

N4 DECS

## U.S. NUCLEAR REGULATORY COMMISSION

NRC FOIA REQUEST NUMBER(S)

FOIA — 96-351

RESPONSE TYPE

☒ FINAL 13th ☐ PARTIAL

DATE APR 11 1997

DOCKET NUMBER(S) (if applicable)

RESPONSE TO FREEDOM OF  
INFORMATION ACT (FOIA) REQUEST

REQUESTER

Mr. J.H. O'Neill, Jr. ATTN: W. R. Hollaway

## PART I.—AGENCY RECORDS RELEASED OR NOT LOCATED (See checked boxes)

☐ No agency records subject to the request have been located.☐ No additional agency records subject to the request have been located.☐ Requested records are available through another public distribution program. See Comments section.☐ Agency records subject to the request that are identified in Appendix(es) \_\_\_\_\_ are already available for public inspection and copying at the NRC Public Document Room, 2120 L Street, N.W., Washington, DC.☐ Agency records subject to the request that are identified in Appendix(es) \_\_\_\_\_ are being made available for public inspection and copying at the NRC Public Document Room, 2120 L Street, N.W., Washington, DC, in a folder under this FOIA number.☐ The nonproprietary version of the proposal(s) that you agreed to accept in a telephone conversation with a member of my staff is now being made available for public inspection and copying at the NRC Public Document Room, 2120 L Street, N.W., Washington, DC, in a folder under this FOIA number.☐ Agency records subject to the request that are identified in Appendix(es) \_\_\_\_\_ may be inspected and copied at the NRC Local Public Document Room identified in the Comments section.☐ Enclosed is information on how you may obtain access to and the charges for copying records located at the NRC Public Document Room, 2120 L Street, N.W., Washington, DC.☒ Agency records subject to the request are enclosed.☐ Records subject to the request have been referred to another Federal agency(ies) for review and direct response to you.☒ Fees☐ You will be billed by the NRC for fees totaling \$ \_\_\_\_\_.☒ You will receive a refund from the NRC in the amount of \$ 2,301.99.☐ In view of NRC's response to this request, no further action is being taken on appeal letter dated \_\_\_\_\_, No. \_\_\_\_\_.

## PART II. A—INFORMATION WITHHELD FROM PUBLIC DISCLOSURE

☒ Certain information in the requested records is being withheld from public disclosure pursuant to the exemptions described in and for the reasons stated in Part II, B, C, and D. Any released portions of the documents for which only part of the record is being withheld are being made available for public inspection and copying in the NRC Public Document Room, 2120 L Street, N.W., Washington, DC in a folder under this FOIA number.

COMMENTS

See attached sheet for breakdown of fees.

FIA1

0/1

9704220053  
PDR FOIA  
O'NEILL 96-351 PDR

**RESPONSE TO FREEDOM OF  
INFORMATION ACT (FOIA) REQUEST  
(CONTINUATION)**

FOIA NUMBER(S)

**FOIA** — 96-351

DATE

**APR 11 1997**

**PART II.B — APPLICABLE EXEMPTIONS**

Records subject to the request that are described in the enclosed Appendix(es) EE are being withheld in their entirety or in part under the Exemption No.(s) and for the reason(s) given below pursuant to 5 U.S.C. 552(b) and 10 CFR 9.17(a) of NRC regulations.

1. The withheld information is properly classified pursuant to Executive Order. (Exemption 1)

2. The withheld information relates solely to the internal personnel rules and procedures of NRC. (Exemption 2)

3. The withheld information is specifically exempted from public disclosure by statute indicated. (Exemption 3)

Sections 141-145 of the Atomic Energy Act, which prohibits the disclosure of Restricted Data or Formerly Restricted Data (42 U.S.C. 2161-2165).

Section 147 of the Atomic Energy Act, which prohibits the disclosure of Unclassified Safeguards Information (42 U.S.C. 2167).

4. The withheld information is a trade secret or commercial or financial information that is being withheld for the reason(s) indicated. (Exemption 4)

The information is considered to be confidential business (proprietary) information.

