

SUGARMAN & DENWORTH

ATTORNEYS AT LAW

ROBERT J. SUGARMAN

JOANNE R. DENWORTH

MARY B. COE

ROBIN T. LOCKE

SUITE 510, NORTH AMERICAN BUILDING

121 SOUTH BROAD STREET

PHILADELPHIA, PENNSYLVANIA 19107 '83

(215) 546-0162

SUITE 803

1201 PENNSYLVANIA AVENUE, N.W.

WASHINGTON, D.C. 20004

(202) 737-4460

MAR 11 10:58

ROBERT RAYMOND ELLIOTT, P.C.
COUNSEL

*NOT ADMITTED IN PA

March 8, 1983

Administrative Judge Lawrence Brenner
Administrative Judge Richard F. Cole
Administrative Judge Peter A. Morris
Atomic Safety and Licensing Board
U.S. Nuclear Regulatory Commission
Washington, DC 20055

RE: Application of Philadelphia Electric,
Nos. 52-352, 52-353

Dear Judges:

I enclose herewith the Petition of Del-AWARE Unlimited to file late filed Contention V-26. As the Board can see, the DRBC members who are parties to the U.S. Supreme Court Decree have now adopted a regime for the Delaware River, substantially reducing the target flows at Trenton, which completely upsets all of the previous assumptions upon which the NRC's approval of the river follower method, and the applicant and staff testimony before this Board, were based.

Del-AWARE^F requests that the attached petition also be considered as an Application to Reopen the Record in that proceeding, in the event that the Board is intending to treat the previously compiled Record as supporting approval of the operation of the facility.

Del-AWARE also wishes to supply additional information in support of its Contention V-25, which has just become available to Del-AWARE. Del-AWARE has just secured a document entitled "Water Management of the Delaware River Basin" dated April, 1975, published by the DRBC, from the Commission. This document states that the water supply capacity at Blue Marsh Reservoir has a "net yield" of 31 mgd (47 cfs). This document was referred to and brought to light by the recent 1982-83 Budget of the DRBC, released on February 23, 1983, at the DRBC meeting. In combination, these documents, suggest that Blue Marsh the water is substantially available to PECO. Thus, they support Contention V-25 in two ways: First, that the water is available, and second, that the Blue Marsh water taken

DS03

March 8, 1983

alone, is inadequate to satisfy the need for two units, although it is adequate to satisfy the needs for one unit. In this fashion, through newly discovered information, Del-Aware now satisfies the Board's condition that it be able to show that the alternatives proposed are inadequate for two units, and adequate for one unit, and therefore, meets the test for admission of the previously mentioned Contention V-25, as well as contentions V-22 to V-24. Del-Aware encloses herewith the relevant pages from the 1975 report, II-43 and II-44 and from the 1983 Budget.

Del-Aware is aware that this letter, in informally setting forth this material, in effect substitutes for yet a new late filed contention, but hopes that the Board would prefer to have the matter submitted to it in this fashion, rather than framing a new contention V-27, in order to bring this newly discovered matter to light, and have it considered as a contention. Del-Aware also anticipates the argument that this material should have been found by Del-Aware sooner, and submits in response that Del-Aware has in seeking to learn this information for some time, that it requested the information from Mr. Hansler, that it was unable to obtain the information from him or by writing formally to the commission under a freedom of information act request (see enclosed letter to DRBC dated November 17, 1982, response of December 3, 1982 Del-Aware response of January 26, 1983) and DRBC Response of February 15, 1983.

In addition, Del-Aware wishes to bring to the attention of the Commission the fact that the Pennsylvania Supreme Court has issued an "allowance of appeal", regarding the Pennsylvania PUC's appeal on the Unit 2 decision, and has scheduled argument thereon for April, 1983.

Sincerely,



Robert J. Sugarman

RJS/vc

cc: Troy B. Conner, Jr. Esquire
Anne Hodgdon, Esquire
All Counsel