

MAR 21 2005



LR-N05-0160

U. S. Nuclear Regulatory Commission
Attn: Document Control Desk
Washington, DC 20555-0001

**RESPONSE TO REQUEST FOR INFORMATION REGARDING
IMPLEMENTATION OF THE EXECUTIVE REVIEW BOARD
HOPE CREEK GENERATING STATION
DOCKET NO. 50-354
FACILITY OPERATING LICENSE NO. NPF-57
SALEM GENERATING STATION – UNIT 1 AND UNIT 2
DOCKET NOS. 50-272 AND 50-311
FACILITY OPERATING LICENSE NOS. DPR-70 AND DPR-75**

- References:
1. LR-N05-0045, PSEG Metrics for Improving the Work Environment, Salem and Hope Creek Generating Stations, Quarterly Report, dated January 31, 2005
 2. NRC letter, Salem and Hope Creek Generating Stations – Executive Review Board Commitments, dated February 17, 2005

This letter is in response to the reference 2 letter requesting additional information regarding the implementation of the Executive Review Board (ERB) for certain personnel actions at the Salem and Hope Creek Generating Stations.

On December 20, 2004, Exelon Corporation and Public Service Enterprise Group (PSEG) announced plans to merge. Simultaneously with entering into the merger agreement, the companies entered into a Nuclear Operating Services Contract (NOSC) to improve performance at the Salem and Hope Creek Generating Stations. On January 7, 2005, PSEG Nuclear announced a series of personnel actions related to the implementation of the NOSC that affected several officers and managers at the Salem and Hope Creek Generating Stations.

As noted in the reference 1 letter, the ERB did not review these actions before their announcement or implementation on January 14, 2005. A notification was written to enter this issue into our corrective action program. In order to address

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the notification and ensure that the actions were based on legitimate non-discriminatory reasons and to fully understand the reasons for not using the ERB, the reference 1 letter indicated that PSEG Nuclear was commissioning an independent review. The attachment to this letter includes the results of the independent review and responses to the other requests for information in the reference 2 letter. The entire report of the independent review team, which contains personal privacy information, is available onsite for NRC review.

The independent review team (review team) determined that the decision makers involved with the personnel actions related to the implementation of the NOSC based their decisions exclusively on legitimate business needs and their understanding of the performance of the affected managers.

In addition, while the review team determined that the decision to not use the ERB to review the personnel actions did not reflect an intent to disregard commitments or suggest a lax attitude towards internal policies and practices, they did conclude that the decision to not use the ERB was shortsighted and that an appropriately objective ERB review could have led to better communications between the Company, the affected managers, and the workforce.

The review team also determined that neither the lack of an ERB review of the personnel actions nor the personnel actions themselves created a chilling effect where individuals would be reluctant to raise nuclear safety concerns. The review team did identify uncertainty among some employees about raising their visibility in the organization, which was attributed to broader considerations, like the merger and a pending reorganization along with ineffective communications about the January 2005 personnel actions, and in some cases to the decision not to conduct an ERB review. But those employees expressed no reluctance to raise nuclear safety issues.

Beyond the work of the review team, PSEG Nuclear, through its Employee Concerns Program, conducted additional interviews and gathered additional data. The results indicate that individuals are raising issues. Further information gleaned from the recently completed site-wide survey by Synergy and safety conscious work environment metrics shows encouraging trends in ensuring that the workers are comfortable in raising concerns.

The management team at Salem and Hope Creek Generating Stations is focusing on the parts of the culture that have the largest impact on the safety culture including safety conscious work environment – fixing known problems, implementing the correct operating standards, actively and openly communicating to employees, and strengthening the corrective action program. The site-wide survey mentioned above is showing some early signs of progress.

As noted in the reference 1 letter, PSEG Nuclear is committed to adhering to the ERB process until and unless the process is changed through appropriate steps. Any changes will be communicated to the NRC.

Should you have any questions regarding this letter, please contact me.

Respectfully,



R. Edwin Selover

Attachment

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1. Provide the results of the independent review of personnel actions not subjected to the ERB process as described in PSEG's letter to the NRC dated January 31, 2005.

Introduction

An independent review team (review team), consisting of a former senior manager of the NRC and a lawyer with deep experience in nuclear regulation, was chartered in early February 2005 to review the personnel actions associated with implementation of the Nuclear Operating Services Contract. The review team conducted 31 interviews that included each employee who had been adversely affected by the personnel actions of January 14, 2005, the decision makers, others with relevant information, and reviewed documentation associated with the personnel actions.

Background

On December 20, 2004, Exelon Corporation and PSEG announced plans to merge. Simultaneously with the merger, the companies entered into a Nuclear Operating Services Contract (NOSC) to improve performance at Salem and Hope Creek Generating Stations. The NOSC provided for the installation of a Chief Nuclear Officer (CNO) by Exelon and the assignment of unnamed Exelon managers into key management positions at Salem and Hope Creek, "for the purpose of implementing Exelon Management Models, practices and supporting procedures in key operational areas..."