The information is considered to be proprietary information pursuant to 10 CFR 2.790(d)(1).

The information was submitted and received in confidence pursuant to 10 CFR 2.790(d)(2).

☒ 5. The withheld information consists of interagency or intraagency records that are not available through discovery during litigation. (Exemption 5). Applicable Privilege:

☒ Deliberative Process: Disclosure of predecisional information would tend to inhibit the open and frank exchange of ideas essential to the deliberative process. Where records are withheld in their entirety, the facts are inextricably intertwined with the predecisional information. There also are no reasonably segregable factual portions because the release of the facts would permit an indirect inquiry into the predecisional process of the agency.

Attorney work product privilege. (Documents prepared by an attorney in contemplation of litigation.)

Attorney-client privilege. (Confidential communications between an attorney and his/her client.)

☒ 6. The withheld information is exempted from public disclosure because its disclosure would result in a clearly unwarranted invasion of personal privacy. (Exemption 6)

7. The withheld information consists of records compiled for law enforcement purposes and is being withheld for the reason(s) indicated. (Exemption 7)

Disclosure could reasonably be expected to interfere with an enforcement proceeding because it could reveal the scope, direction, and focus of enforcement efforts, and thus could possibly allow recipients to take action to shield potential wrongdoing or a violation of NRC requirements from investigators. (Exemption 7 (A))

Disclosure would constitute an unwarranted invasion of personal privacy. (Exemption 7(C))

The information consists of names of individuals and other information the disclosure of which could reasonably be expected to reveal identities of confidential sources. (Exemption 7 (D))

OTHER

**PART II. C — DENYING OFFICIALS**

Pursuant to 10 CFR 9.25(b) and/or 9.25(c) of the U.S. Nuclear Regulatory Commission regulations, it has been determined that the information withheld is exempt from production or disclosure, and that its production or disclosure is contrary to the public interest. The persons responsible for the denial are those officials identified below as denying officials and the Director, Division of Information and Publications Services, Office of Administration, for any denials that may be appealed to the Executive Director for Operations (EDO).

| DENYING OFFICIAL | TITLE/OFFICE              | RECORDS DENIED | APPELLATE OFFICIAL |                                     |    |
|------------------|---------------------------|----------------|--------------------|-------------------------------------|----|
|                  |                           |                | EDO                | SECRETARY                           | IG |
| S. Joosten       | Executive Assistant, SECY | Appendix EE    |                    | <input checked="" type="checkbox"/> |    |
|                  |                           |                |                    |                                     |    |
|                  |                           |                |                    |                                     |    |
|                  |                           |                |                    |                                     |    |
|                  |                           |                |                    |                                     |    |
|                  |                           |                |                    |                                     |    |
|                  |                           |                |                    |                                     |    |

**PART II. D — APPEAL RIGHTS**

The denial by each denying official identified in Part II.C may be appealed to the Appellate Official identified there. Any such appeal must be made in writing within 30 days of receipt of this response. Appeals must be addressed, as appropriate, to the Executive Director for Operations, to the Secretary of the Commission, or to the Inspector General, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and should clearly state on the envelope and in the letter that it is an "Appeal from an Initial FOIA Decision."

ACTUAL PROCESSING FEES FOR FOIA-96-351

|                                                    |            |
|----------------------------------------------------|------------|
| Search -                                           | \$1,755.86 |
| SES at \$61.18 per hr. - 3 hrs. 10 mins.           |            |
| Professional at \$33.30 per hr. - 43 hrs.          |            |
| Clerical at \$15.79 per hr. - 8 hrs. 15 mins.      |            |
| Review -                                           | 2,051.36   |
| SES at \$61.18 per hr. - 6 hrs. 45 mins.           |            |
| Professional at \$33.30 per hr. - 48 hrs. 15 mins. |            |
| Clerical at \$15.79 per hr. - 2 hrs.               |            |
| Reproduction -                                     | 1,859.40   |
| \$ .20 per page - 9,297 pages                      |            |
| TOTAL                                              | \$5,666.62 |
| Advance Payment                                    | (5,715.85) |
|                                                    | (2,252.76) |
| REFUND                                             | \$2,301.99 |

