

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50-277 and 50-278]

PECO Energy Company, Public Service Electric and Gas Company, Delmarva Power and Light Company, Atlantic City Electric Company (Peach Bottom Atomic Power Station, Units 2 and 3); Order Approving Transfer of Licenses and Conforming Amendments

I

PECO Energy Company (PECO), Public Service Electric and Gas Company (PSE&G), Delmarva Power and Light Company, and Atlantic City Electric Company are the joint owners of the Peach Bottom Atomic Power Station, Units 2 and 3 (Peach Bottom), located in York County, Pennsylvania. They hold Facility Operating Licenses Nos. DPR-44 and DPR-56 issued by the U.S. Nuclear Regulatory Commission (NRC or Commission) on October 25, 1973, and July 2, 1974, 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 42.5 percent of each Peach Bottom unit) is authorized (along with the other joint owners) to possess Peach Bottom Units 2 and 3.

II

By an application dated July 23, 1999, which was supplemented on 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 Peach Bottom 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. No physical changes or change in the day-to-day management and operations of the Peach Bottom units are proposed in the application. The proposed transfers do not involve any change with respect to the exclusive operating authority or joint ownership interest in Peach Bottom Units 2 and 3 held by PECO, or the non-operating ownership interest in Peach Bottom Units 2 and 3 held by Delmarva Power and Light Company and Atlantic City Electric Company.

PECO, as the operating licensee for Peach Bottom Units 2 and 3, submitted a related request for approval of conforming license amendments to reflect the proposed license transfers to PSEG Nuclear. The amendments would

replace references to Public Service Electric and Gas Company, or PSE&G, with PSEG Nuclear. The request for amendments, dated July 1, 1999, and supplemented August 11, and September 1, 1999, was made by PECO in anticipation of PSE&G's transfer application.

Approval of the transfers and conforming license amendments was requested pursuant to 10 CFR 50.80 and 50.90. Notice of the application for transfer approval as well as the request for amendments and an opportunity for a hearing was published in the **Federal Register** on August 5, 1999 (64 FR 42728). 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 licenses for Peach Bottom Units 2 and 3 to the same extent the licenses are now held by PSE&G and that the transfer of the licenses, as previously described, 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 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 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 Peach Bottom Units 2 and 3 upon the transfer of the respective licenses to PSEG Nuclear, of no less than the following amounts: Peach Bottom Unit 2: \$92.3 million; Peach Bottom Unit 3: \$88.1 million. Any amounts held in any decommissioning trust(s) maintained by PSE&G for Peach Bottom Units 2 and 3 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 Peach Bottom Units 2 and 3 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 1 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 Peach Bottom Units 2 and 3 licenses and the requirements of this Order and the related safety evaluation.

4. If the assets of any decommissioning trusts maintained by PSE&G for Peach Bottom Units 2 and 3 are retained in such trusts following the transfer of the respective licenses to PSEG Nuclear instead of being transferred to any trusts established by PSEG Nuclear, PSE&G shall maintain the assets as retained in such trusts in accordance with the application for the transfer of the licenses.

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