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Dated at Rockville, Maryland, this 19th day of April 2000.

For the Nuclear Regulatory Commission.

**Robert G. Schaaf,**

*Project Manager, Section 1, Project Directorate I, Division of Licensing Project Management, 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 the Atlantic City Electric Company (ACE) 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 ACE (owner of the remaining 5 percent) and has exclusive responsibility and control over the physical construction, operation, and maintenance of the facility.

#### II

By application dated December 20, 1999, as supplemented February 11 and February 25, 2000 (collectively referred to herein as the application), PSE&G, ACE, and PSEG Nuclear Limited Liability Company (PSEG Nuclear), requested approval by the NRC of the transfer to PSEG Nuclear of the HCGS license, to the extent it is held by ACE, in conjunction with the proposed acquisition of ACE's ownership interest in HCGS by PSEG Nuclear. According to the application, depending upon the timing of regulatory approvals sought by PSEG Nuclear concerning other transfer matters not involving ACE, as an interim step the interest of ACE to be acquired by PSEG Nuclear may be transferred first to PSEG Power LLC, the

parent of PSEG Nuclear, or to PSE&G, and then to PSEG Nuclear. No physical changes or significant changes in the day-to-day management and operations of HCGS are proposed in the application.

PSE&G also requested approval of a conforming license amendment to reflect the transfer. The amendment would replace references to ACE with PSEG Nuclear.

Approval of the transfer and conforming license amendment was requested pursuant to 10 CFR 50.80 and 50.90. A notice of the application for transfer approval as well as the request for amendment and an opportunity for a hearing was published in the **Federal Register** on February 18, 2000 (65 FR 8453). 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 consents in writing. After reviewing 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 ACE, 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 imposed 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. These findings are supported by a Safety Evaluation dated April 21, 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 from ACE to PSEG Nuclear referenced above is approved, subject to the following conditions:

1. Any interim transaction described in the application whereby ACE's interest in HCGS is first acquired by PSE&G, PSEG Power, or any other entity prior to the acquisition by PSEG Nuclear of such interest, shall not result in the acquisition, possession, or use of HCGS, or any activity for which a license is required under the Atomic Energy Act of 1954, as amended, by any entity other than PSEG Nuclear, unless such result is expressly approved by a separate order upon further application. This Order shall not be deemed to provide consent under 10 CFR 50.80 to the transfer of the license for HCGS with respect to ACE's interest in HCGS to any entity other than PSEG Nuclear.

2. ACE will transfer on or about the closing date to the PSEG Nuclear decommissioning trusts for HCGS, a minimum of \$9.9 million.

3. The decommissioning trust agreement(s) 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.

4. 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 7 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 December 20, 1999, and supplements dated February 11, and February 25, 2000, 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 21st day of April 2000.

For the Nuclear Regulatory Commission.

**Samuel J. Collins,**

*Director, Office of Nuclear Reactor Regulation.*

[FR Doc. 00-10503 Filed 4-26-00; 8:45 am]

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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 (DP&L), and Atlantic City Electric Company (ACE) are the joint owners of the Salem Nuclear Generating Station, Unit Nos. 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 the Salem units. The current, non-operating combined ownership interests of DP&L and ACE are 14.82 percent of each Salem unit.

#### II

By application dated December 20, 1999, as supplemented February 11 and February 25, 2000 (collectively referred to herein as the application), PSE&G, PSEG Nuclear Limited Liability Company (PSEG Nuclear), DP&L, and ACE requested approval by the NRC of the transfer to PSEG Nuclear of the Salem licenses, to the extent held by DP&L and ACE, in conjunction with the proposed acquisition of DP&L's and ACE's combined ownership interests in the Salem units by PSEG Nuclear. According to the application, depending upon the timing of regulatory approvals sought by PSEG Nuclear concerning other transfer matters not involving DP&L and ACE, as an interim step the interests of DP&L and ACE to be acquired by PSEG Nuclear may be transferred first to PSEG Power LLC, the parent of PSEG Nuclear, or to PSE&G, and then to PSEG Nuclear. No physical changes or significant changes in the day-to-day management and operations of the Salem units are proposed in the application.

PSE&G also requested approval of conforming license amendments to reflect the transfers. The amendments would replace references to DP&L and ACE with PSEG Nuclear.

Approval of the transfers and conforming license amendments was requested pursuant to 10 CFR 50.80 and 50.90. A 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 February 18, 2000 (65 FR 8452). 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 gives its consent in writing. After reviewing 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 DP&L and ACE, 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. These findings are supported by a Safety Evaluation dated April 21, 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