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UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

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

CEPA'S SAFETY CONTENTIONS

CEPA files the following new safety contentions on the basis of newly discovered evidence:

The Applicant, Philadelphia Electric Company, is unable to conduct full and safe testing of the Limerick 1 Unit and therefore endangers the health and safety of the general public.

The basis for these new contentions is as follows:

1. On June 15, 1984, PECO filed with the Pennsylvania Public Utility Commission a Petition for Declaratory Order requesting an order from the PUC concerning treatment of the Limerick Unit 1 without regard to the projected rate request and its associated test year. A copy of said Petition is attached as Exhibit A.

2. CEPA's attorney obtained a copy of the document approximately 10 days after the Petition was filed.

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3. The Petition states that the procedure requested in the Petition "ensures that Limerick 1 will be completed and safely tested on a timely basis, unaffected by rate case considerations, particularly if Limerick 1 does not achieve commercial operation before the end of the test year in the Limerick 1 rate case." Petition, page 10, paragraph D.

4. PECO acknowledges in its Petition that the relief requested is extraordinary and requires a change in PUC procedures. Petition, page 2, paragraph 4A. The change in procedure is being opposed by other parties.

5. CEPA believes that PECO's statement in that Petition is an admission that they are unable to safely test Limerick 1 and that they may remain unable to safely test the unite unless they receive the relief requested from the PUC.

6. CEPA believes that safe testing and operation of a nuclear generating plant should never be allowed to rely so heavily on such matters.

7. The document in which this information is contained was very recently filed and CEPA has acted promptly to bring this new evidence to the attention of the Atomic Safety and Licensing Board.

8. No other regulatory or judicial body has jurisdiction over the issues raised by these contentions and this is therefore the only means available to protect CEPA's interests.

9. CEPA is prepared to assist in developing a sound record.

10. No other party to this Docket has raised these issues.

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STEVEN P. HERSHEY, ESQUIRE
Attorney for CEPA

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

IN RE: PETITION OF PHILADELPHIA ELECTRIC COMPANY FOR A DECLARATORY ORDER	:	Docket No. ______

PETITION FOR DECLARATORY ORDER

NOW COMES Philadelphia Electric Company ("PECO" or the "Company"), by its attorneys, and respectfully petitions your Honorable Commission, pursuant to 66 Pa.C.S. Section 331(f) and the General Rules of Administ-ative Practice and Procedure, 1 Pa. Code Section 35.19, to issue a declaratory order: finding that the procedures set forth herein will synchronize base rate recognition of Unit 1 of PECO's Limerick Generating Station, and associated common plant ("Limerick 1") with its commercial operation date; and, that the procedures are in the public interest. In support thereof, PECO states as follows:

1. PECO is a regulated public utility supplying electric, gas and steam service in a service territory of 2,255 square miles with a population of approximately 3.7 million. PECO renders electric service to a total of approximately 1.3 million retail customers in Philadelphia and surrounding territory in Bucks, Chester, Montgomery and York Counties.

2. The names and addresses of PECO's attorneys are as follows:

Exhibit A

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David B. MacGregor, Esquire
Morgan, Lewis & Bockius
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2301 Market Street
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3. The Limerick Station consists of two units, each of which has a maximum design capacity of 1,050 megawatts. Under the current schedule PECO expects to receive an operating license from the Nuclear Regulatory Commission ("NRC") and begin test operations of Limerick 1 in September 1984. Commercial operation is scheduled to begin in April 1985. The cost of Limerick 1 and 50% of common plant is estimated to be about $2.8 billion, a cost which will increase PECO's investment in electric plant in service by approximately 50%.

4. PECO's request for a declaratory order is based upon the following:

A. Without modification of existing Commission procedures, PECO would be required to time the filing of an increase in base rates covering the costs of Limerick 1 (the "Limerick 1 rate case") so that the future test year employed in that filing concluded at the same time that Limerick 1 begins commercial operations. However, such a filing assumes that PECO is able to forecast precisely the commercial operation date of Limerick 1. No such precision can be assured. A power plant the size and complexity of Limerick 1 depends on a myriad of factors to proceed from the construction and test phase to commercial operation. Many of these factors are beyond the control of PECO.

