

APR 16 1986

Mr. Robert L. Anthony
P.O. Box 186
Moylan, Pennsylvania 19065

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Dear Mr. Anthony:

Your "Petition by Intervenor R. L. Anthony/FOE to the Commission to Suspend Operating License NPF-39, Issued to Philadelphia Electric for Cause, as Specified in 10 CFR 50.100" dated February 27, 1986 (Petition) has been referred to my Office for a response.

The Petition raises a variety of matters related to operation of the Limerick Generating Station, Units 1 and 2, of the Philadelphia Electric Company (Licensee) which are alleged to pose safety concerns. The Petition requests suspension of the current license NPF-39 which authorizes operation of Limerick Unit 1.

As a basis for the requested action, the Petitioner refers to NRC Inspection Report findings, proceedings presently pending before the NRC or the U.S. Court of Appeals for the 3rd Circuit, Director's Decisions issued by the NRC pursuant to 10 CFR 2.206, and Licensee Event Reports filed by the Licensee with the NRC. No new information is provided in the Petition. In sum, the information provided in the Petition is not new, and has been developed as a consequence of activities which the Commission has either undertaken itself or required the Licensee to report. In this context, it is appropriate to presume that the NRC has given appropriate consideration to the issues raised particularly as the Petition offers no basis to warrant reconsideration of these issues by the NRC.

Accordingly, I do not believe it is appropriate to consider the Petition pursuant to 10 CFR 2.206. That regulation requests that the Petition "...set forth the facts that constitute the basis for the request." 1/ A corollary of the requirement is that the Petition must show something more than merely recite facts which the agency has itself developed through inspections, adjudications or notifications. In these latter instances, in the absence of some specific showing to the contrary, it may be presumed that the agency response was adequate. What this Petition signals is disagreement with NRC over handling of the issues raised. Such disagreement, without more, is an insufficient basis for staff action pursuant to 10 CFR 2.206.

Sincerely,

Original Signed by

Darrell G. Eisenhut, Acting Director
Office of Nuclear Reactor Regulation

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PDR ADOCK 05000352
G PDR

cc: Licensee

I/ Philadelphia Electric Company (Limerick Generating Station, Units 1 and 2), DD-82-13, 16 NRC 2115, 2121 (1982); see also Public Service Company of Indiana (Marble Hill Nuclear Generation Station, Units 1 and 2), CLI-80-10, II NRC 438, 433 (1980).

*Previously concurred:

PD#4/LA	PD#4/PM	PD#4/D	RGJ	OELD	AD/BWR	RB for
POBrien	*REMartin:lb	*WButler	*RStarostecki	*RHoefling	*GLainas	DD/BWR
/ /86	03/28/86	03/28/86	04/04/86	04/08/86	04/09/86	/ /86
D/BWR	DD/NRR	C/NRR				
*RBernero	DGEisenhut	DRDenton				
04/15/86	4/16/86	4/16/86				

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RMartin
MO'Brien
Murley

PETITION BY INTERVENOR R.L. ANTHONY/POE TO THE COMMISSION TO SUSPEND OP. LIC. NPF-39, ISSUED TO PHILA. ELEC., FOR CAUSE, AS SPECIFIED IN 10 CFR 50.100

DOCKETED
USNRC

Feb. 27, 1986

SUSPENSION OF LICENSE. Anthony/POE petitions the Commission under the provisions of 10 CFR 50.100 to suspend the operating license, NPF-39, issued by NRC to PECO in August 1985, on the basis of cause, under the specific complaints of violations, omissions and possibly deceptive information in PECO's operation of the Limerick unit 1. reactor set forth below.

Section 50.100 (above) states as cause for revocation or suspension of a license "(1.) any material false statement in the application...or other statement of fact required.... (2.) conditions revealed...or statement...report, inspection, or other means, which would warrant the Commission to refuse to grant a license on an original application....(3) or failure to .. operate a facility in accordance with the terms of..license....(4) or for violations of, or failure to observe, any of the terms and provisions of the act, regulations, license, permit, or order of the Commission. "

We present below the evidence on which the Commission should act to suspend license NPF-39 under the four categories listed, in abbreviated form, from the previous paragraph. Our presentation follows this order: (2.) " conditions revealedto refuse to grant a license.."(3) "failure to..operate..in accordance with ..license...."(4) "Violations of, or failure to observe..the act, regulations, license, permit, or order..."(1.) .." any material false statement..or other statement of fact..."

