

JUL 20 1984

DISTRIBUTION:  
Central File  
SAB Reading File  
SAB Plant File  
RVollmer  
WJohnston  
WRegan  
BVogler  
AToalston  
RMartin  
NSIC  
TERA  
LPDR  
NRC PDR

Docket No: 50-352A

MEMORANDUM FOR: Scott W. Stucky, Chief  
Docketing and Service Branch  
Office of the Secretary

FROM: William H. Regan, Jr., Chief  
Site Analysis Branch  
Division of Engineering

SUBJECT: FEDERAL REGISTER NOTICE

One signed original of a Federal Register Notice identified as follows is enclosed for your transmittal to the Office of the Federal Register for filing and publication as soon as possible.

NUCLEAR REGULATORY COMMISSION

DOCKET NO. 50-352A

PHILADELPHIA ELECTRIC COMPANY

NOTICE OF FINDING OF NO SIGNIFICANT ANTITRUST CHANGES

AND TIME FOR FILING REQUESTS FOR REEVALUATION

Twelve additional conformed copies of the notice are enclosed.

8408020136 840720  
PDR ADOCK 05000352  
M PDR

William H. Regan, Jr., Chief  
Site Analysis Branch  
Division of Engineering

Enclosure:  
As stated

Contact: A. Toalston  
492-3516

OFFICE	DE:SAB:AEAS	DE:SAB	OELD			
SURNAME	AToalston:jj	WRegan	BVogler			
DATE	7/13/84	7/16/84	7/18/84			

DISTRIBUTION:  
 Central File  
 SAB Reading File  
 SAB Plant File  
 RVollmer  
 WJohnston  
 WRegan  
 BVogler  
 WToalston  
 RMartin  
 NSIC  
 TERA  
 LPDR  
 NRC PDR

Docket No: 50-352A

MEMORANDUM FOR: Scott W. Stucky, Chief  
 Docketing and Service Branch  
 Office of the Secretary

FROM: William H. Regan, Jr., Chief  
 Site Analysis Branch  
 Division of Engineering

SUBJECT: FEDERAL REGISTER NOTICE

One signed original of a Federal Register Notice identified as follows is enclosed for your transmittal to the Office of the Federal Register for filing and publication as soon as possible.

NUCLEAR REGULATORY COMMISSION  
DOCKET NO. 50-352A  
PHILADELPHIA ELECTRIC COMPANY  
NOTICE OF FINDING OF NO SIGNIFICANT ANTITRUST CHANGES  
AND TIME FOR FILING REQUESTS FOR REEVALUATION

Twelve additional conformed copies of the notice are enclosed.

William H. Regan, Jr., Chief  
 Site Analysis Branch  
 Division of Engineering

Enclosure:  
 As stated

OFFICE	Contact: A. Toalston 492-8516	DE:SAB:AEAS	DE:SAB	OELD	DE:AD:MCET
SURNAME		AToalston:jj	WRegan	BVogler	WJohnston
DATE		6/13/84	6/ /84	6/ /84	6/ /84

NOV 20 1984

DISTRIBUTION:  
Central File  
SAB Reading File  
SAB Plant File  
RVoilmen  
WJohnston  
WRegan  
BVogler  
AToalston  
RMartin  
NSIC  
TERA  
LPDR  
NRC PDR

Docket No: 50-352A

MEMORANDUM FOR: Scott W. Stucky, Chief  
Docketing and Service Branch  
Office of the Secretary

FROM: William H. Regan, Jr., Chief  
Site Analysis Branch  
Division of Engineering

SUBJECT: FEDERAL REGISTER NOTICE

One signed original of a Federal Register Notice identified as follows is enclosed for your transmittal to the Office of the Federal Register for filing and publication as soon as possible.

NUCLEAR REGULATORY COMMISSION  
DOCKET NO. 50-352A  
PHILADELPHIA ELECTRIC COMPANY  
NOTICE OF FINDING OF NO SIGNIFICANT ANTITRUST CHANGES  
AND TIME FOR FILING REQUESTS FOR REEVALUATION

Twelve additional conformed copies of the notice are enclosed.

