

For further details with respect to this action, see the application for amendment dated October 15, 1999, as supplemented by letters dated December 4, 1997, April 12, 1999, and June 10, 1999, and the licensee's letter dated July 16, 1999, which withdrew the application for license amendment. The above documents are available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room located at the Richland Public Library, 955 Northgate Street, Richland, Washington 99352.

Dated at Rockville, MD, this 4th day of August 1999.

For the Nuclear Regulatory Commission.
Jack Cushing,

Project Manager, Section 2, Project Directorate IV & Decommissioning, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.

[FR Doc. 99-21055 Filed 8-12-99; 8:45 am]

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NUCLEAR REGULATORY COMMISSION

[Docket No. 50-298]

Nebraska Public Power District; Notice of Withdrawal of Application for Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has granted the request of Nebraska Public Power District to withdraw its August 6, 1998, application for proposed amendment to Facility Operating License No. DPR-46 for the Cooper Nuclear Station, located in Nemaha County, Nebraska.

The proposed amendment would have revised the Updated Safety Analysis Report to reflect the as-built configuration of the reactor building isolation dampers.

The Commission had previously issued a Notice of Consideration of Issuance of Amendment published in the **Federal Register** on August 26, 1998 (63 FR 45526). However, by letter dated August 2, 1999, the licensee withdrew the proposed change.

For further details with respect to this action, see the application for amendment dated August 6, 1998, and the licensee's letter dated August 2, 1999, which withdrew the application for license amendment. The above documents are available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC,

and at the local public document room located at the Auburn Memorial Library, 1810 Courthouse Avenue, Auburn, NE 68305.

Dated at Rockville, Maryland, this 6th day of August 1999.

For The Nuclear Regulatory Commission
S. Patrick Sekerak,
Project Manager, Section 1, Project Directorate IV & Decommissioning, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.

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NUCLEAR REGULATORY COMMISSION

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

PECO Energy Co., Notice of Consideration of Issuance of Amendments to Facility Operating Licenses, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of amendments to Facility Operating License Nos. DPR-44 and DPR-56, issued to PECO Energy Company (the licensee), for operation of the Peach Bottom Atomic Power Station (PBAPS) Units 2 and 3, located in York County, Pennsylvania.

The proposed amendments would revise the Technical Specifications (TSs) contained in Appendix A to the Operating Licenses to incorporate a note into the TSs which will permit a one-time exemption, until September 30, 1999, from the 90 °F limit stated in Surveillance Requirement (SR) 3.7.2.2. This SR currently requires that the average water temperature of the normal heat sink be less than or equal to 90 °F as demonstrated on a 24-hour frequency. As stated in the proposed TS note, during the time period between approval and September 30, 1999, the average water temperature of the normal heat sink will be limited to less than or equal to 92 °F.

The licensee requested that these proposed amendments be processed as an exigent request pursuant to 10 CFR 50.91(a)(6) to permit implementation during this summer. The licensee's basis for the exigent request is as follows: "On August 1, 1999 at approximately 1500 hours, the normal heat sink temperature for the intake of Units 2 and 3 reached 89 °F. Based on the current and projected low rainfall conditions, above normal atmospheric temperatures, and below normal precipitation, the Conowingo Pond (Normal Heat Sink)

temperature is expected to approach and/or exceed 90 °F on a periodic basis resulting in the failure to meet Technical Specification SR 3.7.2.2. This would require PBAPS, Units 2 and 3 to enter into Mode 3 [hot shutdown] operation within 12 hours and Mode 4 [cold shutdown] operation within 36 hours.

On July 18, 1999, the normal heat sink temperature reached 86 °F, which is four (4) degrees below the TS limit of 90 °F. At that time, PBAPS Engineering began to identify the design basis impacts of the increased cooling water temperatures, analyze the environmental conditions that impact the normal heat sink temperature, and develop the analysis which would support continued safe plant operation at elevated cooling water temperatures. Throughout this period, up to the submittal of this exigent license change, significant resources have been committed to performing engineering analysis and preparing related documents, reviews of the analysis by on-site and off-site review groups, and preparation of the license amendment package itself.