We also review here the cumulative evidence which demands suspension of Lic. NPF-39 from our appeals currently awaiting NRC action, and reinforce these with evidence from current NRC inspection reports, license event reports, letters, etc., as set forth below. The following are the appeals in which we are involved:

- ALAB -819 is the 2nd PID and concerns external threats to safe operation.
 - LPB-85-14 involves flaws in, and violations of Offsite Emergency Plans.
 - ALAB 823 flooding and disabling control bldg. via openings, Unit 2 to Unit 1.
 - ALAB 828 effluent releases to the environment from Limerick operation.
 - DD-86-1 review of 8 exemption of regulations threatening safe operation, Unit To NRR(1/17/86) vs. PECO requested changes of use limits for Schuylkill water.
 - Amendment No.1. to Lic., exemption from T.S. 4.6.3.4 (1/30, 2/5, 2/12, 2/15/86)
 - 85-3606 U.S. 3rd Cir. Court vs. exemption from offsite emergency exercise.
 - PECO Proposed Amendment, 50 F.R. 53235. 2/26/86 Anthony/POE petition to ASLB.
- These appeals are cited below according to their numbers or dates.

CONDITIONS REVEALED WARRANTING REPUSAL OF LICENSE (2. above)

1. NRC would have refused PECO a full power license if it had evaluated the withdrawal of confidence in PECO's ability to operate a nuclear plant (Brd. Notif. 85-070, 7/22/85) stated thus: "the fundamental NRC concerns...namely, inadequate management (PECO) control by the licensee of licensed activities performed by contractors." (p.1.) An enclosure, (letter of T.E. Murley, 5/30/85) gives details of two Severity Level III violations, Peach Bottom (App. A) with assessed civil penalties \$25,000 and Limerick (App. B) assessed penalties \$ 50,000. Mr. Murley further states (5/30/85, p.2) :

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These violations and those at ^{the} Peach Bottom facility demonstrate that inadequate oversight and control of contractor activities is not limited to the particular facility management, but also involves corporate management. Further, the violations at Limerick represent the second instance ⁱⁿ a year of PECO's inadequate control of contractor guard force activities.

2. A January ^{we} inspection of this year shows that the lack of guard protection continues and ^{we} call for suspension of the license until safe guarding of the plant is assured. (Insp. 86-01, 1/17/86) (p.1.) Enforcement action was considered on 2/7/86 under the instigation of T.T.Martin because of :

openings and degradations of protected area/vital area barriers and to review allegations relative to security officers leaving their posts without being relieved.

And Insp. 85-42 (1/27/86)(p.3) included a review of

previous commitments made by the licensee to NRC Region I as...follow-up of allegations regarding the removal of potentially sensitive security drawings

From ^{from the site} the violations listed above it seems obvious PECO does not control its guards.

3. PECO ^{management's} apparent inability to profit from NRC instruction and in spite the assessed penalties of \$ 25,000 and \$ 50,000, above, shows up further in Inspec. 86-02(p.7) ^{with} the same discredited Radiation Work Permits system still being relied on, " adopted, with some modification, from the Peach Bottom station."

4. PECO's proposed restart of construction on Unit 2 involves threats to safe operation of Unit 1 which should prompt NRC to suspend the license until all provisions have been completed to isolate the construction from Unit 1 operation. Our appeal, ALAB-823 highlights one of the threats, ^{ing} flood of the control building via construction openings from Unit 2 with the ^{resulting} loss of cooling equipment ^{required} to keep the sensitive control systems operational, in order to be able to control and shut down the reactor. Insp. 86-01 ^{above} describes new breaches between Units 1 & 2. Under the threat of water from Unit 2 and new construction openings adding augmented hazards to Unit 1 operation, license NPF- 39 must be suspended since this license would not have been issued if these hazards had been known in August '85.

