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MAY 23, 1984

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COUNSEL  
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Mr. Nunzio J. Palladino  
Chairman  
Nuclear Regulatory Commission  
Washington, DC 20555

Re: Application of Philadelphia Electric  
Company 50-352

Dear Mr. Palladino

Enclosed is a copy of our letters to the NRC trial staff, the office of Executive Director, and the Licensing Board.

As you can see, your Commission was completely misinformed as to the status of the Point Pleasant Diversion by the staff. The critical difference is that it is not protestants or any other intervenors who have put a halt to the progress of the Point Pleasant Diversion by instituting legal proceedings; on the contrary, PECO is totally dependent on Bucks County and the Neshaminy Water Resources Authority to implement the project upon which it depends for supplemental cooling water, and these Authorities have brought the project to a halt, as a result of which PECO is seeking judicial relief. A court order has been entered halting construction as erroneously stated in your staff briefing.

What this means is, that the applicant has the burden of obtaining an order to move the project along. At this time, the Court refused to schedule a hearing, as requested by PECO, on the ground that there is a serious legal issue as to whether PECO has a valid contract with the County, which it might enforce in order to require the County to provide it with water, and which must first be decided before taking further action.

At pg. 3 of the transcript of the April 24th meeting, you stated that it is necessary that all potential causes be delayed be identified so that all possible options can be explored. Your letter of April 2, to Congressman Kostmayer, as well as the staff's previous responses to us indicates that the Commission will not consider possible options in regard this potential delay unless or until

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requested to do so by the applicant. This suggest a dual policy, which enables the applicant to decide not to consider possible alternatives, thereby increasing the pressure on the Commission and other agencies to direct proceedings in its favor, by virtue of allowing time to pass.

In this case, the Company's failure to act, coupled with the Commission's refusal to explore options, was responsible for the Delaware River Basin Commission taking action to possibly reduce the availability of alternatives for PECO, by adopting a drought management plan which called upon otherwise available sources for the drought relief.

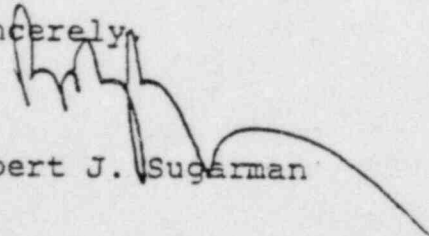
Further prejudice can be anticipated in the immediate future from your Commission's continued refusal to act.

It is respectfully requested that the Commission direct that Del-AWARE's pending 2.206 Petition, presently before the Commission, and the operating license proceeding, in which the supplemental cooling water issues is presently before the Appeal Board, and the early low fuel operation motion is presently before the Licensing Board, take into account the likelihood of unavailability of Point Pleasant, and, as you so clearly stated on April 24, identify all possible options with a view towards preventing delay.

It is impossible, in our view, to reconcile the Commission's refusal to explore possible alternatives to Point Pleasant with the Commission's stated policy to do so where necessary to avoid delays in Licensing.

PECO itself has stated that the unavailability of Point Pleasant might cause complications with the NRC licensing process. A copy of the affidavit of Vincent Boyer, Vice President of PECO, to that effect is attached hereto.

Sincerely,



Robert J. Sugarman

/vc  
Enclosures