B. The inability to precisely forecast the commercial operation date of Limerick Unit 1 could be disastrous from a financial standpoint. If test operations are completed sooner than anticipated, the unit would begin commercial operations before the rate case was completed. On that date the income attributable to the investment in Limerick 1, which is currently being accrued as allowance for funds used during construction (AFUDC), would cease. In addition, PECO would begin to pay the costs of operating the unit and customers would receive the energy cost benefits of Limerick 1 under PECO's ECR Tariff. However, no revenues would be available from customers to recover the costs of Limerick 1. Without modification of existing Commission procedures, the potential impairment of PECO's financial status as a result of these events would be staggering. Based upon the most recent cost estimate for Limerick 1 and 50% of common plant, the cessation of AFUDC accruals and the reflection of Limerick depreciation and operating and maintenance expense in the Company's income statement would reduce earnings in excess of $27 million per month. On an annual basis, this reduction in earnings would equal $331 million, or approximately 95% of the Company's actual achieved earnings for the twelve months ended March 31, 1984.

Alternatively, an extended period of test operations could delay commercial operation of the unit beyond the end of the future test year, and base rate recognition of the unit's cost of operation, including depreciation, expenses and a return on the investment could be challenged on that basis. If recovery were denied due to uncertainty about the in service date of Limerick 1, PECO could be required to file a second rate increase and the problem of synchronizing rates and service would be further exacerbated.

C. The solution to this problem has been recognized by the Commission in connection with the installation of the Pennsylvania Power and Light Company's Susquehanna Steam Electric Station, Units 1 and 2. That solution is a declaratory order which eliminates the need to synchronize the end of the Limerick 1 rate case with the commercial operation date of Limerick 1. The solution involves the following two features:

(1) In the event Limerick 1 begins commercial operations before the end of the Limerick 1 rate case, PECO would identify and defer recognition of all expenses associated with Limerick 1 from the date of its commercial operation to the date its costs are included in base rates. Any interim generation from Limerick 1 would be valued pursuant to existing test power provisions of PECO's tariff and credited against the aforesaid costs. The net amount would thereafter be amortized and collected from customers after review and approval by the Commission.

Specifically, PECO would identify Limerick 1 costs associated with (i) capital charges applicable to the investment equivalent to the AFUDC which would have been capitalized were the unit not in service, (ii) depreciation, including provision for decommissioning, (iii) operation and maintenance expenses, including fuel, fuel storage, labor, insurance, employee pensions and benefits and payroll taxes, and (iv) all associated income taxes. PECO would record such identified costs as a deferred asset in Account 186 - Miscellaneous Deferred Debits.

Amounts applicable to any decrease in energy costs (including increase in interchange revenues) which are made possible by the availability of Limerick 1 on PECO's system will not be immediately passed through to customers in the energy cost rate pursuant to PECO's ECR Tariff. The decrease in energy costs (i.e., the energy savings) would be recorded when incurred as a deferred credit in Account 253 - Other Deferred Credits. This will require an amendment to the Company's Energy Cost Rate as set forth in the attached proposed Declaratory Order.

In connection with the above proposal PECO proposes to record the following journal entries from the date of Limerick 1 commercial operation until Limerick 1 costs are recognized in rates:

		Debit	Credit
	(1)		
Account 186	Miscellaneous Deferred Debits Recoverable Limerick Costs	X	
Account 401	Operation Expense		X
	To record the deferral of depreciation, including provision for decommissioning, operation and maintenance expenses, including fuel, fuel storage, labor, insurance, employee pensions and benefits and payroll taxes applicable to Limerick 1.		
	(2)		
Account 186	Miscellaneous Deferred Debits Recoverable Limerick 1 Costs	X	
Account 421	Miscellaneous Non-Operating Income - Limerick 1		X
	To record the deferral of the carrying costs applicable to the investment in Limerick 1 equivalent to the Allowance for Funds Used During Construction which would have been capitalized if the unit were not in service.1/		
	(3)		
Account 557	Other Expenses - Interim Generation from Limerick 1	X	
Account 253	Other Deferred Credits Recoverable Limerick 1 Costs		X

1/ The deferred balance associated with this item must be factored up for income taxes when reflected in charges to customers.

To offset the deferred costs of Limerick 1 with the value of generation from Limerick 1 employing the methodology for valuing test power that is currently a part of PECO's tariff.

(4)

Account 190	Accumulated Deferred Income Taxes	X	
Account 411.1	Provision for Deferred Income Taxes, Credit Utility Operating Income		X

To defer the income tax effects of the Operating Expenses indicated above.

It should be noted that the foregoing merely seeks (i) accounting (not rate making) recognition of the costs associated with Limerick 1 if, and only if, it goes into commercial operation before the end of the future test year employed in the Limerick 1 rate proceeding, and (ii) the Commission's agreement that it will adjudicate the justness and reasonableness of these deferred costs and the mechanism for recovery of these costs in an appropriate proceeding and will not reject such recovery as "retroactive ratemaking." Accordingly, the requested procedure does not restrict the power of the Commission in the Limerick 1 rate case or any future rate proceeding to determine the used and useful nature of the unit. Nor does it limit the Commission's power to audit the costs involved to determine if they were prudently incurred.