5. Our appeal, ALAB 828, warns of the danger to the public from Limerick effluent releases. Current examples of PECO's careless, dangerous operation call for immediate suspension of the license. Inspec. 86-02(p.4) describes a radioactive release at dangerous levels directly to the environment for about 45 minutes via the north exhaust stack. PECO could not sample or record how high the levels were (p4.) " due to locked security doors at the access to the north stack.." This hazard is still open for another inspection. (86-02-01)

6. Insp. 86-02 details more effluent releases, (p 4&5) 300,000 lbs/hr steam ^{water} flow into the condenser and its bay with uncertain levels of radioactive ^{permeating} to the outside, probably more than 100 gallons . PECO has no measure of the damage resulting from these two releases nor a spill (p 9) from drain lines on 1/8/86 when a "sink overflowed into a floor drain which was pumped to the on-site holding pond (which) is discharged to the Schuylkill River"(Open item 86-02-05.

7. In addition to the alarming nature of these releases is the conclusion that PECO is handicapped in preventing repetitions because " the licensee does not have a procedure to capture the facts relative to potential radiological incidents and provide for a timely management review of these incidents." Insp. 86-02. (Open Item 86-02-02). This situation calls for suspension of the license.

8. Further evidence for immediate suspension come from the following inspections: 85-30, radioactive water spill (p14), resin-water spill (p 17),and uncertain drywell temperature control (unresolved item, 85-30-03, p. 19,20); and 85-36/85-09 (p 16-18) the possibility of flood water entry into the control structure (see para.4. above) which"could impact personnel habitability and electronic equipment throughout the control structure". This loss of cooling possibility forces a heretofore unconsidered threat to operation and the necessity to "address(es) the determination of an effective temperature ... which would require initiation of a plant shutdown"(p 17). Uncertainties as to "permanent modifications (p 18) ...to preclude flood water entry,and the implementation of administrative controls for opening of Unit 2 " (unresolved item 85-36-02) ^{also} necessitate license suspension.

9. The present,continuing vulnerability of the Emergency Service Water System poses a threat to safe operation which was not evaluated before issuance of the license in the way it can be now. In Insp. 85-36 (p 3) questions in a BNL report " on the need for a procedure to realign ESW cooling water" point up the risks to safe operation which have not been sufficiently covered.(unresolved 85-36-01)

Insp. 85-43 warns further of risks associated with ESW and cites a Level IV violation (App. A) of locking procedures on discharge valves.This witnesses to PECO's careless operation. Furthermore,the prediction that "the loss of ESW Loop B also causes HPCI to be inoperable,along with two RHR and two Core Spray pumps (and)...the loss of ESW Loop A causes RCIC to be inoperable,along with two RHR and core spray pumps" poses the threat of the loss of emergency power and cooling, and the ability to safely shut down the reactor. (p 15) " The effect of the Limerick ESW system design for HPCI and RCIC room coolers is identified as an unresolved item. (352/85-43-02) ".

Further warnings (p.15) come from PRA, 8/84,which "discussed dominant internal event contributors,and in particular the risk importance associated with,for example,a loss of HPCI or RCIC room cooling" and a BNL review, 8/84, which " covered ESW design,preoperational testing and operating procedures,and focused upon the ESW system because of its PRA importance."

FAILURE TO OPERATE IN ACCORDANCE WITH THE LICENSE((3.) under Sec. 50.100 above)

Our six appeals waiting for NRC action all involve failures by PECO to operate in accordance with the terms of the license. A seventh is in the Third Circuit Court for review of NRC's refusal to enforce its regulations on emergency planning for the safety of the public in case of a Limerick nuclear emergency .

10. Our appeal, ALAB 828,demands that NRC insist on protection of the public from PECO's Limerick radioactive emissions by adequate limits,and suspension of reactor operation until there is assurance against any more releases such as that detailed in Insp. 85-48 (p.3) and those in paragraphs 5,6,& 8 above. In

para. 7 above (Open item 86-02-02) NRC currently finds that PECO is not able to control such releases because it is not equipped to analyse these failures. PECO, therefore, should not be allowed to operate under such risks to the public.

11. In connection with the cooling water for the Unit 1 reactor PECO is in violations of the environmental limitations of Appendix B of License NPP-39 as set forth in our appeal of 1/17/86 to NRR. We petitioned NRC to stay the operation and suspend the license until PECO fulfills the requirements of Appendix B.

