NOTICE OF VIOLATION AND PROPOSED IMPOSITION OF CIVIL PENALTY

Philadelphia Electric Company Peach Bottom Units 2 and 3 Docket Nos. 50-277 and 50-278 License Nos. DPR-44 and DPR-56 EA 90-105

During an NRC safety system functional inspection (SSFI) conducted between February 5 - March 2, 1990, as well as a routine resident inspection conducted between February 20 - April 2, 1990, violations of NRC requirements were identified. In accordance with the "General Statement of Policy and Procedure for NRC Enforcement Actions," 10 CFR Part 2, Appendix C (1990), the Nuclear Regulatory Commission proposes to impose a civil penalty pursuant to Section 234 of the Atomic Energy Act of 1954, as amended ("Act"), 42 U.S.C. 2282, and 10 CFR 2.205. The particular violations and associated civil penalty are set forth below:

- A. 10 CFR Part 50, Appendix B, Criterion XVI, requires, in part, that measures be established to assure that conditions adverse to quality, such as deficiencies, are promptly identified and corrected.
 - Technical Specification Limiting Condition for Operation (LCO) 3.9.C.1 (Emergency Service Water) requires the ESW system to be operable at all times when reactor coolant temperature is greater than 212 degrees Fahrenheit.

Contrary to the above, measures were not established to assure that conditions adverse to quality in the plant emergency service water (ESW) system were promptly identified and corrected. Specifically, ESW flow calculations performed in 1983 and 1984 indicated that system flow rates could be significantly lower than design flow rates such that the ESW system could not meet the original design flow requirements to the ECCS and RCIC room coolers; however, the licensee did not identify the safety significance of this condition, nor did they initiate adequate corrective actions to correct this condition adverse to quality. As a result, for an indeterminate period prior to the shutdown of the unit on March 3, 1990, Unit 2 operated at up to 100% power (and with the reactor coolant temperature greater than 212° F) with the ESW system inoperable.

B. Technical Specification Limiting Condition for Operation (LCO) 3.0.D requires, in part, that when a system, subsystem, train, component or device is determined to be inoperable solely because its emergency power source is inoperable, it may be considered OPERABLE for the purpose of satisfying the requirements of the Limiting Condition for Operation, provided: (1) its corresponding normal power source is OPERABLE; and (2) all of its redundant systems, subsystems, trains, components and devices are OPERABLE. Unless both conditions (1) and (2) are satisfied, the unit shall be placed in HOT SHUTDOWN with 6 hours and in COLD SHUTDOWN within 36 hours.

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Contrary to the above, the Unit 2 ESW system became inoperable when the emergency power source for emergency service water (ESW) pump "A" was rendered inoperable at 11:55 p.m. on August 13, 1989, with the emergency cooling water pump already out of service, and the redundant "B" ESW subsystem isolated from Unit 2 due to the misalignment of two remote manual valves; however, ESW pump "A" was not declared inoperable, nor was the unit placed in HOT SHUTDOWN within 6 hours and COLD SHUTDOWN within 36 hours. Specifically, Unit 2 power operations continued in this configuration until approximately 7:30 a.m. on August 15, 1989 (a period of approximately 32 hours).

C. 10 CFR 50.59(a)(1) permits the holder of a license to make changes in the facility as described in the safety analysis report, without prior Commission approval, unless the proposed change involves a change in the technical specifications or an unreviewed safety question.

10 CFR 50.59(b)(1) requires, in part, that records of these changes be maintained, and these records shall include a written safety evaluation which provides the basis for the determination that the change does not involve an unreviewed safety question.

Section 10.8.3 (Reactor Building Cooling Water System Description) of the facility FSAR states that in the event of off site power failure, the emergency service water system can supply cooling water to the reactor building cooling water system. Section 10.9.3 (Emergency Service Water System Description) of the FSAR states, in part, the emergency service water system supply to the reactor building cooling water system heat exchangers is sufficient to maintain the cooling water system water design temperature.