APPENDIX EE  
RECORDS BEING WITHHELD IN PART

| <u>NO.</u> | <u>DATE</u> | <u>DESCRIPTION/(PAGE COUNT)/EXEMPTIONS</u>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
|------------|-------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 1.         | 06/03/94    | <p>Letter to Senator Biden, Jr., from I. Selin, responding to letter dated 5/18/94 (3 pages) <b>Already In PDR</b> with enclosures:</p> <ol style="list-style-type: none"><li>1. Detailed response to questions and concerns (30 pages) <b>Already In PDR</b></li><li>2. Undated enclosure to letter addressing restart issues (19 pages) <b>Already In PDR</b></li><li>3. 5/18/94 incoming letter to I. Selin, from Senator J. Biden (5 pages) <b>Already In PDR</b></li><li>4. 6/16/94 Technical Issue Summary No. RI-94-04 (2 pages) <b>Released</b></li><li>5. Letter to J. Wiggins from A. McMahon w/attached Undated letter to R. Dowling from W. Russell (5 pages) <b>Released</b></li><li>6. 5/18/94 E-mail from I. Selin to W. Beecher and L. Portner (1 page) <b>Ex. 5</b></li><li>7. Status of Major Issues Affecting Restart Activities at Salem-1 (22 pages) <b>Released</b></li></ol> |
| 2.         | 12/04/94    | <p>Letter to I. Selin from an individual, Subject: NRC violations at Salem Nuclear Plant, w/SECY control sheet with handwritten notes (3 pages) <b>EX. 6</b></p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |

SHAW, PITTMAN, POTTS & TROWBRIDGE

A PARTNERSHIP INCLUDING PROFESSIONAL CORPORATIONS

2300 N STREET, N.W.  
WASHINGTON, D.C. 20037-1128  
(202) 663-8000  
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(202) 663-8007

JOHN H. O'NEILL, JR. P.C.  
(202) 663-8148

August 30, 1996

FOIA/PA REQUEST

Case No. 96-351  
Date Rec'd: 9-3-96  
Action Off: Reed  
Related Case: \_\_\_\_\_

Director, Division of Freedom of  
Information & Publications Services  
Office of Administration  
U.S. Nuclear Regulatory Commission  
Two White Flint North Building  
11545 Rockville Pike  
Rockville, MD 20852

**Re: Freedom of Information Act Request Regarding the Salem Generating  
Station, Docket Nos. 50-272 and 50-311**

Dear Sir or Madam:

This is a Freedom of Information Act request pursuant to 5 U.S.C. § 552(a)(3) and 10 C.F.R. § 9.23. We request that you make available to Shaw, Pittman, Potts & Trowbridge the documents responsive to the attached Request for Production of Documents. These documents need to be made available as soon as possible to support depositions in an accelerated legal action. In order to expedite production of the documents, we have deliberately tailored this request to be narrow in scope and straightforward in the type of documents requested. We have already obtained copies of relevant documents presently available at the N.R.C. Public Documents Room and they need not be produced again in response to this request. Of course, we agree to bear the cost of this request as per 10 C.F.R. §§ 9.23(b)(4), 9.33, 9.39, and 9.40, and we authorize you to respond to this request piecemeal as documents become available. Please contact me at (202)663-8148, or William Hollaway at (202)663-8294, at your convenience if you have any questions regarding this request.

Please direct your response, pursuant to 10 C.F.R. § 9.27, to:

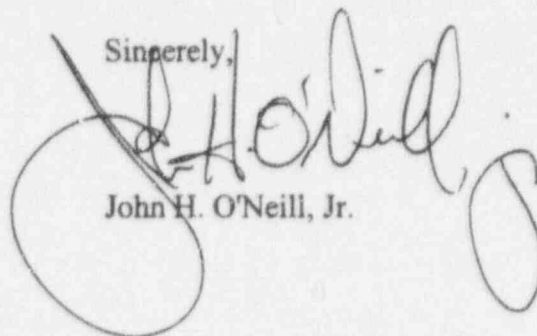
William R. Hollaway, Ph.D.  
Shaw, Pittman, Potts & Trowbridge  
2300 N Street, N.W.  
Washington, D.C. 20037-1128  
(202)663-8294  
Fax: (202)663-8007

96-351-313 9pp.

