



ENVIRONMENTAL LAW & POLICY CENTER  
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November 2, 1999

**VIA FEDERAL EXPRESS**

Annette Vietti-Cook  
Secretary of the Commission  
U.S. Nuclear Regulatory Commission  
Washington, DC 20555-0001



Attention: Rulemakings and Adjudications Staff

Re: Illinois Power Company; Notice of Consideration of Approval of Transfer of Facility Operating License and Issuance of Conforming Amendment and Opportunity for Hearing - 64 Fed. Reg. 45290 (August 19, 1999)

Dear Secretary Vietti-Cook:

The Environmental Law and Policy Center (ELPC) respectfully requests that the Nuclear Regulatory Commission suspend all further action in this proceeding until the Commission has fully considered recent developments that significantly affect AmerGen's financial qualifications and its ability to safely operate, close down and decommission Illinois Power Company's Clinton Power Station (Clinton). The Commission should consider: (1) the financial and nuclear safety implications of the proposed merger between Unicom Corporation and PECO Energy, which is the United States partner of AmerGen; and (2) the cumulative impacts of AmerGen's announced intention to purchase and operate six nuclear plants.

Collectively, PECO, Unicom and AmerGen propose to own and operate an unprecedented 20 nuclear reactors. PECO, Unicom and AmerGen should be required to address serious questions as to whether they can and will commit the necessary capital to safely operate, close down and decommission each and all of the nuclear reactors. In addition, PECO, Unicom and AmerGen should be required to fully demonstrate their ability to safely operate such a large collection of geographically dispersed and technologically varied nuclear reactors.

The Clinton nuclear plant transfer application cannot and should not be considered in isolation. The ability of PECO, Unicom and AmerGen to safely operate, close down and decommission Clinton is inextricably tied to the larger issue of whether PECO, Unicom and AmerGen can provide sufficient assurances of their ability to safely operate, close down and decommission all 20 nuclear reactors.

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On September 20, 1999 ELPC filed timely comments in this proceeding and urged the Commission to reject Illinois Power Company's application to transfer the Clinton license to AmerGen. ELPC contended that AmerGen is financially overextended and has not demonstrated that it has access to sufficient funds to cover the operating costs, or the costs of safe and orderly shutdowns, at both Clinton **and** at all of its other nuclear reactors in the plausible event of multiple extended outages at those reactors. Moreover, AmerGen has not demonstrated that it has adequate funds to decommission Clinton and to maintain the nuclear fuel until the U.S. Department of Energy takes control. AmerGen has committed to provide only the paltry sum of \$110 million to cover the operating costs of Three Mile Island 1, Nine-Mile Point 1, part of the operating costs of Nine-Mile Point 2 and Clinton.

After the deadline for filing comments, new and important actions have raised significant new questions about AmerGen's financial qualifications, and its ability to operate, close down and decommission the Clinton plant. First, and most significantly, on September 23, 1999, PECO Energy, one of AmerGen's co-owners, announced its plans to merge with Unicom Corporation, the parent of Commonwealth Edison Company. Second, on September 14, 1999, AmerGen announced its plan to purchase the Oyster Creek nuclear reactor. Third, on October 15, 1999, AmerGen announced that it plans to purchase the Vermont Yankee nuclear reactor.

ELPC incorporates herein our September 20, 1999 comments that explained why AmerGen is financially overextended and has not committed sufficient capital to safely operate, close down and decommission Clinton and all of the other reactors it proposes to own and operate. Here, we simply add the obvious: that the merger and the proposed purchases of Oyster Creek and Vermont Yankee further jeopardize AmerGen's ability to safely operate, close down and decommission Clinton and the other nuclear reactors. We cannot yet fully analyze the effect of the proposed PECO/Unicom merger because PECO and Unicom have not publicly explained how and whether they to intend to combine the ownership and operation of their nuclear reactors with the AmerGen reactors. A bad problem should not be allowed to become worse.

ELPC recognizes that this request for suspension of this proceeding is unusual, but it is appropriate in these particular circumstances. ELPC is now asking the Commission to consider its review of the transfer application for the Clinton plant in the context of the changed circumstances which plainly call for a far more comprehensive review of PECO, Unicom and AmerGen's ability to operate, close down and decommission 20 nuclear units. This is a classic case of unusual circumstances requiring unusual steps. The proposed PECO/Unicom merger and AmerGen's proposed purchases of Oyster Creek and Vermont Yankee were not public knowledge as of the September 20, 1999 deadline for comments. Now that the Commission is aware of the proposed merger and the larger number of reactors that AmerGen intends to purchase, the safety implications of PECO, Unicom and AmerGen's plans to own and operate 20 reactors should be fully explored in one comprehensive proceeding. The Commission will be required to separately approve or disapprove the proposed merger and each of the AmerGen purchases. However, the Commission should examine the cumulative impacts as well.

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It would be plainly wrong for the Commission to ignore the forest and look only at each of the trees. The Commission should suspend the individual approval processes, such as this proposed Clinton transfer application, until it has first comprehensively explored all of the financial and safety implications of this massive consolidation of the United States nuclear power industry.

For the foregoing reasons, ELPC respectfully requests that the Commission suspend further action on the application for license transfer in this proceeding. In the alternative, ELPC renews the request that it made in the September 20, 1999 comments that the Commission reject the application unless AmerGen agrees to provide financial instruments demonstrating its ability to fully fund the operation and decommissioning of the Clinton nuclear plant.

Respectfully submitted,



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Senior Attorney

DWR/cmc