

issuance of this Order is necessary to ensure corrective actions are effectively implemented over the long term. By letter and telephone call dated July 21, 2000, the NRC proposed that specified commitments be confirmed by Order, and that the Order require the Licensee to demonstrate the ability to protect the plant from the design basis threat. By letter dated July 27, 2000, the Licensee agreed to confirming the identified commitments by Order, and the Licensee waived its right to request a hearing on all or part of the Order.

### III

By letter dated July 27, 2000, the Licensee has agreed to the following conditions:

A. Entergy Operations, Inc., shall complete the following items by November 30, 2000:

#### 1. Protective Strategy Corrective Actions

a. Perform independent assessments of the protective strategy to identify areas for improvement, and evaluate the results of the assessments for enhancing the protective strategy.

b. Develop and implement an enhanced protective strategy for protection of target sets and document this strategy.

c. Revise the Physical Security Plan, Safeguards Contingency, and Security Training and Qualifications plans to reflect the enhanced protective strategy.

2. Train the current security response force and other staff, as necessary, on the enhanced protective strategy.

3. Implement modifications within and outside the plant, as necessary, to implement the enhanced protective strategy.

B. Entergy Operations, Inc., shall demonstrate the ability to protect the plant against the design basis threat within 90 days after completion of the conditions set forth above in A.1 through A.3. Such demonstration will be accomplished by conducting force-on-force exercises evaluated by the NRC.

On July 27, 2000, the Licensee consented to issuing this Order with the commitments, as described in Section IV below. The Licensee further agreed in its July 27, 2000, letter that this Order is to be effective upon issuance and that it has waived its right to a hearing. Implementation of these commitments will provide enhanced assurance that the Licensee will be capable of protecting the plant from the design basis threat.

I find that the Licensee's commitments as set forth in Section IV are acceptable and necessary and conclude that with these commitments

the plant's safety is reasonably assured. In view of the foregoing, I have determined that public health and safety require that the Licensee's commitments be confirmed by this Order. Based on the above and Licensee's consent, this Order is immediately effective upon issuance.

### IV

Accordingly, pursuant to Sections 103, 161b, 161i, 161o, 182 and 186 of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR 2.202 and 10 CFR Part 50, *It is hereby ordered*, effective immediately, that License No. NPF-38 is modified as follows:

A. Entergy Operations, Inc., shall complete the following items by November 30, 2000:

#### 1. Protective Strategy Corrective Actions

a. Perform independent assessments of the protective strategy to identify areas for improvement, and evaluate the results of the assessments for enhancing the protective strategy.

b. Develop and implement an enhanced protective strategy for protection of target sets and document this strategy.

c. Revise the Physical Security Plan, Safeguards Contingency, and Security Training and Qualifications plans to reflect the enhanced protective strategy.

2. Train the current security response force and other staff, as necessary, on the enhanced protective strategy.

3. Implement modifications within and outside the plant, as necessary, to implement the enhanced protective strategy.

B. Entergy Operations, Inc., shall demonstrate the ability to protect the plant against the design basis threat within 90 days after completion of the conditions set forth above in A.1 through A.3. Such demonstration will be accomplished by conducting force-on-force exercises evaluated by the NRC.

The Regional Administrator, Region IV, may relax or rescind, in writing, any of the above conditions upon a showing by the Licensee of good cause.

### V

Any person adversely affected by this Confirmatory Order, other than the Licensee, may request a hearing within 20 days of its issuance. Where good cause is shown, consideration will be given to extending the time to request a hearing. A request for extension of time must be made in writing to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and include a statement of

good cause for the extension. Any request for a hearing shall be submitted to the Secretary, U.S. Nuclear Regulatory Commission, ATTN: Chief, Rulemakings and Adjudications Staff, Washington, DC 20555. Copies of the hearing request shall also be sent to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC 20555, to the Associate General Counsel for Hearings, Enforcement & Administration at the same address, to the Regional Administrator, NRC Region IV, 611 Ryan Plaza Drive, Suite 400, Arlington, Texas 76011, and to the Licensee. If such a person requests a hearing, that person shall set forth with particularity the manner in which his interest is adversely affected by this Order and shall address the criteria set forth in 10 CFR 2.714(d).

If the hearing is requested by a person whose interest is adversely affected, the Commission will issue an Order designating the time and place of any hearing. If a hearing is held, the issue to be considered at such hearing shall be whether this Confirmatory Order should be sustained.

In the absence of any request for hearing, or written approval of an extension of time in which to request a hearing, the provisions specified in Section IV above shall be final 20 days from the date of this Order without further order or proceedings. If an extension of time for requesting a hearing has been approved, the provisions specified in Section IV shall be final when the extension expires if a hearing request has not been received. An answer or a request for hearing shall not stay the immediate effectiveness of this order.

Dated this 4th day of August 2000.

For the Nuclear Regulatory Commission.

**R. W. Borchardt,**

*Director, Office of Enforcement.*

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## NUCLEAR REGULATORY COMMISSION

[Docket No. 50-440, License No. NPF-58 EA 99-012]

**First Energy Operating Company, FENOC; Perry Nuclear Power Plant, Unit 1; Order Imposing Civil Monetary Penalty**

### I

First Energy Operating Company (FENOC or Licensee) is the holder of Operating License No. NPF-58 issued by the Nuclear Regulatory Commission

(NRC or Commission) on November 13, 1986. The license authorizes the Licensee to operate the Perry Nuclear Power Plant, Unit 1, in accordance with the conditions specified therein.