To implement the NOSC, senior executives from Exelon and PSEG met in late-December 2004 and early-January 2005. Exelon participated in these discussions with an understanding that the principal needs of the station would be filled by experienced Exelon managers assigned to key positions. PSEG arrived at these discussions with an understanding of the needs of the site and with knowledge of the performance of key PSEG managers.

With this background, the executives discussed specific positions and personnel. The discussions led to decisions, which generally fall into three categories. First, Exelon installed its managers in vacant PSEG positions, as well as the CNO position. Second, Exelon installed its managers in positions in which PSEG incumbents were under-performing. Finally, Exelon installed its managers in key positions where Exelon believed it was essential to have an experienced manager familiar with the Exelon management model. In these collaborative discussions, PSEG executives provided candid assessments of PSEG managers so that Exelon could decide whether to request the retention of a replaced PSEG manager. As a result, PSEG severed the employment of some of the PSEG managers, while it retained other replaced managers.

Results of the independent review

The review team determined that the decision makers based their decisions exclusively on legitimate business needs and their understanding of the performance of the affected managers. Further, the review team determined that the decision makers involved in the replacement of the officers and managers acted for one purpose – to implement the NOSC by installing experienced Exelon leaders in key leadership positions. With the overarching and legitimate basis behind their actions, the decisions makers sought to create an organization with the greatest opportunity for success. As determined by the review team, this overall purpose and general structure of the discussions was appropriate and lawful. The review team found no decisions that were made based upon involvement in protected activities by any affected employees.

Although not covered by the review team, in order to determine if there were other instances where an ERB should have been conducted, but was not, the Safety Conscious Work Environment (SCWE) group performed an assessment of the terminations, personnel transfers, and discipline cases for the time period of September 2004 through mid-March 2005. A total of six occurrences of a failure to convene an ERB were identified, including three since the January 2005 NOSC implementation. These involve the dismissal of contract personnel prior to an ERB being convened and the rotation of individuals relative to the Nuclear Duty Officer position. These cases were attributed to the lack of familiarity with the ERB process and there is no indication that the actions were inappropriate or could create a chilling effect. All six occurrences have been identified in the corrective action program.

2. Provide the results of the investigation into the cause(s) for the lapses in implementing the ERB process for personnel actions taken at the stations.

The review team determined there were four reasons that PSEG did not request an ERB review of the personnel decisions related to the implementation of the NOSC. Each of these reasons is described in detail in the report. In summary, the review team found:

1. The decision-makers understood that the ERB did not formally approve personnel decisions. Rather, the ERB process yielded either an "objection" or "no objection." Accordingly, the corporate officers had the authority to act independently. For that reason, they saw no purpose in requesting an ERB review.
2. It was believed that the NOSC provided Exelon with the authority to install its management team. They believed that an ERB objection, if accepted, would run counter to Exelon's contractual obligations.
3. The personnel actions adversely affected the key members and participants of the ERB, rendering an objective review difficult, if not impossible.
4. The decision makers did not believe that PSEG had committed to conduct an ERB review under the unusual circumstances presented.

Despite knowledge that the ERB would likely object to the proposed actions, for the reasons outlined above the companies implemented the changes without an ERB review. The review team determined that the reasons provided are neither contrived nor trivial and that there was no nefarious motive or hidden agenda at play in the decisions.

Having reached that conclusion, however, the review team found that the decision was somewhat short-sighted. The review team felt that had the decision makers pursued the issue from the perspective of finding ways to make the ERB process work, instead of being stymied by the unusual circumstances, PSEG could have conducted a meaningful ERB review. Moreover, the review team concluded that had an ERB considered the proposed personnel actions and the possible creation of a chilling effect, the ERB would have been in a position to advise and assist management in the roll-out of the decisions to the affected managers and the workforce. In the view of the review team, with this insight and related planning, the personnel actions could have proceeded with far better communications and better execution.

3. Describe the corrective actions that PSEG plans to implement, or has taken, to correct the issue [not performing the ERB]. Include the schedule for completion for those actions not already completed.

and

5. Describe the actions that PSEG plans to implement, or has taken, to mitigate any impact on the work environment at the stations.

As described above, to ensure that the personnel actions taken were not based upon impermissible motives, an independent review occurred. This review was completed on March 18, 2005. Given the results of the independent review, no corrective actions are warranted to address the personnel actions.

To address the general issue of not using the ERB and the associated communication issue, a number of actions were taken. The lack of using the ERB was formally addressed in the remaining SCWE training sessions, including that a notification was written to document the issue in our corrective action program.

