



CHAIRMAN

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

October 4, 1988

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The Honorable William H. Gray, III
United States House of Representatives
Washington, D.C. 20515

Dear Congressman Gray:

I am responding to your letter of September 21, 1988, concerning the plans of the Nuclear Regulatory Commission regarding the Peach Bottom Atomic Power Station and the status of Pennsylvania Governor Robert P. Casey's request for public hearings before resumption of operations at Peach Bottom.

Several steps remain to be completed by the NRC staff before the Commission will consider the possible restart of the Peach Bottom facility. On Wednesday, October 5, 1988, at 10:00 a.m. in our headquarters building in Rockville, Maryland, the Commission will be briefed by the NRC staff and the licensee on the current status of the Peach Bottom plant. This meeting will be open to the public.

The staff's review of the Philadelphia Electric Company's (PECo's) plan for restart will be published in the near future in the form of a Safety Evaluation Report (SER). Following issuance of the SER, the staff will conduct an Integrated Assessment Team inspection (IATI) at the Peach Bottom site. The staff's findings will form the basis for an integrated assessment by the NRC of the utility's readiness for restart.

Based on information provided by PECo at a September 29, 1988 public meeting with the staff, we expect to conduct the IATI in November. Also in November, the NRC's Advisory Committee on Reactor Safeguards (ACRS) will conduct an independent review of the proposed restart of Peach Bottom in a public meeting tentatively scheduled for November 17-19, 1988, in Bethesda, Maryland. The Commission will schedule a public meeting to consider the restart of Peach Bottom after these activities have been completed and the Commission has had the opportunity to review the results.

With respect to Governor Casey's request for public hearings, I responded to the Governor in a letter dated April 6, 1988, a copy of which I have enclosed for your information. I advised the Governor that petitions filed by the Commonwealth's General Counsel concerning license amendments for the Peach Bottom facility had been referred to the Chairman of the Atomic Safety and Licensing Board Panel. An NRC Atomic Safety and Licensing

Originated: NRR:RMartin

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PDR COMMS NRCC
CORRESPONDENCE PDC

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Board was subsequently appointed to consider the issues raised by the Commonwealth. The Commonwealth and PECO have agreed to an extension of the schedule for this proceeding to provide for negotiation of a potential solution to the issues of concern to the Commonwealth. I have enclosed a copy of the licensee's motion and the Board's order granting the 60-day extension.

I hope this information will clarify the status of our review. I can assure you that the Commission will not authorize the restart of the Peach Bottom facility until we are satisfied that the public health and safety is adequately protected.

Sincerely,

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

Enclosures:

1. Letter, Lando W. Zech, Jr.
to The Honorable Robert P.
Casey, dated April 6, 1988
2. Motion by the Philadelphia
Electric Company before the
Atomic Safety and Licensing
Board, dated September 1, 1988
3. Board Order, dated September 2,
1988



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

April 6, 1988

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

DOCKETED
USNRC

'88 APR -1 10:18

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. ^{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.

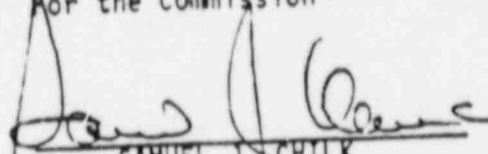
This is a proceeding for issuance of specific license amendments that are narrowly limited in scope and are not intended as the complete solution to the problems experienced at these facilities. Similarly, the hearing offered in regard to the amendments is intended to be narrow in scope. More specifically, 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 15th 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.

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION
ATOMIC SAFETY AND LICENSING BOARD

DOCKETED
JHR

88 SEP -6 P3:17

Before Administrative Judges
John H Frye, III, Chairman
Glenn O. Bright
Richard F. Cole

SERVED SEP -6 1988

In the Matter of)	
Philadelphia Electric Company)	Docket Nos. 50-277-OLA
)	50-278-OLA
(Peach Bottom Atomic Power)	
Station, Units 2 and 3))	ASLBP No. 88-569-06-OLA
)	September 2, 1988

ORDER

Philadelphia Electric Company's unopposed motion for a 60-day extension of time to respond to the Commonwealth of Pennsylvania's contentions is granted. Similarly, Staff is also granted a 60-day extension of time.

