

.837

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

DOCKETED
USNRC

Before the Atomic Safety and Licensing Board

84 AGO -8 A10:50

In the Matter of)	
)	
Philadelphia Electric Company)	Docket Nos. 50-352-OL
)	50-353-OL
(Limerick Generating Station,)	
Units 1 and 2))	

JOINT REPORT OF THE PARTIES ON SCHEDULE PROPOSAL
FOR OFFSITE EMERGENCY PLANNING MATTERS

By Order dated July 23, 1984, the presiding Atomic Safety and Licensing Board ("Licensing Board" or "Board") directed that "the parties participating in offsite emergency planning issues shall discuss and attempt to agree on a schedule for further prehearing matters leading up to and including the start of the evidentiary hearing."^{1/} The Licensing Board also required the parties to participate in "negotiations leading to the mandatory specification of deferred contentions and the voluntary narrowing and focusing of admitted contentions not otherwise settled."^{2/} A

1/ Philadelphia Electric Company (Limerick Generating Station, Units 1 and 2), Docket Nos. 50-352-OL and 50-353-OL, "Order Requiring Submission of Joint Schedule Proposal for Offsite Emergency Planning Matters" (July 23, 1984) (slip op. at 1) (footnote omitted).

2/ Id. at 2.

DS03

joint submission by the parties on these discussions was requested.

Pursuant to the Board's Order, counsel for the Applicant called all counsel and representatives of the affected parties to arrange a meeting to discuss and prepare such a joint submission. The meeting was held in Philadelphia on August 1, 1984. At the meeting, counsel and/or representatives were present for the Applicant, NRC Staff, Limerick Ecology Action ("LEA"), the City of Philadelphia, the Federal Emergency Management Agency ("FEMA"), and the Graterford Prisoners. Miss Ferkin, counsel for the Commonwealth of Pennsylvania, could not attend, but agreed that the meeting should go forward. She submitted by letter dated July 25, 1984 (attached) a schedule giving the tentative availability of certain Commonwealth witnesses. Miss Ferkin subsequently reviewed and approved this Joint Report as did the other parties.

I. Schedule for Prehearing Matters
and Commencement of Hearing.

The parties recognized that the commencement of hearings on offsite emergency planning contentions is largely controlled by the availability of Commonwealth and FEMA witnesses, which in turn is dependent upon the completion of their staff review, particularly including the results of the July 25, 1984 Joint Exercise. As stated by Miss Ferkin in her letter dated July 25, 1984 on scheduling, the availability of PEMA and other Commonwealth witnesses will

be limited in early October because of commitments for planning and participation for emergency planning exercises at the Three Mile Island and Peach Bottom plants on October 1 and October 17, respectively.^{3/}

Mr. Spence Perry, counsel for FEMA, likewise stated at the meeting that FEMA witnesses would be unavailable at those times because of their participation in the exercises. Mr. Perry also noted that a report on the exercise held for Limerick on July 25, 1984 is expected to be issued from the FEMA regional office on or about September 1, 1984. This report will be reviewed by FEMA headquarters in Washington, D.C. and, assuming no major problems are identified (and none was discussed at the meeting), a formal FEMA report of its findings would be issued about October 1, 1984. Mr. Perry stated that this would enable FEMA to submit its written testimony on the contentions about October 15, 1984.^{4/} Thus, assuming the normal intervals thereafter for submitting motions and cross-examination plans, FEMA witnesses could testify about November 1, 1984.

3/ FEMA advises that the date of the Peach Bottom exercise noted in Miss Ferkin's letter is in fact October 17, 1984.

4/ The FEMA representative advised that this estimate is contingent upon the number and nature of contentions finally admitted which FEMA is required to address, and presupposes little or no additional discovery. If contentions are unusually numerous or require unusually extensive work on FEMA's part, or if additional discovery is allowed, this date may not be feasible.

Applicant therefore proposed a schedule which would permit witnesses other than FEMA to testify first and FEMA witnesses later. Counsel for Applicant noted that its schedule called for loading fuel on or about September 15, 1984 under a fuel loading and low power testing license. This schedule calls for the ascent to power program above 5% rated power to proceed on or about December 1. On this basis, it proposed the following schedule.

General

Submission of narrowed and focused contentions, including any dropped contentions.	August 17, 1984
Report on Limerick exercise from FEMA regional office.	September 1, 1984
Prehearing conference on remaining contentions.	September 17, 1984 ^{5/}
Final prehearing conference (if necessary).	September 27, 1984
File written direct testimony (except FEMA).	October 5, 1984
File motions to strike.	October 12, 1984
File answers to motions to strike.	October 16, 1984
File cross-examination plans.	October 19, 1984
Commence hearing.	October 22, 1984

FEMA

File FEMA written direct testimony.	October 15, 1984
File motions to strike.	October 22, 1984
File Answers to motions to strike.	October 26, 1984
File cross-examination plans.	October 29, 1984
Testimony of FEMA witnesses.	November 1, 1984

5/ Miss Ferkin requests that a prehearing conference be scheduled Tuesday, September 18, 1984 due to her unavailability on September 17.

