

(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 In its response, the Licensee denied the violation, requested that the violation be withdrawn, and requested the proposed civil penalty be rescinded.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.

[FR Doc. 00-20582 Filed 8-11-00; 8:45 am]

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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

Commission, and relying upon the representation and agreements contained in the application, the NRC staff has determined that Exelon Generation Company is qualified to hold the licenses to the extent proposed in the applications, and that the transfer of the licenses to Exelon Generation Company is otherwise consistent with applicable provisions of law, regulations, and orders issued by the Commission, subject to the conditions set forth below. 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, 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 amendments will be in accordance with 10 CFR Part 51 of the Commission's regulations and all applicable requirements have been satisfied.

The findings set forth above are supported by a safety evaluation dated August 3, 2000.

III

Accordingly, pursuant to Sections 161b, 161i, 161o, and 184 of the Atomic Energy Act of 1954, as amended, 42 USC 2201(b), 2201(i), 2201(o), and 2234; and 10 CFR 50.80, *It Is Hereby Ordered* that the transfer of the licenses as described herein to Exelon Generation Company is approved, subject to the following conditions:

(1) Exelon Generation Company shall provide to the Director of the Office of Nuclear Material Safety and Safeguards and to the Director of the Office of Nuclear Reactor Regulation a copy of any application, at the time it is filed, to transfer (excluding grants of security interests or liens) from Exelon Generation Company to its direct or indirect parent, or to any other affiliated company, facilities for the production, transmission, or distribution of electric energy having a depreciated book value exceeding ten percent (10%) of Exelon Generation Company's consolidated net

utility plant, as recorded on Exelon Generation Company's books of account.

(2) PECO shall transfer to Exelon Generation Company the decommissioning trust funds for Peach Bottom, Units 1, 2, and 3, in the following minimum amounts, when Peach Bottom, Units 1, 2, and 3, are transferred to Exelon Generation Company:

Peach Bottom, Unit 1—\$16,621,647

Peach Bottom, Unit 2—\$71,250,231

Peach Bottom, Unit 3—\$73,497,654

(3) The decommissioning trust agreements for Peach Bottom, Units 1, 2 and 3 at the time the transfer of the units to Exelon Generation Company is effected and thereafter, are subject to the following:

(a) The decommissioning trust agreements must be in a form acceptable to the NRC.

(b) With respect to the decommissioning trust funds, investments in the securities or other obligations of Exelon Corporation or affiliates thereof, or their successors or assigns are prohibited. 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 are prohibited.

(c) The decommissioning trust agreements for Peach Bottom, Units 1, 2, and 3, must provide that no disbursements or payments from the trusts shall be made by the trustee unless the trustee has first given the Director of the Office of Nuclear Material Safety and Safeguards in the case of Peach Bottom, Unit 1, or the Director of the Office of Nuclear Reactor Regulation, in the case of Peach Bottom, Units 2 and 3, 30 days prior written notice of payment. The decommissioning trust agreements shall further contain a provision that no disbursements or payments from the trust shall be made if the trustee receives prior written notice of objection from the NRC.

(d) The decommissioning trust agreements must provide that the agreement can not be amended in any material respect without prior written consent of the Director of the Office of Nuclear Material Safety and Safeguards in the case of Peach Bottom, Unit 1, or the Director of the Office of Nuclear Reactor Regulation in the case of Peach Bottom, Units 2 and 3.

(e) The appropriate section of the decommissioning trust agreements shall state that 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(a)(3) of the Federal Energy Regulatory Commission's regulations.

(4) Exelon Generation Company shall take all necessary steps to ensure that the decommissioning trusts are maintained in accordance with the application for approval of the transfer of the Peach Bottom, Units 1, 2, and 3, licenses and the requirements of this Order approving the transfer, and consistent with the safety evaluation supporting this Order.

(5) Before the completion of the transfer of Peach Bottom, Units 1, 2, and 3, to it, Exelon Generation Company shall provide the Director of the Office of Nuclear Reactor Regulation, satisfactory documentary evidence that Exelon Generation Company has obtained the appropriate amount of insurance required of licensees under 10 CFR Part 140 of the Commission's regulations.

(6) After receipt of all required regulatory approvals of the transfer of Peach Bottom, Units 1, 2 and 3, PECO shall inform the Director of the Office of Nuclear Reactor Regulation, in writing, of such receipt within 5 business days, and of the date of the closing of the transfer no later than 7 business days prior to the date of the closing. Should the transfer of the licenses not be completed by July 31, 2001, this Order shall become null and void, provided, however, upon written application and for good cause shown, such date may in writing be extended.

