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May 23, 1984

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Mr. Harold Denton  
Director Nuclear Regulation  
Nuclear Regulatory Commission

Re: Del-AWARE 2.206 Petition

Dear Mr. Denton:

Enclosed please find a copy of my letter of today to Ann Hodgdon of the NRC staff.

The comments in this letter are equally pertinent to your action of Del-AWARE 2.206 Petition, and I respectfully request that you immediately modify and reopen your decision in that petition and advise PECO of the need to supplement its application to provide alternative sources of supplemental cooling water, and establish procedures to deal with such amended application.

This is also request that you promptly inform the Commission, which has your decision on the 2.206 Petition under advisement, regarding your action, and the necessity for reopening the 2.206 Petition under advisement, regarding your action, and the necessity for reopening the 2.206 Petition, as well as supplementing the staff briefing.

Since the staff has been so repeatedly apprised of the conditions, it is incredible that the staff could completely misstate the situation to the Commission. I request copies of all staff papers relating to this briefing to this Commission, insofar as they concern Limerick and/or the supplemental cooling water for Limerick.

In its denial of the Petition under \$2.206 on April 25, as well as in its staff letter of April 25, and the Board decision of April 23, the NRC staff contends that if and when an application is made by PECO which reflects use of a different sources of supplemental cooling water, such amended application would be reviewed in the same manner as the original application, proposing use of Point Pleasant.

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Obviously such review will take some amount of time. Action by the staff to commence such review even if it is arguably a contingency at this point, is not only a matter within the control of the Commission, but also directly relevant to the Commission's expressed concern for avoidance of delays. Indeed, differing consideration of alternatives, even though they might exist in the real world, is precisely the purest case of licensing delay unrelated to progress of construction. It is as directly violative of the Commission's expressed policy as any possible action could be.

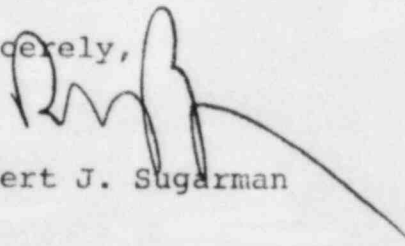
That this is not merely a theoretical or speculative problem is highlighted by the staff's report to the Commission that the applicant seeks low power operation in 1984, while Point Pleasant could not be available, even if recommenced promptly, prior to spring 1985.

In these circumstances, the staff's refusal to undertake evaluation of alternatives at this time, in order to prevent delays in the operation of Limerick, is arbitrary and capricious in the classic sense, as well as a bias application of Commission's policies.

If not in fact designed to defer action until the point where PECO can make the claim in local court that the NRC cannot process alternatives fast enough to avoid delay, it certainly is determined upon with full knowledge of that potential effect.

In view of the seriousness of this matter, its urgency, and the staff's inconsistent statements, I am taking the liberty of bringing this letter to the attention of the Commissioners and Chairman Bevill.

Sincerely,



Robert J. Sugarman

/vc  
Enclosure