

September 1, 1982

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In the Matter of
PHILADELPHIA ELECTRIC COMPANY
(Limerick Generating Station, Units 1 and 2)
Docket Nos. 50-352 and 50-353

Gentlemen:

By Order dated August 23, 1982 (copy attached) the Atomic Safety and Licensing Board presiding over the Limerick proceeding directed the Applicant, and encouraged the NRC Staff and Del-Aware, to advise the Board of

the status of reviews being performed by other agencies of the intake and associated pump station and Bradshaw Reservoir, including whether permits or other forms of approval from the agencies are required before construction and operation of the intake, pump station and reservoir can begin. Order, at 3.

This information is to be provided as part of the parties' trial briefs to be filed on September 20, 1982.

In order to provide the Board and parties with the most direct information on the status of reviews and permitting activities for the Point Pleasant Diversion Project, the NRC Staff requests that each of you send us a statement of the status of these activities before your respective agencies. Please send your statements to: Stephen H. Lewis, Esq., Office of the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. So that counsel for Philadelphia Electric Company and

DESIGNATED ORIGINAL

Certified By K. J. [Signature]
[Signature]

Del-Aware may also have the benefit of your statements in preparing their trial briefs, please also send copies of your statements to:

Robert J. Sugarman, Esq.
Sugarman & Denworth
Suite 510
North American Building
121 South Broad Street
Philadelphia, PA 19107

and

Troy B. Conner, Jr., Esq.
Conner & Wetterhahn, P.C.
1747 Pennsylvania Avenue, N.W.
Washington, D.C. 20006

We would be most appreciative if you could transmit your statements by September 10, 1982, so that we may append them to our trial brief. Your assistance will be very valuable in the development of an informed record before the Board.

Sincerely,

Stephen H. Lewis
Counsel for NRC Staff

Enclosure: Memorandum and Order
(Providing for Filings Relating to
Testimony On Supplementary Cooling
Water System Contentions) dated
August 23, 1982

cc w/o enclosure:
Lawrence J. Brenner
Dr. Richard F. Cole
Dr. Peter A. Morris
Troy B. Conner, Jr., Esq.
Robert J. Sugarman, Esq.

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UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

ATOMIC SAFETY AND LICENSING BOARD

BEFORE ADMINISTRATIVE JUDGES

Lawrence Brenner, Chairman
Dr. Richard F. Cole
Dr. Peter A. Morris

In the Matter of

PHILADELPHIA ELECTRIC COMPANY

(Limerick Generating Station,
Units 1 and 2)

Docket Nos. 50-352
50-353

August 23, 1982

MEMORANDUM AND ORDER

(Providing for Filings Relating to Testimony
On Supplementary Cooling Water System Contentions)

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Lewis/Hodgdon
Chan/Chandler
Rutberg
FF

Pursuant to the schedule proposed by the parties and approved by the Board in our order of July 13, 1982, the evidentiary hearing on Del-Aware's three supplementary cooling water system contentions admitted by the Board will be held on October 4-8, 1982. The three^{1/}

1/ Contention V-14, originally admitted as rewritten at p. 87 of the SPCO along with the three other contentions was later rejected upon reconsideration by the Board in our July 14, 1982 memorandum and order (pp. 4-5) ruling on objections to the SPCO.

In addition, the Board now has before it Del-Aware's Application for Reconsideration dated August 8, 1982. The outcome of our ruling on this motion could affect the status of the previously rejected portion of Contention V-16 alleging that there will be a salinity increase which will adversely affect water quality as a result of water withdrawal from the Delaware. See, SPCO at pp. 70-71, 95-97, and the July 14, 1982 order at pp. 18-19. Applicant's answer was filed on August 19, 1982. The NRC Staff, by telephone notification on August 19, was directed to file its response to Del-Aware's motion so that it is received by the Board by August 27, 1982.