(7) Approval of the transfer of the licenses for Peach Bottom, Units 1, 2, and 3 is conditioned upon all of the PECO and Commonwealth Edison Company nuclear units described in the application to be transferred to Exelon Generation Company becoming owned by Exelon Generation Company contemporaneously.

It Is Further Ordered that, consistent with 10 CFR 2.1315(b), license amendments that make changes, as indicated in Enclosure 4 to the cover letter forwarding this Order, to conform the licenses to reflect the subject license transfers are approved. The 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 initial application dated December 20, 1999, and supplemental submittals dated January 3, February 14, March 10, March 23, March 30, and June 15, 2000, and the safety evaluation dated August 3, 2000, which are available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street,

NW., Washington, DC, and accessible electronically through the ADAMS Public Electronic Reading Room link at the NRC Web site (<http://www.nrc.gov>).

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

For the Nuclear Regulatory Commission.

Samuel J. Collins,

Director, Office of Nuclear Reactor Regulation.

[FR Doc. 00-20575 Filed 8-11-00; 8:45 am]

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NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50-272 and 50-311]

PECO Energy Company (Salem Generating Station Units 1 and 2); Order Approving Transfer of Licenses and Conforming Amendments

I

PECO Energy Company (PECO) owns 42.59 percent of Salem Generating Station, Units 1 and 2 (the facility) and in connection therewith is a co-holder of Facility Operating Licenses Nos. DPR-70 and DPR-75, which authorize possession, use, and operation of the facility. Public Service Gas and Electric Company (PSE&G) another co-owner of the facility, is the licensed operator. The facility is located at the licensee's site in Salem County, New Jersey.

II

Under cover of a letter dated December 20, 1999, PECO submitted an application requesting approval of the transfer of the licenses for the facility, to the extent held by PECO, in connection with the proposed transfer of its ownership interest in Salem, Units 1 and 2, 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), parent of Commonwealth Edison Company (ComEd), and PECO. 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." Pursuant to 10 CFR 50.90, PSE&G submitted an application dated December 22, 1999, for conforming license amendments to reflect the proposed license transfer. This application was supplemented by the PECO submittal dated June 15, 2000. 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 owner of PECO's 42.59 percent interest in Salem, Units 1 and 2. PSE&G will continue to be the sole operator of the facility.

By a separate application dated December 20, 1999, ComEd 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 was requested by PECO pursuant to 10 CFR 50.80. Notice of the request for approval and consideration of approval of the conforming amendments, and an opportunity for a hearing was published in the **Federal Register** on March 9, 2000 (65 FR 12591). 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 Commission, and relying upon the representation and agreements contained in the application, the NRC staff has determined that Exelon Generation Company is qualified to hold the licenses to the extent proposed in the application, and that the transfer of the licenses to Exelon Generation Company is otherwise consistent with applicable provisions of law, regulations, and orders issued by the Commission, subject to the conditions set forth below. 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, 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 regulation 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 amendments will be in accordance with 10 CFR Part 51 of the Commission's regulations and all applicable requirements have been satisfied.

The findings set forth above are supported by a safety evaluation dated August 3, 2000.

III

Accordingly, pursuant to Sections 161b, 161i, 161o, and 184 of the Atomic Energy Act of 1954, as amended, 42 U.S.C. 2201(b), 2201(i), 2201(o), and 2234; and 10 CFR 50.80, *It is hereby ordered* that the transfer of the licenses as described herein to Exelon Generation Company is approved, subject to the following conditions:

(1) Exelon Generation Company shall provide to the Director of the Office of Nuclear Reactor Regulation a copy of any application, at the time it is filed, to transfer (excluding grants of security interests or liens) from Exelon Generation Company to its direct or indirect parent, or to any other affiliated company, facilities for the production, transmission, or distribution of electric energy having a depreciated book value exceeding ten percent (10%) of Exelon Generation Company's consolidated net utility plant, as recorded on Exelon Generation Company's book of accounts.

(2) PECO shall transfer to Exelon Generation Company the decommissioning trust funds for Salem, Units 1 and 2, in the following minimum amounts, when Salem, Units 1 and 2, are transferred to Exelon Generation Company:
Salem, Unit 1—\$53,780,652
Salem, Unit 2—\$45,059,302

(3) At the time the transfer of the units to Exelon Generation Company is effected and thereafter, the decommissioning trust agreements for Salem, Units 1 and 2 shall be subject to the following:

(a) The decommissioning trust agreements must be in a form acceptable to the NRC.

(b) With respect to the decommissioning trust funds, investments in the securities or other obligations of Exelon Corporation or affiliates thereof, or their successors or assigns are prohibited. 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 are prohibited.

(c) The decommissioning trust agreements for Salem, Units 1 and 2, must provide that no disbursements or payments from the trust shall be made by the trustee unless the trustee has first