Section 10.24.3 (Emergency Heat Sink Description) of the FSAR also states, in part, the emergency service water pumps take suction from the pump bays and supply water to standby diesel-generator coolers and the ECCS's pump room air coolers. The return water from the coolers is boosted in pressure by one of two emergency service water booster pumps and delivered to the emergency cooling tower.

Contrary to the above, changes were made to the facility ESW system as described in the FSAR; however, adequate written safety evaluations were not prepared to provide a basis for a determination that these changes did not involve an unreviewed safety question as evidenced by the following examples:

- 1. In 1979, the ESW system design was changed by isolating the reactor building closed cooling water system from the ESW system resulting in the reduction of ESW flow to the suction side of the ESW booster pumps; and
- 2. In 1989, plant procedures were revised such that the ESW booster pump discharge valve was throttled resulting in reduced ESW flow to the ECCS coolers when the emergency heat sink was placed in service.

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These violations have been categorized in the aggregate as a Severity Level III problem. (Supplement 1)

Civil Penalty - \$75,000

Pursuant to the provisions of 10 CFR 2.201, Philadelphia Electric Company is hereby required to submit a written statement or explanation to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, within 30 days of the date of this Notice. This reply should be clearly marked as a "Reply to a Notice of Violation" and should include for each violation: (1) admission or denial of the alleged violation; (2) the reasons for the violation if admitted, (3) the corrective steps that have been taken and the results achieved, (4) the corrective steps that will be taken to avoid further violation, and (5) the date when full compliance will be achieved. If an adequate reply is not received within the time specified in this Notice, an order may be issued to show cause why the license should not be modified, suspended, or revoked or why such other action as may be proper should not be taken. Consideration may be given to extending the response time for good cause shown. Under the authority of Section 182 of the Act, 42 U.S.C. 2232, this response shall be submitted under oath or affirmation.

Within the same time as provided for the response required above under 10 CFR 2.201, the Licensee may pay the civil penalty by letter to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, with a check, draft, or money order payable to the Treasurer of the United States in the amount of the civil penalty proposed above, or may protest imposition of the civil penalty in whole or in part by a written answer addressed to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission. Should the Licensee fail to answer within the time specified, an order imposing the civil penalty will be issued. Should the Licensee elect to file an answer in accordance with 10 CFR 2.205 protesting the civil penalty, in whole or in part, such answer should be clearly marked as an "Answer to a Notice of Violation" and may: (1) deny the violation listed in this Notice in whole or in part, (2) demonstrate extenuating circumstances, (3) show error in this Notice, or (4) show other reasons why the penalty should not be imposed. In addition to protesting the civil penalty, such answer may request remission or mitigation of the penalty.

In requesting mitigation of the proposed penalty, the factors addressed in Section V.B of 10 CFR Part 2, Appendix C (1990), should be addressed. Any written answer in accordance with 10 CFR 2.205 should be set forth separately from the statement or explanation in reply pursuant to 10 CFR 2.201, but may incorporate parts of the 10 CFR 2.201 reply by specific reference (e.g., citing page and paragraph numbers) to avoid repetition. The attention of the Licensee is directed to the other provisions of 10 CFR 2.205, regarding the procedure for imposing a civil penalty.

Upon failure to pay any civil penalty due which subsequently has been determined in accordance with the applicable provision of 10 CFR 2.205, this matter may be referred to the Attorney General, and the penalty, unless compromised, remitted, or mitigated, may be collected by civil action pursuant to Section 234c of the Act, 42 U.S.C. 2282c.

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The responses to the Director, Office of Enforcement, noted above (Reply to a Notice of Violation, letter with payment of civil penalty, and answer to a Notice of Violation) should be addressed to: Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, ATTN: Document Control Desk, Washington, DC 20555, a copy to the Regional Administrator, U.S. Nuclear Regulatory Commission, 475 Allendale Road, King of Prussia, PA, 19406 and a copy to the NRC Senior Resident Inspector, Peach Bottom.

FOR THE NUCLEAR REGULATORY COMMISSION

Original signed by R. Burnett

Thomas T. Martin Regional Administrator

Dated at King of Prussia, Pennsylvania this day of July 1990



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