Director, Division of Freedom of Information and Publications Services  
August 30, 1996  
Page 2

Thank you for your cooperation in this matter.

Sincerely,

A handwritten signature in dark ink, appearing to read "John H. O'Neill, Jr.", with a large, stylized flourish at the end.

John H. O'Neill, Jr.

Attachment



## REQUEST FOR PRODUCTION OF DOCUMENTS

### **I. DIRECTIONS AND INSTRUCTIONS**

1. The term "NRC" means the United States Nuclear Regulatory Commission, all offices and/or branches thereof specifically including, but not limited to, headquarters in Rockville, Maryland and the Region I office in King of Prussia, Pennsylvania, and also includes all employees, consultants, agents, and representatives to the maximum extent permitted by 10 C.F.R. § 9.3, unless otherwise indicated by the request.
2. The term "Salem" means one or both units of the Salem Generating Station located in Hancocks Bridge, New Jersey and operated by the Public Service Electric and Gas Company.
3. The term "SAP" means the Salem Assessment Panel that was developed in 1995 specifically to review Salem Generating Station on an ongoing basis, including all members and supervisors thereof.
4. The term "PSE&G" refers the operator of Salem, Public Service Electric and Gas Company.
5. The term "PECO Energy" refers to PECO Energy Company, formerly known as Philadelphia Electric Company.
6. The term "Delmarva" refers to Delmarva Power & Light Company.
7. The term "Atlantic Electric" refers to Atlantic City Electric Company.
8. The term "SALP" means the Strategic Assessment of Licensee Performance, a comprehensive review of plant performance, performed for each plant on an 18-month cycle. The most recent SALP review for Salem was issued on January 3, 1995.
9. The term "Enforcement Action" means a civil penalty levied by the NRC against the licensees of Salem pursuant to single or multiple violations at Salem. The most recent Enforcement Action regarding Salem was issued on October 16, 1995.
10. The term "AIT" means the Augmented Inspection Teams that performed investigations of Salem in 1992, 1993, and 1994, including all members and supervisors thereof.
11. The term "SIT" means the Special Inspection Team that performed an investigation of Salem in 1995, including all members and supervisors thereof.

12. The term "PA" means the comprehensive Performance Assessment evaluation of Salem performed in July-August, 1995 to aid in focusing future NRC inspection resources at Salem.
13. The term "Confirmatory Action Letter" means the letter from the NRC to PSE&G on June 9, 1995 confirming PSE&G commitments to take specific actions prior to the restart of Salem and confirming that failure to take these actions may result in enforcement action.

## **II. DOCUMENTS REQUESTED**

1. All documents concerning the NRC's Salem Assessment Panel ("SAP") established on August 2, 1995, especially including but not limited to:
  - a. All internal NRC discussions concerning the formation and purpose of the SAP;
  - b. Transcripts, meeting minutes, summaries, and handouts of all meetings of the SAP;
  - c. Lists of attendees at all meetings of the SAP;
  - d. All materials presented to the SAP;
  - e. All notes taken during presentations and meetings of the SAP;
  - f. All reports or memoranda of the SAP;
  - g. All reports or memoranda written by any members of the SAP concerning Salem.
2. All documents concerning the NRC's Systematic Assessment of Licensee Performance ("SALP") reviews of Salem from 1990 through the present, especially including but not limited to:
  - a. Transcripts, meeting minutes, summaries, and handouts of all NRC meetings on the Salem SALP reports;
  - b. Lists of attendees at all meetings on the Salem SALP reports;
  - c. Variances, differences or changes between consecutive Salem SALP reports;
  - d. Internal NRC discussions about interim drafts of the Salem SALP reports;
  - e. Internal NRC discussions about final drafts of the Salem SALP reports;