Shutdown of the plants would cause undue stress on the regional electrical grid which could potentially destabilize power flow to all customers and to the PBAPS offsite sources. During two periods in the month of July (July 6 and 19, 1999), energy demands resulted in voltage reduction situations. Loss of the PBAPS, Units 2 and 3, capacity during a period in which energy is needed most, could result in a load shedding situation. Additionally, the unforeseen weather conditions resulting in the recent abnormally high normal heat sink temperature did not permit the submittal of this change under the normal license amendment process." Before issuance of the proposed license amendments, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

Pursuant to 10 CFR 50.91(a)(6) for amendments to be granted under exigent circumstances, the NRC staff must determine that the 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 amendments 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. As required by 10 CFR

50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. The proposed TS changes do not involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed changes do not involve a significant increase in the probability or consequences of an accident previously evaluated because the probability of a Loss of Coolant Accident is independent of an increase in the normal heat sink temperature limit. The increase in the heat sink temperature does not affect any accident or transient initiators. The engineering analysis discussed has determined that ESW[Emergency Service Water]/HPSW[High Pressure Service Water] systems remain capable of their design safety functions at the increased normal heat sink temperature and will not impact the consequences of evaluated accidents.

2. The proposed TS changes do not create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed changes do not create the possibility of a new or different kind of accident from any previously evaluated because the requested change is increasing the heat sink temperature limit, and this in and of itself does not create the possibility of a new or different kind of accident. Increasing the heat sink temperature does not introduce any new accident initiator. Additionally, this change will not introduce any new failure mechanisms.

3. The proposed TS changes do not involve a significant reduction in a margin of safety.

The proposed changes do not involve a significant reduction in a margin of safety, because the PBAPS, Units 2 and 3 ESW/HPSW heat exchangers have been analyzed using current plant conditions and performance data. This analysis has concluded that the ESW/HPSW systems will continue to be capable of performing their design bases heat removal functions with normal heat sink temperature as high as 92 °F. In order to maintain the margin of safety with a higher normal heat sink temperature, the performance of the equipment must be better than assumed in the design basis analyses. The actual performance of the affected heat exchangers is better than assumed in the accident analyses. Using the actual performance capability of the equipment, based on the most recent plant data and trending, more than compensates for the increased normal heat sink temperature. Additionally, many design calculations used a Normal Heat Sink temperature of 95 °F with minimum torus water level. Also, the containment heat-up analysis was performed with conservatisms including a decay heat input which is based on a rated power level which is nominally 5% above the maximum licensed operating power level. These are examples of additional conservative assumptions which remain in the analysis. Therefore, the increase in normal heat sink temperature

does not involve a significant reduction in the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment requests involve no significant hazards consideration.

The Commission is seeking public comments on this proposed determination. Any comments received within 14 days after the date of publication of this notice will be considered in making any final determination.

Normally, the Commission will not issue the amendments until the expiration of the 14-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 amendments before the expiration of the 14-day notice period, provided that its final determination is that the amendments involve no significant hazards consideration. The final determination will consider all public and State comments received. Should the Commission take this action, it will publish in the **Federal Register** a notice of 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 and Directives Branch, Division of Administrative Services, Office of Administration, US 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 6D59, 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 hearing and petitions for leave to intervene is discussed below.

By September 13, 1999, the licensee may file a request for a hearing with respect to issuance of the amendments to the subject facility operating licenses and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene. Requests for a hearing and a

petition for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. Interested persons should consult a current copy of 10 CFR 2.714 which is available at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW, Washington, DC, and at the local public document room located at the Government Publications Section, State Library of Pennsylvania (Regional Depository), Education Building, Walnut Street and Commonwealth Avenue, Box 1601, Harrisburg, PA 17105. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to 15 days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than 15 days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the

bases of the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. Petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendments under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If the amendments are issued before the expiration of the 30-day hearing period, the Commission will make a final determination on the issue of no significant hazards consideration. If a hearing is requested, the final determination will serve to decide when the hearing is held.