PECO will not propose rate recovery of the deferred costs in the Limerick 1 rate case.

(2) In the event that Limerick 1 begins commercial operation after the end of the future test year employed in the Limerick 1 rate case, the Commission would adjudicate all rate case issues in conformity with its regular practice. However, if and when PECO determines that Limerick 1 will not be or may not be in commercial operation prior to the end of the future test year, it will, as soon as that fact is known, report it to the Commission and all parties. At the end of the suspension period, and after full evidentiary hearings, the Commission would enter an order resolving all of the issues in the case but permitting only the rates justified without recognition of the Limerick 1 costs to go into effect at that time.2/ Thereafter, PECO would notify the Commission when Limerick 1 begins commercial operation; the Commission would enter a final order recognizing that the unit was in operation, and PECO would then implement the further adjustment in base rates associated with Limerick 1 as allowed in the Limerick rate case. Adoption of this procedure in no way limits the Commission's discretion to determine whether Limerick Unit 1 is used and useful or whether the costs associated with Limerick 1

2/ Unless the unit is in service prior to the end of the suspension period, but after the end of test year, and the Commission has an opportunity to recognize that fact in its final Order.

were prudently incurred. The procedure simply assures that Limerick 1 will not be excluded from the Company's rate base in the Limerick 1 rate proceeding because it fails to achieve commercial operation by the end of the future test year employed in that case.

If the proposal described above has been approved, PECO, for one year after entry of the order permitting Limerick 1 rates to become effective, will provide the Commission on a quarterly basis with written reports of Limerick 1 operating capacity factor and documentation of any outages during the reporting period. In the event these reports indicate that Limerick 1 is not, in fact, used and useful in providing generation for the customers of PECO, the Commission may take appropriate action to adjust the rates and annual operating revenues of PECO. Cf. Pennsylvania Public Utility Commission v. West Penn Power Company, Docket No. R-80021082, Order entered February 3, 1981.

5. PECO submits that the procedures set forth herein are a fair, sound, and equitable regulatory solution to the problem posed and are clearly in the public interest. The advantages of permitting these procedural changes to traditional regulatory practice are as follows:

A. The procedure will permit the parties to try the Limerick 1 rate case with a clear understanding as to what will happen in the event of a change in the date of commercial operation. As part of that understanding, data can be provided for the record as to the Company's expenses, depreciation, rate base, return, and interchange transactions, assuming Limerick 1 is in commercial operation and assuming it is not. The presiding Administrative Law Judge and the Commission will then be able to address all questions which might be presented.

B. The procedure will eliminate the delay and expense created by the procedural and evidentiary conflicts which would arise if it were not clear to the parties what treatment ultimately would be given to a change in the commercial operation date of Limerick 1.

C. The procedure which addresses both an early and late contingency permits PECO to file the Limerick 1 case on a date which helps insure that the unit will, in fact, be in commercial operation when rates to reflect its costs become effective.

D. The procedure ensures that Limerick 1 will be completed and safely tested on a timely basis, unaffected by rate case considerations, particularly if Limerick 1 does not achieve commercial operation before the end of the test year in the Limerick 1 rate case.

E. PECO is actively involved in the continued financing of Limerick. Its present investors as well as those who will be asked to provide debt financing and to purchase new issues of preferred stock and equity will benefit from a clear understanding of the procedure which will be followed if commercial operation is early or late. Furthermore, there will be no need for them to include in their assessment of security costs the risk of a major hiatus between the commercial operation date and the base rate recognition of Limerick 1. The potential level of this risk is so great that investors might well decline to advance money to the Company or might demand higher costs for that money, both of which would ultimately be an additional burden upon the Company's customers.

6. The Commission's disposition of this petition for a Declaratory Order will have a significant impact upon the character and timing of the Limerick 1 rate case. Accordingly, PECO respectfully requests that the Commission rule upon this request as expeditiously as possible. Copies of this Petition are being served on the Office of Consumer Advocate and all active parties to the Company's last electric rate proceeding at Docket No. R-822291. In addition, a news release describing the Petition will be sent to major newspapers in the Company's service territory.

WHEREFORE, PECO respectfully requests that the Commission issue a declaratory order containing the provisions set forth in Attachment A.

Respectfully submitted,

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Counsel for Philadelphia Electric Company

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Dated: June 15, 1984

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UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

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)	:	

CERTIFICATE OF SERVICE

I hereby certify that copies of CEPA's SAFETY CONTENTIONS in the above-captioned proceeding have been served on the following by deposit in the United States mail, first class, this day of July, 1984:

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