- f. Internal NRC discussions about variances, differences or changes between interim reports and the final Salem SALP reports;
  - g. The basis for each of the findings in the Salem SALP reports;
  - h. Region I's knowledge of issues raised in the Salem SALP reports;
  - i. Region I's knowledge of PSE&G's plans to address issues raised in the various Salem SALP reports;
  - j. Internal Region I discussions concerning the findings and conclusions expressed in the Salem SALP reports;
  - k. Whether NRC or Region I ever expressed any concerns about poor or declining performance or the like to PSE&G related to the Salem SALP reports;
  - l. Communications between NRC and Region I personnel concerning consistencies or inconsistencies between the various Salem SALP reports;
  - m. All documents setting forth or discussing the deliberations and considerations of the SALP boards reviewing Salem performance from 1990 to the present;
  - n. To the extent not covered by previous requests, all other documents regarding the Salem SALP reports.
3. All documents concerning potential and actual NRC enforcement actions regarding Salem from 1990 to the present, including but not limited to:
- a. Transcripts, meeting minutes, summaries, and handouts from all Enforcement Conferences concerning Salem between NRC and PSE&G, including but not limited to meetings on February 2, 1992; April 9, 1992; April 6, 1993; February 1, 1994; July 28, 1994; February 10, 1995; June 1, 1995; June 23, 1995; July 13, 1995; and July 28, 1995;
  - b. Lists of attendees at all Enforcement Conferences concerning Salem between NRC and PSE&G;
  - c. Transcripts, meeting minutes, summaries, and handouts from all internal NRC meetings concerning enforcement actions regarding Salem;
  - d. Lists of attendees at all internal NRC meetings concerning enforcement actions regarding Salem;
  - e. Communications with PSE&G concerning potential and actual NRC enforcement actions regarding Salem;

- f. Communications with others concerning potential and actual NRC enforcement actions regarding Salem, especially including but not limited to PECO Energy, Delmarva, and Atlantic Electric;
  - g. Internal NRC discussions concerning potential NRC enforcement actions regarding Salem;
  - h. Internal NRC discussions concerning actual NRC enforcement actions regarding Salem, including but not limited to the \$50,000 civil penalty issued March 9, 1994; the \$500,000 civil penalty issued October 5, 1994; \$80,000 civil penalty issued April 11, 1995; and the \$600,000 civil penalty issued October 16, 1995;
  - i. The basis and rationale for taking each of the enforcement actions regarding Salem;
  - j. Internal NRC discussions about drafts of the enforcement actions regarding Salem;
  - k. Internal NRC discussions concerning the findings and conclusions expressed in the enforcement actions regarding Salem;
  - l. Internal NRC discussions concerning PSE&G's responses to each of the enforcement actions regarding Salem;
4. All documents concerning meetings between the NRC and PSE&G management or Board of Directors concerning the performance of Salem from 1990 to the present, including but not limited to:
- a. Transcripts, meeting minutes, summaries, and handouts from all meetings, including but not limited to meetings on June 25, 1992; July 1, 1992; October 10, 1992; July 16, 1993; July 18, 1993; August 6, 1993; May 7, 1994; March 20, 1995; March 21, 1995; April 3, 1995; June 5, 1995; and May 24, 1996;
  - b. Lists of attendees at all such meetings;
  - c. Communications with PSE&G concerning such meetings;
  - d. Communications with others concerning such meetings, especially including but not limited to PECO Energy, Delmarva, and Atlantic Electric;
  - e. Internal NRC discussions concerning such meetings.
5. All documents concerning the NRC Augmented Inspection Team ("AIT") investigations of incidents at Salem from November 11-December 3, 1991; December 14-23, 1992; June 5-28, 1993; and around April 1994, including but not limited to:

