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July 13, 1984

U.S. Nuclear Regulatory Commission  
Atomic Safety and Licensing Board  
Washington, DC 20555

Attn: Judge Lawrence Brenner  
Judge Richard F. Cole  
Judge Peter A. Morris

Re: Application of Philadelphia Electric Company  
No. 50-352, 50-353

Dear Sirs:

This will follow up on my letter May 23, 1984, and my letter of July 5, 1984.

The staff continues to take the position that it need not be aware of anything unless PECO brings it to its attention. Enclosed is a letter to that effect from Mr. Denton to me, dated June 29, 1984.

However, new events have transpired which require that this position be taken as a basically biased pro-applicant position by the staff. I enclose herewith PECO's notes of a conversation of April 17, 1984, initiated by the NRC staff, regarding Point Pleasant and water issues. These notes indicate clearly that Messrs. Schwencer and Lehr, at the request of "management" inquired in detail of PECO concerning its ability to provide off-site water, and intimated that the Commission might not grant license to PECO if it does not have off-site water, and cannot run the plant in the absence thereof. (Page 3, No. 12.)

These notes indicate that the staff has, in fact, treated the issue in a manner exactly opposite to that which it has purported to take in its public positions. In fact, the notes of the meeting indicate that the contact was "informal" and that the staff would contact PECO before making the formal inquiry. This further underlines the conclusion that the staff is misleading the public, and to the extent that the Board only has available the information that the public has, is misleading the Board.

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We believe this to be directly contrary to the Board's instructions to the staff to circulate notice of meetings, and to keep the public informed.

In State Court proceedings, we have also recently discovered a memorandum, which we may not have brought to your attention. This memorandum, dated December 12, 1972, clearly establishes that the applicant was well aware in 1972 that the diversion of water into the East Branch Perkiomen Creek would necessarily adversely effect that Creek. This memorandum establishes, in the words of its participants, on page 4-5, that "the group generally agreed that the ecological requirements of the stream channel out weigh the the hydraulic, or flood factors, particularly with regard to obtaining approval of an application to construct the Limerick plant."

This, in context, clearly shows that PECO abandoned the idea of channelization because the Atomic Energy Commission would have to review the biological effects of channelization, and instead accepted erosion, because that would be a matter for DER (in the absence of PECO construction). Such a trade-off is inappropriate, and failing to disclose it is contrary to the rules.

Accordingly, Del-AWARE tenders this as a further basis for its requests.

We regard this as an extremely serious matter, and request, move, or offer new late filed contentions, as appropriate, to raise the issue that the NRC has itself recognized the potential problem with the unavailability of Point Pleasant, and has dealt with PECO concerning such problem, in an improper and secret manner, and contrary to the Board's orders, and the rules in the statute, and request that the Board take this issue up promptly.

Sincerely,



Robert J. Sugarman  
Counsel for Del-AWARE,  
Unlimited, Inc.

rll.rjs/sp  
enclosures

cc: NRC Commissioners  
Rep. Peter Kostmayer  
Mr. Harold Denton  
Troy Conner, Esq.  
Ann Hodgdon, Esq.