

November 16, 1981

Lawrence Brenner, Esq., Chairman
Administrative Judge
U.S. Nuclear Regulatory Commission
Washington, DC 20555

Dr. Richard F. Cole
Administrative Judge
U.S. Nuclear Regulatory Commission
Washington, DC 20555

Dr. Peter A. Morris
Administrative Judge
U.S. Nuclear Regulatory Commission
Washington, DC 20555



In the Matter of
Philadelphia Electric Company
(Limerick Generating Station, Units 1 and 2)
Docket Nos. 50-352, 50-353

Dear Members of the Board:

By its letter to the Board of November 10, 1981, the NRC Staff indicated, inter alia, that it intended to file an answer to the amended petition to intervene of Friends of the Earth (FOE). The Staff has since determined that its position that FOE has adequately demonstrated its interest to intervene on behalf of its members is unchanged and there is no need to file a responsive pleading to FOE's amended petition. The Staff does, however, wish to offer the following comments on ambiguities in FOE's petition and amendment and on the arguments raised in "Applicant's Answer to Supplemental Petitions and Information Filed by Intervenors in Response to Licensing Board Order of October 14, 1981" (at 4-6).

Applicant notes that affiant Anne S. McIndoo did not become a member of FOE until after submitting her affidavit. FOE has acknowledged this fact, but it does not detract from the adequacy of the demonstration of the interest of other individual members of FOE in the results of this proceeding. Both Mr. and Mrs. Anthony have adequately set forth their interests and that they are members of FOE. Ms. Kathleen O'Leary, Chairperson of Friends of the Earth in the Delaware Valley, has also briefly set forth her interest and has stated that FOE's Board of Directors has authorized its intervention in this proceeding and its representation by Mr. Anthony. As previously argued by the Staff ("NRC Staff Response to Petitions to Intervene and Request for Hearing..." (October 8, 1981) at 7-9), these statements are sufficient to establish FOE's standing to intervene in this proceeding on behalf of its members.

FOE's statement in its amended petition that only two of the seventeen affidavits attached to its initial petition were by members of FOE, has,

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however, raised matters requiring clarification by FOE. If FOE intends to represent in this proceeding the interests of the fifteen non-member affiants, the interests of those individuals in the result of this proceeding must be more specifically stated. Long Island Lighting Co. (Shoreham Nuclear Power Station, Unit 1), LBP-77-11, 5 NRC 481, 483-84 (1977); Allied-General Nuclear Services (Barnwell Fuel Receiving and Storage Station), LBP-75-60, 2 NRC 687, 690 (1975). We note, however, that FOE has also provided in its amended petition a list of FOE members residing within nine miles of the Limerick facility. If FOE intends to confine itself to representation of its members, it should so state.

As stated above, the Staff believes the petition of FOE already establishes its standing to intervene on behalf of its members. The Board should, however, direct FOE to clarify whether it intends to limit its representation to its members or also to represent identified non-members. In the event FOE does intend to represent identified non-members, the Board should require it to file the amended affidavits described in this letter.

Sincerely,

Stephen H. Lewis
Counsel for NRC Staff

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