the time the proposed license transfer is 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. Publically 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

### Biweekly Notice; Applications and Amendments to Facility Operating Licenses Involving No Significant Hazards Considerations

#### I. Background

Pursuant to Public Law 97-415, the U.S. Nuclear Regulatory Commission (the Commission or NRC staff) is publishing this regular biweekly notice. Public Law 97-415 revised section 189 of the Atomic Energy Act of 1954, as amended (the Act), to require the Commission to publish notice of any amendments issued, or proposed to be issued, under a new provision of section 189 of the Act. This provision grants the Commission the authority to issue and make immediately effective any amendment to an operating license upon a determination by the Commission that such amendment involves no significant hazards consideration, notwithstanding the pendency before the Commission of a request for a hearing from any person.

This biweekly notice includes all notices of amendments issued, or proposed to be issued from January 29, 2000, through February 11, 2000. The last biweekly notice was published on February 9, 2000 (65 FR 6402).

#### Notice of Consideration of Issuance of Amendments to Facility Operating Licenses, Proposed No Significant Hazards Consideration Determination, And Opportunity For a Hearing

The Commission has made a proposed determination that the following amendment requests involve no significant hazards consideration. Under the Commission's regulations in

10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not: (1) Involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. The basis for this proposed determination for each amendment request is shown below.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination.

Normally, the Commission will not issue the amendment until the expiration of the 30-day notice period. However, should circumstances change during the notice period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 30-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received before action is taken. Should the Commission take this action, it will publish in the **Federal Register** a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

Written comments may be submitted by mail to the Chief, Rules Review and Directives Branch, Division of Freedom of Information and Publications Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, and should cite the publication date and page number of this **Federal Register** notice. Written comments may also be delivered to Room 6D22, Two White Flint North, 11545 Rockville Pike, Rockville, Maryland from 7:30 a.m. to 4:15 p.m. Federal workdays. Copies of written comments received may be examined at the NRC Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC. The filing of requests for a hearing and petitions for leave to intervene is discussed below.

By March 24, 2000, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be