



PENNSYLVANIA  
PUBLIC UTILITY COMMISSION  
Harrisburg, PA 17120

Public Meeting held August 20, 1987

Commissioners Present:

Bill Shane, Chairman  
Linda C. Taliaferro  
Frank Fischl  
William H. Smith



Pennsylvania Public Utility  
Commission

Docket No. I-870051  
P-870230  
M-870140

v.

Philadelphia Electric Company

O R D E R

BY THE COMMISSION:

Before us for consideration are several matters related to the current shutdown of Units 2 and 3 of the Peach Bottom Atomic Power Station (Peach Bottom) operated by Philadelphia Electric Company (PECO). On March 31, 1987, the United States Nuclear Regulatory Commission (NRC) issued an "Order Suspending Power Operation and Order to Show Cause," effective upon issuance, which required cessation of operations of Units 2 and 3 of Peach Bottom. This action was precipitated in part by the incident of March 24, 1987 involving Peach Bottom control room operators sleeping while on duty. The NRC Order also stated Peach Bottom management knew or should have known of the operators' inattention to licensed duties. The Order further recited additional past instances of "inattention to duty or failure to adhere to procedures" (Order, p. 2) during the 1980's, several resulting in civil penalties, and stated in general "the enforcement history at Peach Bottom regarding adherence to procedures and attention to duty has been poor." (Order, p. 4). Given these occurrences, the NRC indicated that continued operation of Peach Bottom would be an immediate threat to public health and safety.

In addition to ordering immediate cessation of operation, the NRC required PECO to provide a description of actions to insure procedures compliance while shut down. The NRC also required a detailed plan and schedule to assure safe operation and compliance with all requirements before operation of either unit could resume. Finally, PECO had the opportunity to respond to the Order, indicating whether it should be modified in any manner. While these matters are within the NRC's jurisdiction, rather than before this Commission, we share the concern for safe operation of Peach Bottom and, based on similar investigations, anticipate a thorough and necessarily time-consuming review by the NRC. Thus it appears without question that Peach Bottom Units 2 and 3 will not be in operation for a substantial period of time.

On June 8, 1987, the Office of Consumer Advocate (OCA) filed with us a Petition "For An Investigation Pursuant To Section 1322 With Respect To Outages At The Peach Bottom Nuclear Generating Station."<sup>1/</sup> The OCA points out the Commission may examine the prudence of management and operations of Peach Bottom pursuant to 66 Pa.C.S. §§331, 1307 and 1322. (Petition, p. 6). If the outage was caused by unreasonable or imprudent utility management, then PECO is prohibited (by 66 Pa.C.S. §1322(a)) from recovering the excess energy costs of replacement power, as further defined in the statutory section. The OCA requests the Commission undertake an investigation into the outage; that we order an accounting of replacement power costs; and, that we direct that PECO shall have the burden of proof in the investigation. (Petition, pp. 8-9). On June 11, 1987, the Commission's Office of Trial Staff (OTS) filed an Answer to the OCA Petition, generally supporting the OCA position. And on June 15, 1987, the Philadelphia Area Industrial Energy Users Group (PAIEUG) filed a Petition to Intervene in any proceedings.

The OTS filed a "Petition to Modify ECRF Filing" on June 19, 1987. The OTS requested modification of the ECRF to reflect a credit of 10.629 mills per kwh. Its reasons were twofold: 1) PECO should not be permitted to recover replacement power costs associated with the Peach Bottom outage; 2) PECO should not be permitted to refund a prior period overcollection over a period of any more than twelve months.<sup>2/</sup> On July 6, 1987, PECO filed an Answer to the OCA Petition, "officially" stating therein that PECO would not seek to recover from ratepayers replacement power costs attributable to the outage time "whose sole and proximate cause was the NRC Order." (Answer, p. 2). Finally, at public meeting of June 25, 1987, the Commission approved an adjustment to PECO's Energy Cost Rate Factor (ECRF), effective for service rendered from July 1, 1987 through June 30, 1988. The Commission action was reflected in a Secretarial Letter of June 26, 1987 to PECO. The modified ECRF established a credit of 10.457 mills per kwh, representing a reduction from the credit of 8.627 mills per kwh as proposed by PECO in its ECRF-2 filing of June 1, 1987.

There were several bases for the ECRF modification made by the Commission. One was an adjustment reflecting energy costs based on April, 1987 fossil fuel price levels, instead of the higher projections

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<sup>1/</sup> "Section 1322" refers to 66 Pa.C.S. §1322, which requires that a utility notify the Commission of extended base load generating plant outages, prohibits utility recovery of certain energy costs due to unreasonable or imprudent outages, and allows investigation when a base load plant operates at less than 50% of its potential over twelve months.

<sup>2/</sup> The Commission's approved ECRF-2 adjustments do allow refunding of the overcollection over a twenty-four month period.

PECO had used. Another adjustment was assuming generating levels at Peach Bottom Units 2 and 3 to be at 82.4% and 50.0% of capacity, respectively, which was higher for Unit 3 than estimated by PECO. The modification also included an adjustment removing \$5,852,425 calculated to be the costs of replacement power, due to the NRC imposed outage, for the month of April 1987. Adjustments were also made to recognize supplemental energy costs and associated sales. Further, future ECRF calculations were to reflect average nuclear generation at 60-70% of total system nuclear capacity (subject to annual review and possible adjustment) and were to incorporate an estimate of supplemental energy costs and associated sales under PECO's "Night Service HT Rider."