In addition, PSEG senior management, including the CNO, have communicated the importance of personnel actions being reviewed by ERB, including articles in a site-wide communication tool, PSEG Nuclear's "Today's Outlook." The articles in "Today's Outlook" relating to the NOSC and Transition Team initiatives have included statements identifying that organizational changes will be presented to the ERB as appropriate.

Also, the acting SCWE Manager communicated to the management team at the February 22, 2005, Operational Excellence Review meeting the importance of the ERB. Included in that message was that the ERB ensures that PSEG Nuclear will be consistent in implementing policies and procedures, and that it will be in compliance with 10 CFR 50.7. Additionally, he reminded the management team that the ERB provides a forum for assessing the effect of personnel changes on the work environment (i.e., a chilled work environment).

To address specific problems related to implementation of the ERB, a number of additional actions were taken. To address confusion regarding the difference between "Coaching" and "Corrective Action" as it pertains to the ERB process, Human Resources provided clear guidance defining these two terms in an e-mail to management employees on February 24, 2005. "Coaching" is not considered an adverse action subject to ERB review while "Corrective Action" is an adverse action and subject to ERB review.

Further, the ERB Charter has been revised to clarify matters to be presented to the board (e.g., inclusion of promotions and transfers) and created other means to enhance and facilitate the use of the ERB for the organization. These revisions include: a proposed personnel action found by the board to be an inconsistent application of an HR policy or practice will not necessarily warrant an ERB rejection; a threshold review approach for promotions and transfers has been added which will provide a means to address typically non-problematic proposed actions without convening a full board; a clarification that temporary removals from duty (to conduct fact finding) are excluded from ERB review; and a clarification that the board's decision is in the form of a recommendation to the Site Vice President and CNO.

Consistent with the actions described above, PSEG Nuclear is committed to adhering to the ERB process until and unless the process is changed through appropriate steps. Any changes will be communicated to the NRC.

4. Provide an assessment of impact on the work environment at the stations and describe how the assessment was performed.

PSEG Nuclear's assessment of impact on the work environment was made based on results from the independent review, survey results and additional activities performed by the PSEG Employee Concerns Program (ECP) and Safety Conscious Work Environment (SCWE) organization.

The review team interviewed the ECP Manager to determine if either the ECP case load or his discussions with the workforce disclosed any reluctance to raise issues in the wake of the personnel announcements. The ECP Manager indicated that his incoming caseload has not decreased and he has not heard a groundswell of concern from the workforce expressing reluctance to raise nuclear safety concerns. The ECP Manager's information tracks the anecdotal information collected during review team interviews. During these interviews, the review team asked the interviewee if he or she had seen any indication that the workforce was more reluctant to raise nuclear safety concerns because of the personnel actions. All but one of the interviewees responded that they were confident that the actions had not diminished the workers' willingness to raise nuclear safety concerns. In fact, many interviewees dismissed the notion that the workforce would hesitate to raise such an issue, noting that the workers are well aware of their rights and are not timid in exercising those rights.

The Synergy survey performed in January 2005, after implementation of the NOSC, was evaluated for indications of a negative impact on the SCWE. The data, in general, indicates individuals are willing to raise safety issues.

ECP evaluated the onsite SCWE organization intake to determine if any concerns have been raised related to not having an ERB review those personnel changes impacted by the NOSC. The evaluation of the SCWE intake concluded that there were no specific concerns raised related to ERB, but there had been commentary related to the notification that was entered in the corrective action program as a result of not utilizing the ERB during the personnel changes associated with the NOSC. According to the SCWE Manager there is some feeling that not using the ERB process for the personnel changes sent a negative message to the organization with regard to the importance of the ERB, but there was no indication that this issue created a chilled work environment.

In addition, ECP performed interviews with a cross section of personnel from the key groups affected by the personnel changes associated with the NOSC, to assess the impact on the work environment. The results of these interviews show no indication that personnel are reluctant to raise nuclear safety concerns.

Although it seems clear that the personnel actions and/or lack of ERB have not altered the workforce's willingness to raise nuclear safety concerns, the

information obtained indicates that some employees are "seeking a lower profile." This is not atypical during a merger, where workers are apprehensive that a merger will spawn workforce reductions. The Salem and Hope Creek Generating Stations workforce is no different and these concerns are plausible. The January 2005 personnel actions may have contributed to this apprehension, but the apprehension has not risen to the level that it would affect the willingness of the workforce to raise nuclear safety concerns. Many interviewees noted that the absence of communications about the selections and the selection process has led to speculation about the reasons for the actions (that could have been cured with communication). To address that concern, on March 17, 2005, the CNO met with all managers and provided the results of the independent review and reaffirmed and emphasized the need to use the ERB.

The management team at Salem and Hope Creek Generating Stations is focusing on the parts of the culture that have the largest impact on the safety culture including safety conscious work environment – fixing known problems, implementing the correct operating standards, actively and openly communicating to employees, and strengthening the corrective action program. The site-wide survey mentioned above is showing some early signs of progress.