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USNRC

UNITED STATES OF AMERICA

NUCLEAR REGULATORY COMMISSION

'83 OCT 21 P3:30

OFFICE OF SECRETARY
DOCKETING & SERVICE
BRANCH

In the Matter of:)
PUBLIC SERVICE AND GAS)
COMPANY) Docket No. 50-272
(Salem Nuclear Generating)
Station, Unit No. 1))

PETITION FOR LEAVE TO INTERVENE AND REQUEST FOR HEARING

COMES NOW the Attorney General of the State of Delaware, Charles M. Oberly, III, and petitions the Nuclear Regulatory Commission (Commission), pursuant to 42 U.S.C.A. §2239 and 10 C.F.R. §2.714, for leave to intervene in the proceedings and, pursuant to 10 C.F.R. §2.105, requests a hearing on the proposed issuance of an amendment to the Public Service Electric and Gas Company's (PSE&G) Operating License with regard to Inservice Integrated Leak Tests.

In support of his petition for leave to intervene the Attorney General alleges that:

1. Due to the close geographical proximity of the Salem Nuclear Generating Station, Delaware's Attorney General has a strong, cognizable interest in protecting the safety of Delaware's citizens by ensuring that the station is properly and safely managed by PSE&G; only the Delaware River separates the Station from New Castle County, Delaware's most heavily populated county.

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2. The Attorney General of the State of Delaware is charged by Delaware law to investigate and pursue any matter involving the public safety. 29 Del. C. §2504.

3. The safe operation of the Salem facility is of critical importance to the people of Delaware since a breakdown in its operation represents a direct and immediate threat to the health and safety of Delaware residents--the safety of their homes and property.

4. Delaware's Attorney General should be permitted to intervene so that the interest of Delaware's citizens, which is currently unrepresented before the Commission, is adequately protected in the most recent proceeding to amend PSE&G's Operating License.

5. If PSE&G's proposed modification of its license requirement is approved, it will delay the scheduled Type A test. This test is an important safety-related test, the delay of which directly impacts on the safety and security of Delaware's citizens. One of the conditions of each and every operating license for a nuclear generating station with water-cooled power reactors is that primary reactor containments meet containment leakage test requirements. 42 U.S.C.A. §2233; 10 C.F.R. §50.54(o).

6. The procedures for maintaining a safe nuclear facility are set forth in part at 10 C.F.R. 50, Appendix J, which includes the requirement that "primary reactor containments shall meet the containment leakage test requirements set forth in this appendix."

7. The scheduling of inservice integrated leak tests is specifically provided for: the Type A test at issue here "shall be performed at approximately equal intervals during each 10 year period." 10 C.F.R. 50, App. J, III. D.1.

8. Paragraph 4.6.1.2 of Salem Unit 1 Technical Specifications specifically provides that three Type A tests be conducted at 40 ± 10 month intervals during each 10 year period.

9. The first Type A test for Unit 1 was completed on August 13, 1979. Therefore pursuant to the requirement that the next Type A test be conducted at a 40 ± 10 month interval, the maximum outside limit for conducting the test is October of 1983.

11. PSE&G has known since August 13, 1979, now more than four years, that the next Type A test must be conducted between March of 1982 and October of 1983, the plus or minus 10 month period around the 40 month interval target of December 1982. Consistent with PSE&G's documented indifference to the Commission's safety related requirements (See: May, 1983 Notice of Violation and Proposed Imposition of Civil Penalties, followed by September 1983 Order Imposing Civil Penalties), PSE&G never bothered to schedule the test during the 20 month window now closing. Rather than comply with the rules, PSE&G seeks to change them.

12. The interest of the State of Delaware and the public interest in maintaining the high standard of compliance which the NRC expects of its licensees, 10 C.F.R. 2, App. C at I, requires that PSE&G management meet its safety-related testing requirements in a timely fashion.

13. The fact that PSE&G would be required to shutdown, after 5 months of operation, in order to perform the test does not relieve PSE&G of its responsibility for meeting its Operating License's conditions. The purpose and efficacy of the rules and regulations set by the NRC as conditions for operating a nuclear generating station is destroyed when a licensee seeks to avoid a safety test for financial reasons.

14. The lengthy shutdown following the February 22 and 25, 1983 events was a result in part of "insufficient management involvement in establishing a safety perspective, in requiring attention to detail, and in ensuring procedural adherence" as the NRC stated in its May 25, 1983 letter to PSE&G accompanying the Notice of proposed imposition of maximum civil penalties. Those penalties were subsequently imposed in order to ensure that in the future PSE&G would give full attention to safety considerations. Within months of being fined, PSE&G is again placing safety considerations second to financial considerations by seeking to delay a safety related test which it could have scheduled and completed at any time during the 20 month period from March, 1982 to October, 1983.

15. Permitting PSE&G to delay the requisite timing of the Type A test based on the earlier shutdown, in effect, allows PSE&G to benefit from its indifference and the negligence of its management which lead to the events of February 22 and 25, 1983 and PSE&G's failure to schedule and conduct the Type A tests in a timely fashion.

16. The last-minute application by PSE&G to delay a scheduled safety-related test reflects PSE&G's continuing failure to establish a safety perspective, to pay attention to detail or to adhere to established procedural requirements.

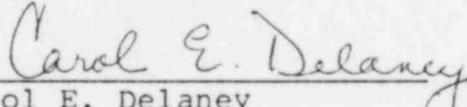
WHEREFORE, Petitioner prays that this Motion for Intervention to be granted and the application of PSE&G for an amendment to its Operating License with regard to Inservice Integrated Leak Rate tests be denied. In the alternative, Petitioner requests that a hearing be scheduled forthwith, prior to the issuance of any amendment to PSE&G's Operating License.

Respectfully submitted

CHARLES M. OBERLY, III
Attorney General of the
State of Delaware

By: 

Fred S. Silverman
State Solicitor


Carol E. Delaney
Deputy Attorney General

Dated: October 21, 1983

Service of any documents on Attorney General Charles M. Oberly, III can be made by serving the document(s) on Fred S. Silverman, State Solicitor, Department of Justice, State Office Building, 820 N. French Street, Wilmington, Delaware 19801.

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STATE OF DELAWARE :
NEW CASTLE COUNTY : SS.
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DOCKETING & SERVICE
BRANCH

Beverly Danish, being first duly sworn, deposes and says
that:

1. She is a secretary in the Delaware Attorney General's
office.

2. That on October 21, 1983, she caused to be mailed by
first class mail, postage pre-paid, a copy of Delaware's Petition
for Leave to Intervene and Request for a Hearing to:

Executive Legal Director
United States Nuclear Regulatory Commission
Washington, D.C. 20555

and

Conner & Wetterhahn
Suite 1050
1747 Pennsylvania Avenue
Washington, D.C. 20006

Beverly Danish

SWORN TO AND SUBSCRIBED before me on the 21st of October,
1983.

Joseline J. Hartman
Notary Public