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contentions, as rewritten by the Board in our Special Prehearing Conference Order (SPCO), LBP-82-43A, 15 NRC _____, slip op. at 87, (June 1, 1982), are:

Contentions V-15 and V-16a (in part) - The intake will be relocated such that it will have significant adverse impact on American shad and short-nosed sturgeon. The relocation will adversely affect a major fish resource and boating and recreation area due to draw-down of the pool.

Contention V-16a - Noise effects and constant dredging maintenance connected with operations of the intake and its associated pump station will adversely affect the peace and tranquility of the Point Pleasant proposed historic district.

Contention V-16b - Seepage of water and toxics from Bradshaw Reservoir will cause a risk of groundwater contamination and hydraulic saturation.

During a conference call on August 2, 1982, the Applicant, Del-Aware and the NRC Staff were informed that trial briefs would be required at the time of the filing of the written direct testimony, and that cross-examination plans would also be required in advance of the hearing.

Trial Briefs

The trial briefs are to be received by the Board and the parties by the due date for testimony of September 20, 1982. In short, as stated by one of the parties to the conference call, the trial briefs shall provide a "road-map" of the factual case placed in the applicable legal context which each party will present on the contentions. In part, the trial briefs will outline the purposes and objectives of the testimony

and will in effect be an advance outline of the proposed findings of fact and conclusions of law based on the party's direct testimony. The trial briefs shall also list all exhibits which will be moved into evidence as part of the direct case. Such exhibits (or applicable portions thereof if the entire document is large) shall be served with the trial briefs and testimony.

The Applicant shall, and the NRC Staff and Del-Aware are encouraged to, include the status of reviews being performed by other agencies of the intake and associated pump station and the Bradshaw Reservoir, including whether permits or other forms of approval from the agencies are required before construction and operation of the intake, pump station and reservoir can begin.

Testimony

Professional qualifications of the witnesses shall be filed with the testimony. Where there are multiple witnesses, the testimony shall specify which witness prepared each part within the combined testimony, unless it is impossible to do so. Such inseparable parts of the testimony shall be kept to a minimum.

Cross-Examination Plans

Cross-examination plans for each set of written direct testimony on which the party seeks to cross-examine shall be received

by the Board by September 27, 1982. The plans will be kept in confidence from other parties by the Board. A party is not precluded, of course, from choosing to serve notice on any other party that it intends to cross-examine on specified points of the direct testimony. Upon completion of the testimony on the supplementary cooling water system contentions, parties may upon request obtain copies of the cross-examination plans from each other.

There are two fundamental purposes for the cross-examination plans. The first is to provide information to the Board so that it may prepare for the substantive issues, and to identify any aspect of the subject matter which may not otherwise be covered by party cross-examination. The second purpose is to aid the Board in regulating the hearing to avoid cumulative, duplicative, argumentative, irrelevant, and unproductive cross-examination, and to identify proposed cross-examination not required for the full and true disclosure of the facts.

The cross-examination plan shall be sufficiently detailed to inform the Board of the substantive issues addressed by the cross-examination and to assist the Board in regulating improper and unproductive cross-examination as just discussed. The cross-examination plan may set forth the actual line of proposed questions. In the alternative, the cross-examination plan shall specify, in reasonable detail, the objectives of the cross-examination, the affirmative evidence the cross-examiner intends to produce by the cross-examination, and the

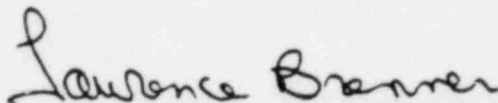
aspects of the direct testimony which the cross-examiner intends to discredit.

Notwithstanding the requirement to file cross-examination plans, follow-up cross-examination restricted to questions needed to follow-up on answers given at the hearing, and which questions therefore could not have been included in an advance plan, may be asked.

Motions To Strike Pre-Filed Testimony

Motions to strike the prefiled direct testimony or portions thereof shall be received by the Board and parties by September 27, 1982. Answers to the motions to strike shall be received by the Board and parties by October 1, 1982.

FOR THE ATOMIC SAFETY
AND LICENSING BOARD


Lawrence Brenner, Chairman
ADMINISTRATIVE JUDGE

Bethesda, Maryland
August 23, 1982