It is so ORDERED.

FOR THE ATOMIC SAFETY AND
LICENSING BOARD

John H. Frye, III
John H Frye, III, Chairman
ADMINISTRATIVE JUDGE

Bethesda, Maryland

September 2, 1988

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September 1, 1988

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

Before the Atomic Safety and Licensing Board

'88 SEP -6 P4:40

In the Matter of)	
)	
PHILADELPHIA ELECTRIC COMPANY)	No. 50-277 & 50-278 - OLA
)	ASLBP No. 88-569-06-OLA
(Peach Bottom Atomic Power Station,)	
Units 2 and 3))	

FILED
DOCKET
- OLA

PHILADELPHIA ELECTRIC COMPANY'S CONSENTED-TO
MOTION FOR A 60-DAY EXTENSION TO RESPOND TO
COMMONWEALTH OF PENNSYLVANIA'S CONTENTIONS

Philadelphia Electric Company hereby requests a 60-day extension, to November 7, 1988, of its deadline to respond to the "Supplement to Petition and Statement of Contentions of the Commonwealth of Pennsylvania," filed with this Board on August 24, 1988 by first-class mail. PE's reply would otherwise be due on September 8, 1988. In support of this motion, PE states as follows:

1. The Licensing Board activated this proceeding by order dated April 8, 1988, which required the Commonwealth of Pennsylvania to file its proposed contentions by April 25, 1988.

2. In a series of consented-to motions for extension filed by the Commonwealth of Pennsylvania, the Commonwealth's deadline for filing contentions was extended to August 24, 1988. The reasons for these extensions were the expectation and conduct of a process of negotiation between PE and the Commonwealth, intended to narrow or perhaps eliminate the Commonwealth's bases of opposition to restart of Peach Bottom. Discussions and exchanges of documents relevant to them have been in progress since late spring.

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3. These negotiations are still in progress. On August 8, 1988, the Commonwealth submitted to PE a series of written proposals to which PE expects to reply shortly. These proposals encompass, among other things, matters contained within most if not all of the seven contentions filed by the Commonwealth on August 24.

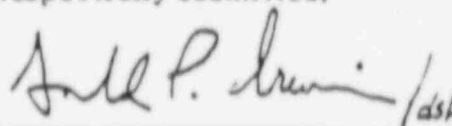
4. PE believes that the likelihood of success of these negotiations will be materially aided if it is not forced to have already pleaded a formal position in response to those contentions before negotiations continue further.

5. PE believes that the progress of the ongoing negotiations with the Commonwealth will have developed materially within 60 days from the present date. Accordingly, PE requests that the deadline for its response to the Commonwealth's contentions be extended by 60 days, to November 7, 1988.

6. PE has been authorized by Richard P. Mather, Esq., one of counsel to the Commonwealth, to state that the Commonwealth does not object to the relief sought by this motion. PE has also been authorized by Ann P. Hodgdon, Esq., one of counsel to the NRC Staff, to state that the Staff does not object to the relief sought by this motion, so long as the Staff receives a comparable extension.

WHEREFORE, Philadelphia Electric Company requests that the deadline for its response to the Commonwealth of Pennsylvania's August 24, 1988 contentions be extended by 60 days, to November 7, 1988.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "Donald P. Irwin", followed by a horizontal line and the initials "dsh" to the right.

George C. Freeman, Jr.
Donald P. Irwin

Counsel for Philadelphia Electric Company

Hunton & Williams
707 East Main Street
P.O. Box 1535
Richmond, Virginia 23212

September 1, 1988

CERTIFICATE OF SERVICE

In the Matter of
PHILADELPHIA ELECTRIC COMPANY
(Peach Bottom Atomic Power Station, Units 2 and 3)
Docket Nos. 50-277-OLA and 50-278-OLA

'88 SEP -6 P4:40

OFFICE
DCC-1

I hereby certify that copies of PHILADELPHIA ELECTRIC COMPANY'S CONSENTED-TO MOTION FOR A 60-DAY EXTENSION TO RESPOND TO COMMONWEALTH OF PENNSYLVANIA'S CONTENTIONS were served this date upon the following by Federal Express, as indicated by an asterisk, or by first-class mail, postage prepaid.

