

U.S. NUCLEAR REGULATORY COMMISSION

DOCKET NOS. 50-272, 50-311, 50-354, AND 50-219

LICENSE NOS. DPR-70, DPR-75, NPF-57, AND DPR-16

PSEG NUCLEAR, LLC AND AMERGEN ENERGY COMPANY, LLC

NOTICE OF ISSUANCE OF DIRECTOR'S DECISION UNDER 10 CFR 2.206

Notice is hereby given that the Director, Office of Nuclear Reactor Regulation, has issued a Director's Decision with regard to a letter dated September 17, 2001, filed by the UNPLUG Salem Campaign, hereinafter referred to as the "petitioner." The petition was supplemented on January 9 and 10, 2002. The petition concerns the operation of the Salem Nuclear Generating Station, Unit Nos. 1 and 2 (Salem), Hope Creek Generating Station (Hope Creek), and Oyster Creek Nuclear Generating Station (Oyster Creek).

The petitioner requested that the U.S. Nuclear Regulatory Commission (Commission or NRC) take the following actions:

- (1) Order either the closure of, or an immediate security upgrade at, the Salem, Hope Creek, and Oyster Creek.
- (2) Order the plants' defenses to be upgraded to withstand a jet crash similar to that which occurred at the World Trade Center (WTC) on September 11, 2001.
- (3) Require all spent fuel pools to be brought into the containment buildings, or a new containment building, able to withstand a jet crash, should be built for them.
- (4) Cancel all plans for a dry cask storage at any of New Jersey's plants until a jet-bomber-proofed containment is built for them.
- (5) Triple the number of Operational Safeguards Response Evaluation (OSRE) security inspections.

(6) Cancel proposals to allow nuclear plants to conduct their own security inspections.

As a basis for the request described above, the Petitioner cited the terrorist attacks on September 11, 2001, stating that New Jersey's four nuclear power plants are vulnerable to terrorist threats, including a suicide airplane attack similar to the attack on the WTC. The UNPLUG Salem Campaign considers such operation to be potentially unsafe and to be in violation of Federal regulations.

On December 7, 2001, the NRC staff informed the Petitioner in a telephone call that the Commission had decided to treat the letter dated September 17, 2001, as a petition pursuant to Section 2.206 of Title 10 of the *Code of Federal Regulations* (10 CFR 2.206). In addition, the NRC staff informed the Petitioner that because the September 17, 2001, letter raised sensitive security issues, the Commission was deferring application of certain public aspects of the process described in Management Directive (MD) 8.11, "Review Process for 10 CFR 2.206 Petitions," pending further developments related to the NRC's security review. Accordingly, the NRC staff did not offer the Petitioner the opportunity to provide, in a public forum, additional information to support the September 17, 2001, letter before the NRC's Office of Nuclear Reactor Regulation (NRR) Petition Review Board (PRB). Rather, the NRC staff requested that the Petitioner forward any additional information related to the petition to the assigned petition manager.

By an acknowledgment letter dated December 20, 2001, the NRC staff formally notified the Petitioner that the letter dated September 17, 2001, met the criteria for review under 10 CFR 2.206, and that the NRC staff would act on the request within a reasonable time. The acknowledgment letter further stated that the Commission had, in effect, partially granted the Petitioner's request for immediate actions in that the NRC took action immediately after September 11, 2001, to enhance security at all nuclear facilities, including the four nuclear power plants located in New Jersey. The NRC staff also informed the Petitioner in the

acknowledgment letter that the issues raised in the petition were being referred to NRR for appropriate action.

The Petitioner responded to the acknowledgment letter by electronic mail on January 9 and 10, 2002, and provided additional information that the staff considered in its evaluation of the petition. When the NRC received the Petitioner's original letter and additional information, it was determining the criteria for releasing security-related information in light of the events of September 11, 2001. As such, certain correspondence was initially withheld from the public document room due to the potential for sensitive, security-related information to be contained in these documents. With the exception of one report, the Petitioner's incoming letter and subsequent correspondence are now publicly-available.

The NRC sent a copy of the proposed Director's Decision to the Petitioner and to licensees for comment on May 16, 2002. The Petitioner responded with comments on August 4 and 7, 2002, and PSEG Nuclear LLC (PSEG) responded on June 21, 2002. The comments and the NRC staff's response to them are included with the Director's Decision.

The Petitioner raised a number of issues associated with protecting our nation's nuclear power plants from terrorism. However, long before the tragic events of September 11, 2001, the Commission had recognized the need for strict safeguards and security measures at these facilities. NRC regulations have ensured that nuclear power plants are among the most hardened and secure industrial facilities in our nation. Since September 11, 2001, the NRC has directed a number of security enhancements at nuclear power plants to address the continuing threat environment. The Congress, as well as other Federal, State, and Local governmental authorities involved in protecting public health and safety, have also responded to protect all industrial facilities, both nuclear and non-nuclear, against terrorism. The Director of the Office of Nuclear Reactor Regulation has determined that the Commission has, in effect, partially granted certain elements of the Petitioner's request for increased security at Salem, Hope

Creek, and Oyster Creek to the extent that many of the Petitioner's requests were included within the scope of Orders issued to all nuclear power plants on February 25, 2002, and are a part of the NRC staff's comprehensive review to evaluate the agency's security and safeguards programs. The reasons for this decision are explained in the Director's Decision pursuant to 10 CFR 2.206 DD-02-03, the complete text of which is available for inspection at the Commission's Public Document Room, located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland, or from the ADAMS Public Library component on the NRC Web site, <http://www.nrc.gov/reading-rm.html> (the Public Electronic Reading Room). Documents associated with this Director's Decision may be found in ADAMS by referencing Package Accession No. ML022470404, or individually as follows: (1) Director's Decision, ML022470314; (2) UNPLUG Salem response dated August 4, 2002, ML022480149; (3) Union of Concerned Scientists letter dated August 7, 2002, ML022480163; (4) PSEG letter dated June 21, 2002, ML022480173; and (5) Memorandum to Ledyard Marsh, "Staff Response to Comments on Proposed Director's Decision," ML022470402.

A copy of the Director's Decision will be filed with the Secretary of the Commission for the Commission's review in accordance with 10 CFR 2.206 of the Commission's regulations. As provided for by this regulation, the Director's Decision will constitute the final action of the Commission 25 days after the date of the decision, unless the Commission, on its own motion, institutes a review of the Director's Decision in that time.

Dated at Rockville, Maryland, this 1st day of November 2002.

FOR THE NUCLEAR REGULATORY COMMISSION

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Jon R. Johnson, Deputy Director  
Office of Nuclear Reactor Regulation