William H. Regan, Jr., Chief  
Site Analysis Branch  
Division of Engineering

Enclosure:  
As stated

Contact: A. Toalston  
492-8516

*Bill Vogler*  
BVogler

OFFICE	DE:SAB:AEAS	DE:SAB	OELD			
SURNAME	AToalston:jj	WRegan	BVogler			
DATE	7/13/84	7/16/84	7/18/84			

NUCLEAR REGULATORY COMMISSION  
DOCKET NO. 50-352A  
PHILADELPHIA ELECTRIC COMPANY  
NOTICE OF FINDING OF NO SIGNIFICANT ANTITRUST CHANGES  
AND TIME FOR FILING REQUESTS FOR REEVALUATION

The Director of Nuclear Reactor Regulation has made an initial finding in accordance with Section 105c(2) of the Atomic Energy Act of 1954, as amended, that no significant (antitrust) changes in the licensee's activities or proposed activities have occurred subsequent to the previous construction permit review of Unit 1 of the Limerick Generating Station by the Attorney General and the Commission. The finding is as follows:

"Section 105c(2) of the Atomic Energy Act of 1954, as amended, provides for an antitrust review of an application for an operating license if the Commission determines that significant changes in the licensee's activities or proposed activities have occurred subsequent to the previous construction permit review. The Commission has delegated the authority to make the "significant change" determination to the Director, Office of Nuclear Reactor Regulation. Based upon an examination of the events since issuance of the Limerick 1 construction permit to the Philadelphia Electric Company, the staffs of the Antitrust and Economic Analysis Section of the Site Analysis Branch, Office of Nuclear Reactor Regulation and the Antitrust Section of the Office of Executive Legal Director, hereafter referred to as "staff", have jointly concluded, after consultation with the Department of Justice, that the changes that have occurred since the construction permit (CP) antitrust review are not of the nature to require a second antitrust review at the operating license (OL) stage of the application.

"In reaching this conclusion, the staff considered the structure of the electric utility industry in Pennsylvania, the events relevant to the Limerick 1 construction permit review and the events that have occurred subsequent to the construction permit review.

"The conclusion of the staff's analysis is as follows:

'Philadelphia Electric Company (PEC) has applied for a license to operate the Limerick Generating Station, Unit 1 (Limerick 1). Staff has examined the activities and proposed activities of PEC since the Limerick 1 construction permit (CP) antitrust review was completed in 1971 to determine if any "significant changes" of an antitrust nature have occurred. In its analysis, staff has considered changes by PEC with respect to its participation in the Pennsylvania, New Jersey, Maryland (P-J-M) power pool and its coordination and wholesale arrangements outside of the pool. None of these changes appear to be of a "significant" antitrust nature.

'Staff has further considered PEC's activities with regard to the Fulton Generating Station (Fulton) nuclear plant application, the outcome of the Fulton CP antitrust review and the subsequent conduct of PEC that is pertinent to that review. As a result of the Fulton CP review, PEC obligated itself to provide transmission services to the Borough of Lansdale (Lansdale). The commitment to the Department of Justice (Justice) was conditioned on a recommendation of "no hearing" by Justice to the Commission with regard to the Fulton CP antitrust review. Justice, in fact, did so advise the Commission and the

~~8407310578~~



Justice advice letter was published in the Federal Register. Subsequently, PEC refused a wheeling request from Lansdale, and Lansdale brought an antitrust action in the U.S. District Court against PEC based on its refusal to wheel. After a trial on the merits the Court found for PEC and dismissed Lansdale's complaint. On appeal, the U.S. Court of Appeals for the Third Circuit also decided in favor of PEC and dismissed Lansdale's appeal.