John H. Frye, III, Chairman *
Atomic Safety and Licensing Board
U.S. Nuclear Regulatory Commission
East-West Towers
4350 East-West Highway
Bethesda, MD 20814

Glenn O. Bright *
Atomic Safety and Licensing Board
U.S. Nuclear Regulatory Commission
East-West Towers
4350 East-West Highway
Bethesda, MD 20814

Richard F. Cole *
Atomic Safety and Licensing Board
U.S. Nuclear Regulatory Commission
East-West Towers
4350 East-West Highway
Bethesda, MD 20814

Secretary of the Commission
Attention Docketing and Service
Section
U.S. Nuclear Regulatory Commission
1717 H Street, N.W.
Washington, D.C. 20555

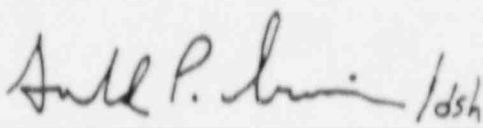
Atomic Safety and Licensing
Appeal Board Panel
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

Adjudicatory File
Atomic Safety and Licensing
Board Panel Docket
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

Morey M. Myers, Esq. *
General Counsel
Commonwealth of Pennsylvania
Office of General Counsel
P.O. Box 11775
Harrisburg, PA 17108

Ann P. Hodgdon, Esq. *
U.S. Nuclear Regulatory Commission
Office of the General Counsel
One White Flint North
11555 Rockville Pike
Rockville, MD 20814

Jay Gutierrez, Esq. *
Regional Counsel
U.S. Nuclear Regulatory Commission
Region I
475 Allendale Road
King of Prussia, PA 19406


Donald P. Irwin

Hunton & Williams
707 East Main Street
P.O. Box 1535
Richmond, Virginia 23212

DATED: September 1, 1988

Of Counsel:

William T. Coleman, Jr., Esq.
John H. Beisner, Esq.
O'Melveny & Myers
555 - 15th Street, N.W.
Washington, D.C. 20004

Eugene J. Bradley, Esq.
Philadelphia Electric Company
2301 Market Street
Philadelphia, PA 19101

DATED: September 1, 1988



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

ACTION

EDO Principal Correspondence Control

FROM: DUE: 10/⁰³~~09~~/88

EDO CONTROL: 0003975
DOC DT: 09/21/88
FINAL REPLY:

Rep. William H. Gray, III

TO:
Chairman Zech

FOR SIGNATURE OF: ** PRI **
Chairman Zech

CRC NO: 88-0851

DESC: REOPENING OF THE PEACH BOTTOM NUCLEAR POWER PLANT

ROUTING:
Stello
Taylor
Hoyle
Russell
Murray

DATE: 09/26/88

ASSIGNED TO: NRR CONTACT: Murley

SPECIAL INSTRUCTIONS OR REMARKS:

Note: Comm. Mtg on Peach Bottom is scheduled for Oct. 5.

NRR RECEIVED: SEPT. 26, 1988
ACTION: DRPR:VARGA

NRR ROUTING: MURLEY/SNIEZEK
CRUTCHFIELD
MIRAGLIA
GILLESPIE
MOSSBURG

OFFICE OF THE SECRETARY
CORRESPONDENCE CONTROL TICKET

PAPER NUMBER: CRC-88-0851 LOGGING DATE: Sep 26 88
 ACTION OFFICE: EDO
 AUTHOR: W.H. Gray III
 AFFILIATION: U.S. HOUSE OF REPRESENTATIVES
 LETTER DATE: Sep 21 88 FILE CODE: ID&R-5 Peach Bottom
 SUBJECT: NRC plans to act on the Governor's request for
 public hearing on the reopening of the Peach Bottom
 nuc power plant
 ACTION: Direct Reply
 DISTRIBUTION: OCA to Ack, DSB, RF, Cmsr, Secy
 SPECIAL HANDLING: COMMISSION REVIEW
 NOTES:
 DATE DUE: Oct 7 88
 SIGNATURE: . DATE SIGNED:
 AFFILIATION:

Rec'd Off. EDO
 Date 9/26/88
 Time 2:45 p