PECO filed a Response to the Secretarial Letter on July 10, 1987. It did not object to an adjustment for the April, 1987, replacement power costs, but did object to the level of such costs as set forth in the Secretarial Letter. PECO also did not object to the adjustments to eliminate supplemental energy costs and associated sales, nor the requirements of estimates of such costs and sales in future ECRF filings. (Answer, footnote, p. 3). In essence, PECO objected to everything else in the Secretarial Letter and requested an immediate ECRF-2 adjustment to reflect a credit of 8.902 mills per kwh.<sup>3/</sup> As an alternative, PECO requested that appropriate modifications be made to the currently-approved ECRF-2 rate after investigation and hearings.

The Petition submitted by the OCA presents serious issues of concern to this Commission, which we believe are best developed and examined by means of a formal, on the record proceeding. These issues concern the circumstances of the outage, the amount of any costs occasioned by the outage, the prudence of those costs, and whether any or all of those costs are properly recoverable from PECO's ratepayers. The Commission has recognized these issues and others in making its modification to the ECRF-2. As noted above, however, PECO in turn has objected to a number of bases for that modification. Since PECO itself has requested hearings (at least as an alternative to immediate modification of the ECRF-2), we believe the issues of prudence and reasonableness of management activity leading to the Peach Bottom shutdown, the appropriate level of replacement power costs, and the bases for Commission adjustment to the ECRF-2 (to the extent contested by PECO) should all be consolidated in one proceeding. Of course PECO wishes that its objections to the ECRF-2 be dealt with during the current ECRF period. Conversely, logic dictates that the cost of replacement power will not be known until the outage has ended. In light of PECO's public statements, it appears that PECO recognizes its ratepayers should not be liable for the costs of replacement power. Thus it should be possible for all parties to this proceeding to stipulate to the prudence and reasonableness questions. If this is not possible to the full extent, then any contested issues should be addressed in this proceeding. Therefore, we hereby open an investigation into these matters and refer the proceeding to the Office of Administrative Law Judges for hearing and recommended decision.

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<sup>3/</sup> This is a greater credit than PECO's June 1, 1987 filing in that it includes a portion of what the Commission contends were April, 1987 replacement power costs.

We believe the PAIEUG has a real and considerable interest in these matters and will grant it intervenor status. OCA has requested that we specifically resolve the issue of burden of proof. We have previously so directed in a similar proceeding, the "Show Cause Order" entered October 7, 1983 in our investigation of the Salem Nuclear Generating Station outage, P-830453. We will reaffirm that by stating the burden is on PECO to establish that any incremental costs which may have occurred as the result of the outage should be charged to and recovered from ratepayers, as well as establishing the appropriate level of such costs and any reasons for PECO's proposed changes to the currently approved ECRF-2 rate levels.

As noted above, the OCA has requested a PECO accounting for replacement power costs. Such accounting is essential for Commission review of the currently approved ECRF-2 rates pursuant to the provisions of the Secretarial Letter as well as the investigation we are hereby opening. Therefore, we direct PECO to set the following tracking procedures in place:

- 1) A log of hourly costs must be maintained for the last 900 mw of supply in the loading order for each hour. This log must be blocked in 50 mw increments and must show the source(s) and unit costs. A unit price for each block must be determinable.
- 2) A log of weekly capacity offers, requests and reservations must be maintained, as well as the related transactions that occur.
- 3) The log required in paragraph two must reflect both the independent efforts of PECO and of the Pennsylvania-New Jersey-Maryland pool (PJM) as agent to obtain replacement power.
- 4) A log of import capability by tie line resource must be maintained and reflect the PECO portion available to use and its actual utilization for the duration of the outage.
- 5) This information should be reported monthly to the Commission Bureau of AUDITS and Bureau of CEEP in order to ensure complete monitoring of the costs of this outage.

The above information should be supplied from the initiation of the outage on March 31, 1987. The information should be supplied on 5 1/4" IBM (R) formatted "floppy disks," using either a LOTUS(R), ASCII(R) or EEI(R) format. A "hard copy" summary of such data should be supplied to active participants in this proceeding.

We thus conclude that an on-the-record investigation of the above issues pertaining to the shutdown of Peach Bottom Units 2 and 3 at this time is appropriate and necessary; THEREFORE,

IT IS ORDERED:

1. That the Petition of the Office of the Consumer Advocate for an investigation pursuant to 66 Pa. C.S. §§331, 1307 and 1322 with regard to the outage at Units 2 and 3 of the Peach Bottom Atomic Power Station is hereby granted;
2. That the Petition to Intervene of the Philadelphia Area Industrial Energy Users Group is hereby granted;
3. That the Philadelphia Electric Company be required to bear the burden of proof in this investigation regarding whether it should be permitted to charge ratepayers the incremental cost of replacing Peach Bottom Units 2 and 3 generation with more expensive power as the result of the March 31, 1987 outage. Further, the Philadelphia Electric Company must demonstrate why any of the Commission adjustments to the Energy Cost Rate Factor number two, as indicated in the Secretarial Letter of June 26, 1987, should be changed.
4. That this investigation be referred to the Office of Administrative Law Judges for hearing and recommended decision; and,
5. That a copy of this Order shall be served upon all formal complainants or intervenors in the investigation at Docket No. P-870230 and, upon all complainants to Philadelphia Electric Company's Energy Cost Rate Factor Two at Docket No. M-870140.

BY THE COMMISSION,



Jerry Rich  
Secretary

(SEAL)

ORDER ADOPTED: August 20, 1987

ORDER ENTERED: September 3, 1987