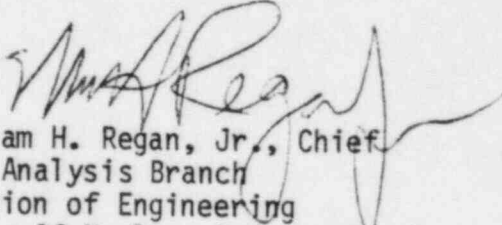
'In view of the advice letter by the Department of Justice to the Commission in connection with the Fulton facility, the staff believed that the refusal to wheel wholesale power represented a change in the activities of PEC during the period subsequent to the Limerick CP antitrust review. However, staff has found that the refusal does not have significant antitrust implications. This finding is based on an analysis by the staff of the options still available to Lansdale to receive wholesale power, and is supported by decisions of the U.S. District Court and the U.S. Court of Appeals regarding this same matter.

'From the foregoing, staff does not believe the changes in the activities of Philadelphia Electric Company since the CP antitrust review for Limerick 1 represent a "significant change" under the Commission's criteria.'

"Based on the staff's analysis, it is my finding that a formal operating license antitrust review of the Limerick Nuclear Station, Unit 1 is not required."

Signed on July 11, 1984 by Harold R. Denton, Director of Office of Nuclear Reactor Regulation.

Any person whose interest may be affected by this finding may file with full particulars a request for reevaluation with the Director of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555 within 30 days after the date of this publication. Requests for a reevaluation of the no significant change determination shall be accepted after the date when the Director's finding becomes final but before the issuance of the OL only if they contain new information, such as information about facts or events of antitrust significance that have occurred since that date, or information that could not reasonably have been submitted prior to that date.

  
William H. Regan, Jr., Chief  
Site Analysis Branch  
Division of Engineering  
Office Of Nuclear Reactor Regulation

SUMMARY STATEMENT

DIRECTOR'S FINDING- The Director of Nuclear Reactor Regulation has made an initial finding of "no significant change" regarding the antitrust aspects of the Licensee's application in Docket No. 50-432A. Requests for reevaluation are due thirty days from date of publication in the Federal Register.

Justice advice letter was published in the Federal Register. Subsequently, PEC refused a wheeling request from Lansdale, and Lansdale brought an antitrust action in the U.S. District Court against PEC based on its refusal to wheel. After a trial on the merits the Court found for PEC and dismissed Lansdale's complaint. On appeal, the U.S. Court of Appeals for the Third Circuit also decided in favor of PEC and dismissed Lansdale's appeal.

'In view of the advice letter by the Department of Justice to the Commission in connection with the Fulton facility, the staff believed that the refusal to wheel wholesale power represented a change in the activities of PEC during the period subsequent to the Limerick CP antitrust review. However, staff has found that the refusal does not have significant antitrust implications. This finding is based on an analysis by the staff of the options still available to Lansdale to receive wholesale power, and is supported by decisions of the U.S. District Court and the U.S. Court of Appeals regarding this same matter.

'From the foregoing, staff does not believe the changes in the activities of Philadelphia Electric Company since the CP antitrust review for Limerick 1 represent a "significant change" under the Commission's criteria.'

"Based on the staff's analysis, it is my finding that a formal operating license antitrust review of the Limerick Nuclear Station, Unit 1 is not required."

Signed on July 11, 1984 by Harold R. Denton, Director of Office of Nuclear Reactor Regulation.

Any person whose interest may be affected by this finding may file with full particulars a request for reevaluation with the Director of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555 within 30 days after the date of this publication. Requests for a reevaluation of the no significant change determination shall be accepted after the date when the Director's finding becomes final but before the issuance of the OL only if they contain new information, such as information about facts or events of antitrust significance that have occurred since that date, or information that could not reasonably have been submitted prior to that date.

William H. Regan, Jr., Chief  
 Site Analysis Branch  
 Division of Engineering  
 Office Of Nuclear Reactor Regulation

**DISTRIBUTION:**

Docket File 50-352A	AToalston
SAB Reading File	RMartin
SAB Plant File	NSIC
WJohnston	LPRD
WRegan	TERA
BVogler	NRC PDR

OFFICE ▶	DE: SAB: AEAS	DE: SAB	QELD			
SURNAME ▶	AToalston:jj	WRegan	BVogler			
DATE ▶	7/13/84	7/17/84	7/1/84			