12. Appeal LPB-85-14 contains the evidence that the public is not protected, and the license should be suspended because the hearing process on offsite emergency planning was flawed and inadequate. The regulations were not fulfilled.

13. A further drastic threat to the public came in NRC's refusal to enforce 10 CFR App. E, Sec. iv. F.1. which requires a full participation offsite exercise to test the emergency evacuation apparatus. The exercise is required within a year of the license issuance. Up to the present, 19 months have passed since the last exercise. There is no assurance that an emergency evacuation now of the EPZ could be undertaken or could succeed. Meanwhile our attempt to protect the public is frustrated by NRC's blocking of our petition to the 3rd Cir.Ct., # 85-3606. The license must be suspended until public evacuation can be tested and assured.

14. NRC permitted a violation of License NPP-39 in issuing to PECO on 2/6/86 Amendment No.1 which extends the time for excess flow check valves testing, as required under Tech.Spec. 4.6.3.4, for 14 weeks, thereby leaving uncertain the functioning of essential systems for safe operation. The reactor must be shut down as we petitioned NRC on 1/30, 2/5, 2/12, and 2/15/86, until these tests are satisfied. PECO's bad faith and NRC's participation in this evasion of safety requirements is evidenced in the Jan.'86 operating report for Limerick, dated 2/14/86 which shows the reactor shut down from 1/3 to 1/9 and 1/14 to 1/20. During these 13 days the test could apparently have been made and the risk of time extension avoided. Any further risk must be stopped by suspension of operation until the tests

15. PECO proposes to further gamble with essential leak rate tests of primary containment isolation valves in a request for extension of time from March to the end of May, 50 F.R. 53235. Isolation of the primary containment is a key element in the safe shutdown of the reactor in case of a radiological accident. Operation of the reactor must be suspended until these tests are satisfied and this calls for immediate suspension of the license. We opposed the granting of this amendment for a time extension in our submission of a petition to intervene to ASLB on 2/26/86. There is added evidence of bad faith on PECO's part in the record of reactor shutdown for 35 days from October through January, i.e. 22 more days when these test could have been performed beside the 13 in Jan. (par.14.

FAILURE OR VIOLATIONS UNDER THE ACT, REGULATIONS, LICENSE, ORDER. ((4) under sec.50.100)

The fourth clause in 10 CFR 50.100 cites as a cause for suspension: "violation:

of, or failure to observe, any of the the terms and provisions of the act, regulations, license, permit, or order of the Commission."

16. The Atomic Energy Act provides for protection of the public health and safety by assuring the regulation of reactor operation to that end. The violations and hazards specified above compromise this safe operation and threaten us and the public in the vicinity of Limerick, and even at the distance where intervenor R.L. Anthony lives. These violations also endanger our rights for a safe environment guaranteed under NEPA. We petition for suspension of the license until the protection of our safety, health and lives under these acts is made certain.

17. The violations and careless operation of the reactor set forth above provide conclusive evidence of the unsafe operation of Limerick, the risk of accidents and the resulting threats to our health and lives, and those in the community. We repeat here that NRC has denied us protection under the acts (above) by failure to act to protect us with workable emergency plans (LPB-85-14), lack of action to protect the control building, and protect Unit 1 from ^{violations via} construction openings from Unit 2 (ALAB-823), and failure to protect against offsite effluent releases (ALAB-828).

18. NRC ^{and PECO} failed to observe the provisions of the act and the decision of the D.C. Circuit Court (USC 735 F 2d 1437 (1984)) in the exemption from an emergency offsite exercise and a hearing on this. (par. 13 above.) (3rd Cir. 85-3606.)

19. NRC's cooperation with PECO in finding "no significant effect on the quality of the human environment" in PECO's amendment requests, 50 F.R. 52874 and 50 F.R. 53235, and refusal of proper environmental assessment or impact, violates our rights under the acts above.

20. In a parallel way our rights were violated in the granting of exemptions to 10 CFR Part 50 requirements, (50 F.R. 27388). These exemptions ignore the increased risk in operation and the threat to our health and safety from the possible resulting accidents. The acts above, therefore, ^{have} ^{been} violated and the license must be suspended. We opposed these exemptions, but NRC refused any remedy in DD-86-1.

