



COMMONWEALTH OF PENNSYLVANIA  
OFFICE OF THE GOVERNOR  
HARRISBURG

THE GOVERNOR

February 4, 1988

Lando W. Zech, Jr., Chairman  
United States Nuclear Regulatory Commission  
Matomic Building  
1717 H Street, N.W.  
Washington, D.C. 20555

Dear Chairman Zech:

The Commonwealth of Pennsylvania, at my direction, has filed several papers with the Commission over the past months seeking formal public hearings into the problems at the Peach Bottom nuclear power plant. I write to express my personal concern that the Commission grant this request before permitting the plant to restart.

You are probably aware of the problems, identified by your staff, that have beset the plant: failure by plant operators to follow specifications in delicate control rod adjustments; firing an employee because he had expressed safety concerns; key control room staff sleeping on the job; drug use by personnel with access to protected areas. The recent report of the industry watchdog, Institute of Nuclear Power Operations (INPO), now confirms that these previously admitted incidents -- bad as they are -- are not the worst. At times, we now learn, all control room staff were asleep or only one staff person was in the control room. At times, those same staff engaged in rubber band and paper ball fights. And the company has allowed this "major breakdown" in management, in INPO's words, to continue for years, despite repeated warnings to the highest levels of corporate management.

This history of misconduct makes formal public hearings a necessity. Only with formal public hearings can the Commonwealth and interested public groups compel access to internal Philadelphia Electric Company (PECO) documents and cross-examine staff members under oath. Only with formal hearings, can we assure careful, formal responses from PECO to the problems we and INPO have identified with PECO's proposed solutions. Only with formal public hearings can we therefore assure the fullest development of information about Peach Bottom's problems and proposed solutions and restore public confidence.

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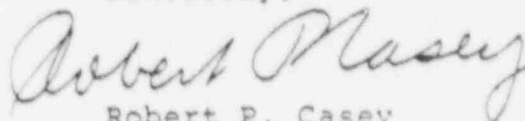
February 4, 1988

The INPO report corroborates the need for a hearing. It confirms the need for greater inquiry by revealing that PECO has concealed many prior incidents of misconduct even after shutdown. It confirms, as we have suggested and PECO has denied, that the blame for unsafe conditions lies with upper level management. It confirms, in essence, that PECO has not responded adequately to the magnitude of the flaws that have, in INPO's words, made operation of Peach Bottom "an embarrassment to the industry and to the nation." While we are thankful to the INPO task force for forcing disclosure of much of what PECO has concealed and for forcing public attention to the flaws in PECO's current response, the report reveals the need for more scrutiny not less.

Our legal papers explain why we believe we have a right to formal public hearings before restart. But we trust that the Commission's response to our petition will deal not just with our legal rights, but also with the underlying merits of our proposal. And we trust that the Commission will not limit the hearings to the adequacy of PECO's proposed solutions on paper, whether contained in the license amendments or in the implementation plan, but will also invite inquiry into PECO's commitment and ability to implement needed change.

We have no desire to delay restart of Peach Bottom unduly. We hope that hearings can progress quickly. Indeed, we hope hearings will demonstrate that PECO is in the process of making all needed changes. The long history of the misconduct at Peach Bottom, however, counsels us to take whatever time is necessary to assure permanent corrective action, so Peach Bottom will meet the highest safety standards over the long-term.

Sincerely,



Robert P. Casey  
Governor

PDR



UNITED STATES  
NUCLEAR REGULATORY COMMISSION  
WASHINGTON, D. C. 20555

April 6, 1988

CHAIRMAN

The Honorable Robert P. Casey  
Governor of Pennsylvania  
Office of the Governor  
Harrisburg, PA 17105

Dear Governor Casey:

I am responding to your February 4, 1988 letter in which you express your support for petitions submitted by the Commonwealth of Pennsylvania's General Counsel requesting, under Section 189a of the Atomic Energy Act ("AEA"), 42 U.S.C. § 2239(a), formal adjudicatory hearings prior to any restart of Peach Bottom Atomic Power Station, Units 2 and 3. The Commonwealth's January 22, 1988 petition is being referred to the Chairman of the Atomic Safety and Licensing Board Panel, who will appoint a licensing board to determine whether that petition has identified issues coming within the scope of the license amendments on which a hearing is requested. (See attached Commission Order of April 1, 1988).

With respect to the request made in the January 22, 1988 petition and in an earlier petition dated November 20, 1987, for discretionary hearings on matters beyond the scope of the proposed license amendments, the Commission does not believe that formal adjudicatory hearings are needed to further explore the origins or nature of the problems the Philadelphia Electric Company (PECO) has experienced at Peach Bottom. These are now the subject not only of NRC's inspection reports but of the recent report of the Institute of Nuclear Power Operations. The findings of these reports are addressed by the licensee in its restart plan, Part II of which was received by NRC on February 12, 1988. The Commission will seek comments from the public and interested states on Part II as it did with respect to Part I. We believe that the Agency's non-adjudicatory processes have already provided and will continue to provide the close attention to, and public interaction with, the restart issues that are the basic objectives of your request for a formal hearing. Therefore, the Commission has concluded that discretionary, formal adjudicatory proceedings are unnecessary, and we decline to adopt your suggestion for such proceedings.

The Commission shares your concern that adequate corrective actions to PECO's well documented problems at Peach Bottom be taken and that the views of the public and state and local officials be taken into account in the process. I can assure you that the Commission will not permit PECO to restart the Peach Bottom reactors until it is satisfied that PECO's restart plan provides reasonable assurance that the public health and safety will be adequately protected and that PECO management has the commitment and ability to implement the plan.

Sincerely,

*Lando W. Zech, Jr.*  
Lando W. Zech, Jr.

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Enclosure:  
As stated

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

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COMMISSIONERS:

Lando W. Zech, Jr., Chairman  
Thomas M. Roberts  
Frederick M. Bernthal  
Kenneth M. Carr

OFFICE OF SECRETARY  
DOCKETING & SERVICE  
BRANCH

SERVED APR -1 1988

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.

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On January 22, 1988 the the Commonwealth of Pennsylvania petitioned for leave to intervene and for a hearing in this proceeding. <sup>1/</sup> 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. <sup>2/</sup> 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

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

<sup>2/</sup> 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 1<sup>st</sup> 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.