

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

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COMMISSIONERS:

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In the Matter of
PHILADELPHIA ELECTRIC COMPANY
(Peach Bottom Atomic Power Station,
Units 2 and 3)

Docket Nos. 50-277
50-278

ORDER

On December 23, 1987 the Commission published a Notice of Opportunity for Hearing with respect to its proposed issuance of amendments to licenses held by the Philadelphia Electric Company ("PECO") for operation of the Peach Bottom Atomic Power Station, Units 2 and 3. 52 Fed. Reg. 48593. The proposed amendments would modify Section 6 of the facility Technical Specifications to reflect (1) a new corporate and a new plant staff organizational structure, (2) a revised composition of the Plant Operations Review Committee and (3) several administrative changes, as requested in PECO's application for amendment dated November 19, 1987.

On January 22, 1988 the the Commonwealth of Pennsylvania petitioned for leave to intervene and for a hearing in this proceeding. ^{1/} PECO filed an Answer on February 8, 1988 opposing the requested intervention and hearing. PECO argued that the Commonwealth failed to raise any issues properly within the scope of this license amendment proceeding and thus had not demonstrated that its interest would be adversely affected by the adoption of the proposed amendments. ^{2/} The NRC Staff responded on February 11, 1988 stating that the Commonwealth's petition had identified at least one issue--the failure of the technical specifications to mention the function, responsibilities or personal qualifications of the Independent Safety Engineering Group--within the scope of the proposed amendments and that the petition to intervene should be granted after the Commonwealth has submitted a contention found to be admissible.

The notice stated that any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a petition for leave to intervene in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 C.F.R. Part 2. In particular the notice specified that, as required by 10 C.F.R. § 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, how that interest may be affected by the results of the proceeding and the specific

^{1/} Commonwealth of Pennsylvania's Petition To Intervene, Request For Hearing and Comments Opposing No Significant Hazards Consideration ("Petition").

^{2/} Philadelphia Electric Company's Answer to Commonwealth of Pennsylvania's Petition To Intervene In Proceeding On Proposed Amendments To Peach Bottom Facility Operating Licenses ("Answer").

aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Further the notice stated that "[c]ontentions shall be limited to matters within the scope of the amendment under consideration" and that a petitioner who fails to satisfy this requirement with respect to at least one contention will not be permitted to participate as a party.

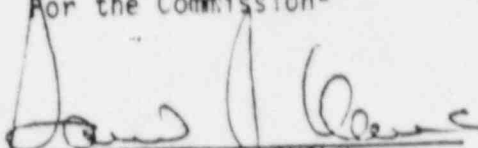
This is a proceeding for issuance of specific license amendments that are narrowly limited in scope and are not intended as the complete solution to the problems experienced at these facilities. Similarly, the hearing offered in regard to the amendments is intended to be narrow in scope. More specifically, we believe that in order to be entitled to a hearing on these amendments as a statutory right the Commonwealth must oppose issuance of these amendments and must contend that the proposed amendments create a circumstance where plant operation will not comply with the Act or regulations. A contention that alternative, or additional, amendments are desirable is not within the scope of this proceeding. See Bellotti v. NRC, 725 F.2d 1380 (D.C. Cir. 1983).

The Commonwealth's petition raises some questions whether the issues which the Commonwealth seeks to raise are within the scope of this proceeding. It may be that the Commonwealth's supplement to its petition wherein its contentions and the specific bases for them are set forth will shed greater light on whether the Commonwealth wishes to litigate any matters that fall within the scope of the amendments under consideration, as explained above. For this reason, we are referring this matter to the Chairman of the Atomic Safety and Licensing Board Panel for appointment of a Licensing Board to consider whether the Commonwealth's petition to intervene should be granted in accordance with the notice and this order.

Insofar as the Commonwealth's petition requests a discretionary formal restart hearing on matters outside the scope of this proceeding, that request is being separately addressed in a letter to Governor Casey.

It is so ORDERED.



For the Commission*

SAMUEL J. CHILK
Secretary of the Commission

Dated at Washington, D.C.

this 1st day of April, 1988

*Commissioner Rogers recused himself from participation in this matter, his personal statement is attached.

PERSONAL STATEMENT

For some time prior to my appointment and confirmation as a Commissioner of the Nuclear Regulatory Commission, I served as a Director for Public Service Enterprise Group. That Organization, through the subsidiary Public Service Electric and Gas holds operating licenses for Hope Creek Generating Station, Unit 1 and Salem Nuclear Generating Station, Units 1 and 2, and has a minority ownership interest in Peach Bottom Atomic Power Station, Units 2 and 3.

As a result of such prior affiliation, I have agreed that as of August 7, 1987, the date I assumed my present position, and for a period of two years thereafter, I would recuse myself from any Commission decision making with respect to any matter affecting Public Service Enterprise Group. In line with this commitment, I have recused myself from participation in this matter before the Commission today.