The risks added by these exemptions ^{been} compounded by added exemptions and violations as set forth in our text above, specifically as follows (50 F.R. 27388). Exemption B. concerns isolation valve risks as does 50 F.R. 53235 (15. above). C. poses risks to ESW, RHR, and RHRSW emphasized further above (9.) E. involves main steam isolation where PECO's operation is in dangerous trouble as shown in Insp. 85-48 and 86-02 (6. and 10. above). G. involves the faults in design that prevent leak rate testing RHR valves, some of the same valves endangering the safe operation of the Emergency Service Water supply (9.) (See Insp. 85-43) The exemptions (DD-86-1) should never have been granted and our appeal against them must be honored via the immediate suspension of the license.

MATERIAL FALSE STATEMENT OF FACT REQUIRED OF APPLICANT ((1.) under Sec. 50.100).

We consider ^{now} the first clause in 10 CFR 50.100 in our final category of evidence calling for the suspension of the license. The specific cause here is

identified as " any material false statement in the application or license or in the supplemental or other statement of fact required of the applicant." We assert that PECO, while it may not have deliberately made false statements, has created false impressions as ^{to} its ability to safely operate the Limerick reactor which are now refuted by the evidence and, therefore, require an immediate suspension of the operating license.

21. PECO's record of a total of 102 Licensee Event Reports, LERs, in the year 1985 refutes the impression which PECO would have liked to create that it may be settling into reliable, safe operation of the reactor. Indeed, the opposite is true: PECO has not developed reliable control of personnel performance or operating processes. More than $\frac{1}{2}$ of the LERs are due to personnel error and 15% additional can be attributed to faulty procedures or handling of equipment.

22. The series of LERs connected with the control room chlorine analyser provide evidence of PECO's incompetence and refute the deceptive assurances in these reports that PECO has the operation under control. No competent management could allow malfunctioning of this control room equipment for almost a year and a half, for a total of 21 identical LERs (see LER 86-06) without decisive action. This situation not only testifies to incompetence but seems to display a dangerous ^{devaluing} ^ of distractions in the control room which could contribute to confusion and panic in an emergency. The lack of PECO management control is reinforced by the fines assessed by NRC (Par. 1.) and NRC's finding that it "involves corporate management."

23. While the false impressions above may not be seen as willfull they show fundamental lacks in PECO's ability to operate safely and they call for suspension. Other aspects of PECO's submissions in connection with the operating license and amendments seem to border on willfull deception. We refer specifically to PECO's requests to change the standards for withdrawal of cooling water from the Schuylkill, and PECO's requests for extention of time for test in 50 F.R.52874 and 53235(19.abov We opposed the former in our petition to NRR, 1/17/86, which has not been answered to our knowledge. We assert PECO used deception in calling for ways to manipulate the amount of water to be taken from the Schuylkill in default of its commitment to the DRBC contract, approved by NRC, to abide by the "river follower" principle, including, of course, low flow conditions which would prevent withdrawals.

24. In connection with the amendment requests from PECO for extentions of test schedules, PECO used deception and was not proceeding in good faith when it did not take advantage of the 35 days the plant was shut down from October to January to complete these tests. This appears to constitute willfull deception and constitutes adequate cause for suspension of the license. (15.)

ORDER TO SHOW CAUSE . Since there is overwhelming evidence above for the suspension of License NPF-39 under the provisions of 10CFR 50.100, we petition NRC for immediate suspension, or as an alternative, to find under 10 CFR 2.201 (c) that the public health safety and interest require it and that there are willfull violations and therefore, the NRC orders the Director immediately under Sect. 2.202 to issue a show cause order for the suspension of License NPF-39.

Respectfully submitted,
Box 186 Moylan, Pa. 19065 Robert E. Anthony

I certify that copies of PETITION BY INTERVENOR R.L. ANTHONY, FOR TO THE COMMISSION TO SUSPEND OP. LIC. NPF-39 have been served on :

NRC: Secretary, General Counsel, Docketing and Service, H. Deaton, ASLB,
ALAB, Staff Counsel. Conner & Wetterhahn, F. Romano, LEA

2/28/86

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