## II

An investigation of the Licensee's activities was completed by the NRC Office of Investigation (OI) on December 18, 1998. The results of this investigation indicated that the Licensee had not conducted its activities in full compliance with NRC requirements. A written Notice of Violation and Proposed Imposition of Civil Penalty (Notice) was served upon the Licensee by letter dated May 20, 1999. The Notice states the nature of the violation, the provision of the NRC's requirements that the Licensee violated, and the amount of the civil penalty proposed for the violation.

The Licensee responded to the Notice in a letter dated February 25, 2000. In its response, the Licensee denied the violation, requested that the violation be withdrawn, and requested the proposed civil penalty be rescinded.

## III

After consideration of the Licensee's response and the statements of fact, explanation, and argument for mitigation contained therein, the NRC staff has determined the violation occurred as stated and that the penalty proposed for the violation designated in the Notice should be imposed.

## IV

In view of the foregoing and pursuant to Section 234 of the Atomic Energy Act of 1954, as amended (Act), 42 U.S.C. 2282, and 10 CFR 2.205, *It is hereby ordered* that:

The Licensee pay a civil penalty in the amount of \$110,000 within 30 days of the date of this Order, in accordance with NUREG/BR-0254. In addition, at the time of making the payment, the Licensee shall submit a statement indicating when and by what method payment was made, to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, One White Flint North, 11555 Rockville Pike, Rockville, MD 20852-2738.

## V

The Licensee may request a hearing within 30 days of the date of this Order. Where good cause is shown, consideration will be given to extending the time to request a hearing. A request for extension of time must be made in writing to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC 20555,

and include a statement of good cause for the extension. A request for a hearing should be clearly marked as a "Request for an Enforcement Hearing" and shall be submitted to the Secretary, U.S. Nuclear Regulatory Commission, ATTN: Rulemakings and Adjudications Staff, Washington, DC 20555. Copies also shall be sent to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC 20555, to the Assistant General Counsel for Materials Litigation and Enforcement at the same address, and to the Regional Administrator, NRC Region III, 801 Warrenville Road, Lisle, IL 60532-4351.

If a hearing is requested, the Commission will issue an Order designating the time and place of the hearing. If the Licensee fails to request a hearing within 30 days of the date of this Order (or if written approval of an extension of time in which to request a hearing has not been granted), the provisions of this Order shall be effective without further proceedings. If payment has not been made by that time, the matter may be referred to the Attorney General for collection.

In the event the Licensee requests a hearing as provided above, the issues to be considered at such hearing shall be:

(a) whether the Licensee was in violation of the Commission's requirements as set forth in the Notice referenced in Section II above and

(b) whether, on the basis of such violation, this Order should be sustained.

Dated at Rockville, Maryland this 3rd day of August 2000.

For the Nuclear Regulatory Commission.

**Frank J. Miraglia, Jr.,**

*Deputy Executive Director for Reactor Programs.*

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**BILLING CODE 7590-01-P**

## NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50-171, 50-277, 50-278]

### In the Matter of PECO Energy Company; Peach Bottom Atomic Power Station Units 1, 2 and 3; Order Approving Transfer of Licenses and Conforming Amendments

## I

PECO Energy Company (PECO, the licensee) is the holder of Facility Operating License No. DPR-12, which authorizes possession and maintenance but not operation of Peach Bottom Atomic Power Station, Unit 1, and is a co-holder of Facility Operating Licenses Nos. DPR-44, and DPR-56, which

authorize the possession, use, and operation of the Peach Bottom Atomic Power Station, Units 2 and 3. PECO is the licensed operator of Units 2 and 3. All three units (the facility) are located at the licensee's site in York County, Pennsylvania.

## II

Under cover of a letter dated December 20, 1999, PECO submitted an application requesting, *inter alia*, approval of the proposed transfer of the facility operating licenses to the extent now held by PECO to a new generating company, Exelon Generation Company, LLC (Exelon Generation Company), to be formed in connection with the proposed merger of Unicom Corporation (Unicom), the parent of Commonwealth Edison Company, and PECO. PECO also requested approval of conforming license amendments to reflect the transfer. Supplemental information was provided by submittals dated January 3, February 14, March 10, March 23, March 30, and June 15, 2000. Hereinafter, the December 20, 1999, application and supplemental information will be referred to collectively as the "application." The conforming amendments would remove PECO from the facility operating licenses and would add Exelon Generation Company in its place. After completion of the proposed transfer, Exelon Generation Company will be the sole owner of, and be authorized to maintain Peach Bottom, Unit 1, will hold a 42.49 percent ownership interest in Peach Bottom, Units 2 and 3, and will be the sole operator of Peach Bottom, Units 2 and 3.

By a separate application dated December 20, 1999, Commonwealth Edison requested approval of the transfer of the facility operating licenses that it holds to Exelon Generation Company. That application is being addressed separately.

Approval of the transfer of the facility operating licenses and conforming license amendments was requested by PECO pursuant to 10 CFR 50.80 and 10 CFR 50.90. Notice of the request for approval and an opportunity for a hearing was published in the **Federal Register** on March 9, 2000 (65 FR 12588). The Commission received no comments or requests for hearing pursuant to such notice.

Under 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 in the application by PECO, and other information before the