- a. Transcripts, meeting minutes, summaries, and handouts from all AIT meetings regarding Salem;
  - b. Lists of attendees at all AIT meetings regarding Salem;
  - c. Communications with PSE&G concerning the AIT investigations at Salem and AIT meetings regarding Salem;
  - d. Communications with others concerning the AIT investigations at Salem and AIT meetings regarding Salem, especially including but not limited to PECO Energy, Delmarva, and Atlantic Electric;
  - e. Internal NRC discussions concerning the AIT meetings regarding Salem;
  - f. The reasons why the NRC decided to do the AIT investigations at Salem.
  - g. The basis for each of the findings in the AIT reports of investigations at Salem;
  - h. Notes taken by inspectors during and after the AIT investigations at Salem;
  - i. Internal NRC discussions about interim drafts of the AIT reports of investigations at Salem;
  - j. Internal NRC discussions about final drafts of the AIT reports of investigations at Salem;
  - k. Internal NRC discussions concerning the findings and conclusions expressed in the AIT reports of investigations at Salem.
6. All documents concerning the NRC Special Inspection Team ("SIT") review of Salem performance from March 26-May 12, 1995, including but not limited to:
- a. Transcripts, meeting minutes, summaries, and handouts from all SIT meetings regarding Salem;
  - b. Lists of attendees at all SIT meetings regarding Salem;
  - c. Communications with PSE&G concerning the SIT investigation at Salem and SIT meetings regarding Salem;
  - d. Communications with others concerning the SIT investigation at Salem and SIT meetings regarding Salem, especially including but not limited to PECO Energy, Delmarva, and Atlantic Electric;
  - e. Internal NRC discussions concerning the SIT meetings regarding Salem;

- f. The reasons why the NRC decided to perform the SIT investigation at Salem;
  - g. The basis for each of the findings in the SIT report regarding Salem;
  - h. Notes taken by inspectors during the SIT investigation at Salem;
  - i. Internal NRC discussions about interim drafts of the SIT report regarding Salem;
  - j. Internal NRC discussions about final drafts of the SIT report regarding Salem;
  - k. Internal NRC discussions concerning the findings and conclusions expressed in the SIT report regarding Salem.
7. All documents concerning the NRC's Performance Assessment ("PA") review of Salem from July 11-August 25, 1994, including but not limited to:
- a. Transcripts, meeting minutes, summaries, and handouts from all meetings concerning the PA review regarding Salem;
  - b. Lists of attendees at all meetings concerning the PA review regarding Salem;
  - c. Communications with PSE&G concerning the PA review and PA review meetings regarding Salem;
  - d. Communications with others concerning the PA review and PA review meetings regarding Salem, especially including but not limited to PECO Energy, Delmarva, and Atlantic Electric;
  - e. Internal NRC discussions concerning the PA review meeting regarding Salem;
  - f. The reasons why the NRC decided to do a PA review regarding Salem;
  - g. The basis for each of the findings in the report regarding the PA review regarding Salem;
  - h. Notes taken during the PA review regarding Salem;
  - i. Internal NRC discussions about interim drafts of the PA review report regarding Salem;
  - j. Internal NRC discussions about final drafts of the PA review report regarding Salem;
  - k. Internal NRC discussions concerning the findings and conclusions expressed in the PA review report regarding Salem.

8. All documents concerning the Confirmatory Action Letter of June 9, 1995 (CAL No. 1-95-009), including but not limited to:
  - a. Communications with PSE&G concerning the Confirmatory Action Letter;
  - b. Communications with others concerning the Confirmatory Action Letter, especially including but not limited to PECO Energy, Delmarva, and Atlantic Electric;
  - c. Internal NRC discussions concerning the Confirmatory Action Letter;
  - d. Discussions with Region I concerning non-final drafts of the Confirmatory Action Letter;
  - e. Discussions with Region I concerning final drafts of the Confirmatory Action Letter;
  - f. Region I's knowledge of the issues raised in the Confirmatory Action Letter;
  - g. Region I's knowledge of PSE&G's plans to address issues raised in the Confirmatory Action Letter.

348574-01 / DOCSDCI