

## DEPARTMENT OF ENERGY

## 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 (DP&L), and Atlantic City Electric Company (ACE) 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, PECO (currently owner of 42.49 percent of each Peach Bottom unit) is authorized to possess, use, and operate the Peach Bottom units. The current, non-operating ownership interests of the other joint owners for each Peach Bottom unit are as follows: PSE&G, 42.49 percent; DP&L, 7.51 percent; and ACE, 7.51 percent.

## II

By an application dated December 21, 1999, which was supplemented on February 11, March 2, and March 16, 2000 (collectively referred to herein as the application), PECO, PSE&G, PSEG Nuclear Limited Liability Company (PSEG Nuclear), DP&L, and ACE, requested approval by the NRC of the transfer to PECO and PSEG Nuclear of the Peach Bottom licenses, to the extent held by DP&L and ACE, in conjunction with the proposed acquisition of DP&L's and ACE's ownership interests in the Peach Bottom units by PECO and 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 PSE&G, and then to PSEG Nuclear. No physical changes or significant changes in the day-to-day management and operations of the Peach Bottom units are proposed in the

application. The proposed transfer does not involve any change with respect to the exclusive operating authority of the Peach Bottom units, currently held by PECO.

PECO also requested approval of conforming license amendments to reflect the transfer. The amendments would replace references to DP&L and ACE, with PSEG Nuclear.

Approval of the transfer 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 8451). 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 PECO and PSEG Nuclear are qualified to hold the licenses for each Peach Bottom 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 the license transfers from DP&L and ACE to PECO and PSEG Nuclear referenced above are approved, subject to the following conditions:

1. Any interim transaction described in the application whereby DP&L's and ACE's interests in Peach Bottom Units 2 and 3 are first acquired by PSE&G, or any other entity prior to the acquisition by PSEG Nuclear of such interest, shall not result in the acquisition, possession, or use of Peach Bottom Units 2 and 3, 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 licenses for Peach Bottom Units 2 and 3 with respect to DP&L's and ACE's interests in Peach Bottom Units 2 and 3 to any entities other than PECO and PSEG Nuclear.

2. ACE and DP&L will transfer on or about the closing date to the respective PECO and PSEG Nuclear decommissioning trusts in equal shares a minimum of \$42.4 million for Peach Bottom Unit 2, and \$43.7 million for Peach Bottom Unit 3.

3. The decommissioning trust agreement(s) 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 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, PECO 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), license amendments that make changes, as indicated in Enclosure 2 to the cover letter forwarding this Order, to conform each Peach Bottom license to reflect the subject transfers are approved. Such amendments 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 transfer application dated December 21, 1999, and supplements dated February 11, March 2, and March 16, 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. 00-10505 Filed 4-26-00; 8:45 am]

BILLING CODE 7590-01-P

## NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50-387 and 50-388]

### PP&L, Inc.; Notice of Consideration of Issuance of Amendment to Facility Operating License, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License Nos. NPF-14 and NPF-22 issued to PP&L, Inc. (the licensee) for operation of the Susquehanna Steam Electric Station (SSES), Units 1 and 2, located in Luzerne County, Pennsylvania.

The proposed amendment would amend the licenses to change the required implementation date for previously issued license Amendment No. 184 to Facility Operating License NPF-14 and Amendment No. 158 to Facility Operating License NPF-22. The proposed amendment would not alter any of the requirements of the SSES Unit 1 and 2 Technical Specifications (TSs). The previously issued amendments incorporate long-term power stability solution instrumentation into the SSES Unit 1 and 2 TSs. When implemented, these amendments will incorporate into the TSs the licensee's final response to GL 94-02, "Long Term Solutions and Upgrade of Interim Operating Recommendations for Thermal-Hydraulic Instabilities in Boiling Water Reactors." Specifically, these amendments will, in part, add TS requirements related to the operating power range monitoring (OPRM) system. The licensee stated that design deficiencies have adversely affected its ability to install and operate the OPRM system. Therefore, the licensee requested that the required implementation date for Amendment No. 184 to License NPF-14 and Amendment No. 158 to License No. NPF-22 be revised to become effective no later than November 1, 2001. The licensee stated that the revised date would provide sufficient time to complete efforts necessary to ensure the OPRM system's final readiness for operation.

Before issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

The Commission has made a proposed determination that the amendment request involves 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. 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 change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed amendment implementation date extension is administrative in nature and does not require any physical plant modifications, physically affect any plant systems or components, nor entail changes in plant operation. The resulting consequences of transients and accidents will remain within the NRC approved criteria. Therefore, the proposed action does not involve an increase in the probability or consequences of an accident previously evaluated.

2. The proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed amendment implementation date extension is administrative in nature and does not require any physical plant modifications, physically affect any plant systems or components, nor entail changes in plant operation. Therefore, the proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. The proposed change does not involve a significant reduction in a margin of safety.

The proposed amendment implementation date extension is administrative in nature and does not require any physical plant modifications, physically affect any plant systems or components, nor entail changes in plant operation. Since the proposed changes do not affect the physical plant or have any impact on plant operation, the proposed changes will not jeopardize or degrade the function or operation of any plant system or component. Therefore, the proposed change 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 request involves no significant hazards consideration.

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