



UNITED STATES  
NUCLEAR REGULATORY COMMISSION  
WASHINGTON, D.C. 20555-0001

SAFETY EVALUATION BY THE OFFICE OF NUCLEAR REACTOR REGULATION

PROPOSED MERGER OF ATLANTIC ENERGY, INC. AND

DELMARVA POWER AND LIGHT COMPANY

PEACH BOTTOM ATOMIC POWER STATION, UNITS 2 AND 3

DOCKET NOS. 50-277 AND 50-278

1.0 BACKGROUND

Under cover of a letter dated April 30, 1997, as supplemented by a letter dated November 7, 1997, from John H. O'Neill, Jr., of Shaw, Pittman, Potts & Trowbridge, Atlantic City Electric Company (ACE) and Delmarva Power & Light Company (DP&L) submitted an application for approval under 10 CFR 50.80, in connection with a proposed merger between Atlantic Energy, Inc. (AEI), which is the parent holding company of ACE, and DP&L. A new holding company will result from this merger named Conectiv, Inc. (Conectiv). Under the merger agreement, all of AEI's subsidiaries (including ACE) and DP&L will become wholly owned subsidiaries of Conectiv, and AEI will cease to exist. Current holders of AEI and DP&L common stock would become holders of Conectiv common stock pursuant to a formula stipulated in the merger agreement.

ACE is a 7.51-percent owner of Unit 2 of the Peach Bottom Atomic Power Station (PBAPS), a three-unit facility (with Unit 1 in shutdown status), and DP&L is a 7.51-percent owner of Unit 2. Public Service Electric & Gas Company (PSE&G) owns 42.49 percent of Unit 2, and PECO Energy Company owns the remaining 42.49 percent. Each of these four utilities owns the same respective percentages of Unit 3 of PBAPS. The proposed merger does not involve PSE&G or PECO Energy Company. PECO Energy Company is the licensed operator of PBAPS. The proposed merger will result in the indirect transfer of control of the interests held by ACE and DP&L in the PBAPS operating licenses to the proposed new holding company, Conectiv. Accordingly, under the provisions of 10 CFR 50.80, Commission approval is required.

In the application for approval dated April 30, 1997, the applicants state on page 10:

The purpose of the proposed Merger is to achieve benefits for the shareholders, customers and communities served by ACE and DP&L that would otherwise not be achievable if they were to remain as separate companies. The expected savings related to the Merger are approximately \$500 million over the next ten years (1998 to

2007). The savings will come principally from elimination of duplicative activities, increased scale, improved purchasing power, improved operating efficiencies, lower capital costs and, to the extent practicable, by combining the companies' work forces.

## 2.0 FINANCIAL AND TECHNICAL QUALIFICATIONS

On the basis of information submitted in the application, the staff finds that there will be no near-term substantive change in the financial ability of ACE and DP&L to contribute appropriately to the operations and decommissioning of the PBAPS facility as a result of the proposed merger. Each of ACE and DP&L is, and would remain after the merger, an "electric utility" as defined in 10 CFR 50.2, engaged in the generation and distribution of electricity, the cost of which is recovered through rates established by the New Jersey Board of Public Utilities and the Federal Energy Regulatory Commission, in the case of ACE, and the Delaware Public Service Commission, the Maryland Public Service Commission, the State Corporation Commission of Virginia, and the Federal Energy Regulatory Commission, in the case of DP&L. Thus, pursuant to 10 CFR 50.33(f), ACE and DP&L, as electric utilities, are exempt from further financial qualifications review.

However, in view of the NRC's concern that restructuring can lead to a diminution of assets necessary for the safe operation and decommissioning of a licensee's nuclear power plant, the NRC has sought to obtain commitments from its licensees that initiate restructuring actions not to transfer significant assets from the licensee without notifying the NRC. ACE and DP&L have agreed:

to provide the Director of the Office of Nuclear Reactor Regulation a copy of any application, at the time it is filed, to transfer (excluding grants of a security interest or liens) from such licensee to its proposed parent, or to any other affiliated company, facilities for the production, transmission, or distribution of electric energy having a depreciated book value exceeding ten percent (10%) of such licensee's consolidated net utility plant, as recorded on the licensee's books of account.

See the letter from John H. O'Neill, Jr., of Shaw, Pittman, Potts & Trowbridge to the NRC dated November 7, 1997. This commitment, incorporated as a condition to the NRC's consent to the indirect license transfers to the extent effected by the proposed merger and restructuring, will assist the NRC in assuring that ACE and DP&L will continue to maintain adequate resources to contribute to the safe operation and decommissioning of the PBAPS facility.

With respect to technical qualifications, the proposed merger will not effect any change in the technical qualifications of the licensed operator, PECO Energy Company, and will not effect any change in the responsibilities and obligations of PECO Energy Company or any other licensee as set forth in the licenses.



### 3.0 ANTITRUST

The antitrust provisions of the Atomic Energy Act in Section 105 of the Act require the Commission to conduct an antitrust review in connection with an application for a license to construct or operate a utilization or production facility under Section 105 of the Act. PBAPS Units 2 and 3 were licensed under Section 104b and, as a result, are not subject to an antitrust review by the staff in connection with the application regarding the proposed merger.

### 4.0 FOREIGN OWNERSHIP

The application states that for ACE and DP&L, after the proposed merger, neither ACE nor DP&L will "be owned, controlled or dominated by any alien, foreign corporation or foreign government." Also, it states that neither ACE nor DP&L is "acting as an agent or representative of any other person in this request for consent to the indirect transfer of control of the license." (See pages 6 and 7 of the application dated April 30, 1997.) The staff does not know or have reason to believe that ACE or DP&L will be owned, controlled, or dominated by any alien, foreign corporation, or foreign government as a result of the proposed merger.

### 5.0 CONCLUSIONS

In view of the foregoing, the staff concludes that the proposed merger of AEI and DP&L resulting in the formation of a new holding company, Conectiv, will not adversely affect the financial or technical qualifications of ACE or DP&L with respect to the operation and decommissioning of the PBAPS facility. Also, there do not appear to be any problematic antitrust or foreign ownership considerations related to PBAPS licenses that would result from the proposed merger. Thus, the proposed merger will not affect the qualifications of ACE or DP&L as holders of the licenses, and the transfer of control of the licenses, to the extent effected by the proposed merger, is otherwise consistent with applicable provisions of law, regulations, and orders issued by the Commission. Accordingly, with the condition discussed above relating to significant asset transfers, the NRC should approve the application regarding the proposed merger.

Principal Contributor: A. McKeigney

Date: December 18, 1997