



UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D. C. 20555

June 8, 1984

MEMORANDUM FOR: Harold R. Denton, Director
Office of Nuclear Reactor Regulation

FROM: James Lieberman
Director and Chief Counsel
Regional Operations and Enforcement Division, OELD

SUBJECT: RESPONSE TO LETTER OF MAY 23, 1984 TO HAROLD DENTON FROM
ROBERT J. SUGARMAN

Enclosed please find a draft response to the letter of May 23, 1984, directed to you from Mr. Robert J. Sugarman commenting with regard to the Director's Decision issued by you pursuant to 10 CFR 2.206 on April 25, 1984, denying certain relief sought by De1-Aware with respect to the Limerick facility. It should be noted that the Commission has declined any review of your decision and, accordingly, that decision became final agency action on May 21, 1984.

A handwritten signature in cursive script that reads "James Lieberman".

James Lieberman
Director and Chief Counsel
Regional Operations and Enforcement
Division, OELD

Enclosure: a/:

cc: w/encl.
E. Christenbury, OELD
R. DeYoung, IE
A. Hodgdon, OELD
J. Rutberg, OELD
R. Martin, NRR
J. Gutierrez, Reg. I
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Robert J. Sugarman, Esq.
Sugarman, Denworth & Hellegers
16th Floor
Center Place
101 North Broad Street
Philadelphia, Pa. 19197

Dear Mr. Sugarman:

I am in receipt of your letter to me of May 23, 1984. Your letter requests that the Nuclear Regulatory Commission advise the Philadelphia Electric Co. (PECO) of a need to supplement its pending application for an operating license to provide alternative sources of supplemental cooling water for the Limerick facility. As you are aware, both of PECO's applications, for a construction permit for the Limerick facility and for its current application for an operating license for that facility, described a supplemental cooling water system for the Limerick facility for consideration by the Nuclear Regulatory Commission. That supplemental cooling water system was evaluated at the construction permit phase and is currently being evaluated as part of the operating license proceeding. Your letter suggests that the Commission should direct PECO to provide alternatives to the supplemental cooling water system presently under consideration. This is essentially a repetition of the request contained in the "Application of Del-Aware Unlimited, et al. under Section 2.206" filed by you with the Commission on December 16, 1983,

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on behalf of Del-Aware and to which I responded in my "Director's Decision Under 10 CFR 2.206" dated on April 25, 1984. 1/

In my Decision, I determined that action on the part of NRC would be appropriate to review alternatives to the currently proposed supplemental cooling water system if the current proposal should for some reason fail and if PECO should then identify an alternative proposal to supply supplemental cooling water for the Limerick facility. I noted that any alternative would then have to be reviewed in the same fashion as the original proposal was examined by the agency prior to the issuance of a construction permit. In my Decision, I further noted that PECO's current actions appear clearly directed at insuring completion of the presently proposed supplemental cooling water system and that concerns that the project may not be completed and consequently that alternative sources of cooling water may be required for the Limerick facility are thus premature and speculative. On this basis, I declined to commit the agency's resources to examine such questions given their speculative nature. 2/ There is nothing in your letter which would cause me to reconsider this question. You should be advised that the Commission has declined to review my Decision and, accordingly, that Decision became final agency action on May 21, 1984.

1/ Philadelphia Electric Company (Limerick Generating Station, Units 1 and 2), DD-84-13, _____ NRC _____ (1984).

2/ If PECO changes its plan on sources of cooling water, some delay may result. However, this is a matter of concern to PECO. Absent a revised submittal, as indicated above, I do not intend to take action.

With respect to your request for documents, many staff documents are routinely placed in the Public Document Room and would be available for your review there. Additional document requests may be appropriate in individual adjudicatory proceedings pursuant to 10 CFR Part 2, "Rules of Practice For Domestic Licensing Proceedings" or under the more general provisions of the Freedom of Information Act. See 10 CFR Part 9.

With respect to your letter of May 23, 1984 directed to Ms. Ann Hodgdon, Esq., a copy of which was appended to your letter to me, I note that that letter contains a number of characterizations by you of the substance of a briefing given to the Commission on April 24, 1984, by the NRC staff. I do not share your belief that the staff mischaracterized the issues. The staff routinely briefs the Commission in a professional and objective manner assessing the facts as it sees them. This was done in this instance. I can understand that there may be differences of opinion with respect to the issues at hand. However, I believe your charges with respect to the presentation of the staff are unfounded.

Sincerely,

Harold R. Denton, Director
Office of Nuclear Reactor Regulation