If the final determination is that the amendment requests involve no significant hazards consideration, the Commission may issue the amendments and make them immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendments.

If the final determination is that the amendment requests involve a significant hazards consideration, any hearing held would take place before the issuance of any amendments.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, US Nuclear Regulatory Commission, Washington, DC 20555-0001, Attention: Rulemakings and Adjudications Staff, or may be delivered to the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW, Washington, DC, by the above date. A copy of the petition should also be sent to the Office of the General Counsel, US Nuclear Regulatory Commission, Washington, DC 20555-0001, and to J. W. Durham, Sr., Esquire, Sr. VP and General Counsel, PECO Energy

Company, 2301 Market Street, Philadelphia, PA 19101, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the presiding Atomic Safety and Licensing Board that the petition and/or request should be granted based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)-(v) and 2.714(d).

For further details with respect to this action, see the application for amendments dated August 6, 1999, which is available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW, Washington, DC, and at the local public document room, located at the Government Publications Section, State Library of Pennsylvania, (Regional Depository) Education Building, Walnut Street and Commonwealth Avenue, Box 1601, Harrisburg, PA 17105.

Dated at Rockville, Maryland, this 9th day of August 1999.

For the Nuclear Regulatory Commission.

Bartholomew C. Buckley,

Senior Project Manager, Section 2, Project Directorate I, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.

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NUCLEAR REGULATORY COMMISSION

[Docket No. 50-259]

Tennessee Valley Authority; (Browns Ferry Nuclear Plant Unit 1); Exemption

I.

The Tennessee Valley Authority (TVA or the licensee) is the holder of Facility Operating License No. DPR-33 for operation of the Browns Ferry Nuclear Plant (BFN) Unit 1. The license provides, among other things, that the licensee is subject to all rules, regulations, and orders of the US Nuclear Regulatory Commission (Commission or NRC) now or hereafter in effect.

BFN is a boiling-water reactor located in Limestone County, Alabama.

II.

By letter dated February 2, 1999, TVA submitted a request for exemption from certain requirements in Title 10 of the Code of Federal Regulations (10 CFR). 10 CFR 50.65(a)(1) requires, in part, that holders of operating licenses granted

under 10 CFR 50.21(b) or 10 CFR 50.22 shall monitor the performance or condition of structures, systems, or components (SSCs) against licensee-established goals to provide reasonable assurance that such SSCs as defined in paragraph (b) are capable of fulfilling their intended functions. Such goals shall be established commensurate with safety and, where practical, take into account industry-wide operating experience. When the performance or condition of a structure, system, or component does not meet established goals, appropriate corrective action shall be taken. Additionally, paragraph (b) of the rule, states that, "The scope of the monitoring program specified in paragraph (a)(1) of this section shall include safety related and non-safety related structures, systems, and components as follows:

"(1) Safety related structures, systems, and components that are relied upon to remain functional during and following design basis events to ensure the integrity of the reactor coolant pressure boundary, the capability to shut down the reactor and maintain it in a safe shutdown condition, or the capability to prevent or mitigate the consequences of accidents that could result in potential offsite exposure comparable to the guidelines in (subsection) 50.34(a)(1) or (subsection) 100.11 of this chapter, as applicable."

"(2) Non-safety related structures, systems, or components: (i) That are relied upon to mitigate accidents or transients or are used in plant emergency operating procedures (EOPs); or (ii) Whose failure could prevent safety related structures, systems, or components from fulfilling their safety related function; or (iii) Whose failure could cause a reactor scram or actuation of a safety related system."

III.

Section 50.12(a) of 10 CFR, "Specific exemptions," states that:

The Commission may, upon application by any interested person, or upon its own initiative, grant exemptions from the requirements of the regulations of this part, which are (1) Authorized by law, will not present an undue risk to the public health and safety, and are consistent with the common defense and security. (2) The Commission will not consider granting an exemption unless special circumstances are present.

Section 50.12(a)(2)(ii) of 10 CFR states that special circumstances are present when "Application of the regulation in the particular circumstances would not serve the underlying purpose of the rule or is not necessary to achieve the underlying purpose of the rule. . . ."