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UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

OFFICE OF SECRETARY
DOCKETING & SERVICE

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

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

NRC STAFF RESPONSE TO RESUBMITTAL OF
FINANCIAL QUALIFICATION CONTENTION BY C.A.N.E.

I. INTRODUCTION

On May 14, 1984 Marvin I. Lewis filed a document entitled "Resubmittal of C.A.N.E. Financial Qualification Contention in Light of Recent D.C. Court of Appeals Order". For the reasons stated below, the Staff suggests that the Atomic Safety and Licensing Board (Licensing Board or Board) hold in abeyance its ruling with respect to the resubmittal of the financial qualification contention until issuance of a Commission Statement of Policy which is expected shortly.

II. DISCUSSION

In February 1984, the U.S. Court of Appeals for the District of Columbia Circuit granted a petition by the New England Coalition on Nuclear Pollution (NECNP) which challenged the Commission's rule eliminating financial qualification review requirements for electric utilities. New England Coalition on Nuclear Pollution v. NRC, No. 82-1581 (D.C. Cir.

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Feb. 7, 1984). The Court found that the rule was not adequately supported by its accompanying statement of basis and purpose and remanded it to the NRC.

In March 1984, the Licensing Board denied a contention submitted by C.A.N.E. which alleged that the Applicant was not financially qualified to operate and decommission the Limerick Generating Station. The denial was based on the Commission's February 27, 1984 Statement of Policy which instructed the Board to continue to treat the rule excluding such contentions as valid.^{1/}

On May 4, 1984, Staff counsel sent Mr. Marvin I. Lewis a copy of an April 13, 1984 Order of the United States Court of Appeals for the District of Columbia Circuit denying the Commission's Motion to Stay Issuance of the Mandate to and including September 28, 1984. Staff counsel stated in that letter that the mandate had issued.

Mr. Lewis resubmitted the financial qualification contention on May 14, 1984.

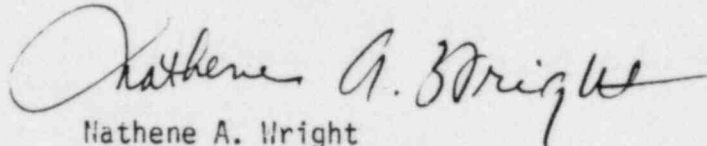
Staff counsel has been advised by the Office of the Secretary that the Commission has considered this matter and that a Policy Statement is expected shortly. Therefore, the Staff suggests that the Licensing Board hold in abeyance its ruling on the document submitted by Mr. Lewis on May 14, 1984 until issuance of the Commission's Policy Statement. Upon issuance of the Policy Statement, the Staff will advise the Board and the parties promptly.

^{1/} Licensing Board's "Order Confirming Miscellaneous Oral Record Rulings", March 15, 1984, Slip Op. pages 1 and 2.

III. CONCLUSION

For the reasons stated above, the Staff suggests that the Board hold in abeyance its ruling on the resubmitted financial qualification contention until issuance of the Commission's Statement of Policy.

Respectfully submitted,

A handwritten signature in cursive script that reads "Kathene A. Wright". The signature is written in dark ink and is positioned above the printed name and title.

Kathene A. Wright
Counsel for NRC Staff

Dated at Bethesda, Maryland
this 4th day of June, 1984

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CERTIFICATE OF SERVICE

I hereby certify that copies of "NRC STAFF RESPONSE TO RESUBMITTAL OF FINANCIAL QUALIFICATION CONTENTION BY C.A.N.E." in the above-captioned proceeding have been served on the following by deposit in the United States mail, first class, or as indicated by an asterisk through deposit in the Nuclear Regulatory Commission's internal mail system, this 4th day of June, 1984:

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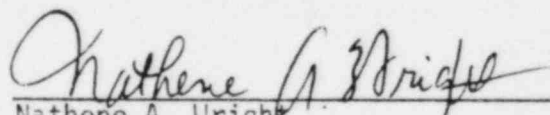
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