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August 13, 1982

ROBERT J. SUGARMAN
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Mr. Harold Denton
Director, Office of Nuclear Reactor Regulation
Nuclear Regulatory Commission
Washington, D.C. 20555

Dear Mr. Denton:

Thank you for your letter of August 4, 1982, regarding the construction impacts of "Point Pleasant" construction activities presently planned by PECO, alone and with others, in connection with the Limerick Generating Station. As indicated in our initial Request, these activities encompass the Point Pleasant pumping station and the associated intake, some seven miles of transmission mains, a seventy million gallon reservoir, and associated pumping facilities.

While I appreciate your response, I would point out that the issue involved is really very simple: these matters, though essential to Limerick, have never been the subject of an NRC review, and yet are scheduled for construction in the near future. If there was any doubt at all on this point, Mr. Vincent Boyer, Vice President of Philadelphia Electric, removed such doubt in his testimony in deposition on August 6, 1982, where he stated that the plant cannot be fuel loaded without the availability of the supplemental cooling water sources, much less operated commercially.

Thus, the question is, can a nuclear generating station be permitted to include construction of essential facilities which have never been the subject of a construction permit proceeding? Put another way, can a construction permit justify activities which were not disclosed in the application? I submit that the answer to this is clear as a matter of law, and does not require extended inquiry.

By the same token, while I appreciate the staff inquiry of July 9, 1982, directed to the applicant, and undoubtedly part of your response, I would also call your attention to the fact that, as brought out in my letter of July 16, 1982,

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the staff inquiry is not directed toward the basic question, whether the proposed supplemental cooling water facilities described above may legally be implemented by Philadelphia Electric Company without having been included as such in the construction permit, or without being separately permitted.

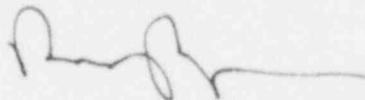
It is our position, of course, that they cannot be carried on, and therefore it is obvious unless and until such activities, or substitute supplemental cooling water activities are reviewed as amendments or changes to the CP proceeding, the construction of the Limerick plant is inappropriate, inasmuch as the supplemental cooling water is required for its operation.

With these clear legal issues, the next question becomes, what is gained by waiting until close to the inception of construction to rule? The answer is, clearly, nothing legitimate is gained thereby. To the extent that such delay will render it more difficult to substitute other supplemental cooling water supply systems, the delay can only be counterproductive for all parties: Philadelphia Electric could incur added cost through delay, and my clients could very well be prejudiced in obtaining full consideration of the supplemental cooling water system due to time constraints. While I would certainly submit that any such prejudice would be inappropriate, given the duty of the utility to inform the Commission in the first place, and the Commission's delay in responding, since the matter was brought to its attention in October and November 1981 via our briefs, if not earlier (in November 1980 by the Environmental Protection Agency and DRBC), there can no doubt be a practical prejudice even though illegitimate.

Therefore, I strongly urge you to immediately institute the requested proceeding to deal with this matter, and if you are not prepared to issue an Order as a matter of law at this time, I urge that you recommend that the matter be referred to the ALSB which is hearing the operating license proceeding so that it may join its consideration of the operating impacts of the supplemental cooling water facility with the construction impact questions which I have identified.

Again, thank you for your consideration.

Sincerely,



Robert J. Sugarman

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