All of the parties, except LEA, agree that the schedule proposed by Applicant is acceptable. LEA, however, proposed a different schedule by which hearings would not commence until December. LEA stated that this would provide LEA an opportunity to review the FEMA report on the July 25 Joint Exercise and would allow time for meaningful negotiations and narrowing and refocusing of admitted and deferred contentions. Its proposal is attached.^{6/} The parties other than Applicant indicated that LEA's proposed schedule was acceptable from the perspective of providing their evidence and the testimony of their witnesses. The City's position is that either Applicant's or LEA's proposed schedule is acceptable. As explained below, Mr. Love took no position on either proposed schedule because of the special situation for the Graterford Prisoners.

The participants in the meeting recognized that Applicant's proposed schedule may not be applicable to the Graterford Prisoners. As of that date, PEMA had made available to counsel for the Graterford Prisoners no

^{6/} At the meeting, LEA stated that it would request discovery on the Evacuation Time Estimates study (deferred LEA-23), notwithstanding the June 25, 1984 discovery deadline. LEA took the position that it had not conducted discovery on the study. Applicant took the position that formal written discovery on LEA's contentions is closed, but agreed to provide additional information informally within reason.

emergency plan for this population. Recognition was given of the Board's Order of April 20, 1984 (slip op. at 9-10) which provided that the Graterford Prisoners would have twenty days after such a report had been made available to their counsel to frame contentions with time to respond thereafter. No one at the meeting had any information as to when such a report might become available.

II. Narrowing, Focusing and Rewording of Contentions.

Mr. Smolen stated for the City of Philadelphia that its contentions were unchanged from City-18 and City-19 as stated in his letter of July 5, 1984. Miss Mulligan stated for LEA that LEA had not yet reworded any of its contentions or refocused on any particular concerns.^{7/} She stated that none of the contentions was being dropped at this time, but added that she expected contentions might be dropped in the future based upon her review of the FEMA report, Evacuation Time Estimates study and interrogatory responses.

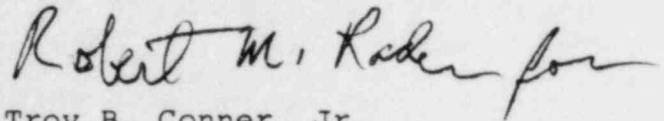
Each of the counsel or representatives of the respective parties have reviewed this report and have authorized

^{7/} LEA subsequently explained that it is awaiting interrogatory responses from Applicant and the Commonwealth before rewording its contentions.

counsel for Applicant to sign and submit this report on their behalf.

Respectfully submitted,

CONNER & WETTERHAHN, P.C.



Troy B. Conner, Jr.
Counsel for Philadelphia
Electric Company

August 7, 1984

JUL 30 1984



COMMONWEALTH OF PENNSYLVANIA
GOVERNOR'S ENERGY COUNCIL
P.O. BOX 8010
1625 N. FRONT STREET
HARRISBURG, PENNSYLVANIA 17105

OFFICE OF
POLICY & PLANNING
783-6220
717-783-9983

July 25, 1984

Robert M. Rader, Esquire
Conner and Wetterhahn, P.C.
1747 Pennsylvania Avenue, NW
Washington, DC 20006

Re: Limerick Generating Station, Docket Nos. 50-352, 50-353

Dear Bob:

In line with our telephone conversation earlier today, I am providing the following information with regard to scheduling of offsite emergency planning prehearing activities.

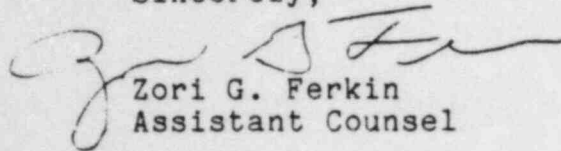
I will be unavailable September 3-14 and 20-21. Because I am the sole attorney for the Commonwealth in this proceeding, it will not be possible to schedule negotiations and/or prehearing conferences for those dates.

On the subject of a start date for evidentiary hearings, I estimate that Commonwealth witnesses, in particular officials from the Pennsylvania Emergency Management Agency (PEMA), will not be prepared to go to hearing prior to October 1, 1984. Commonwealth witness availability will also be limited in early October in light of officials' commitments to planning and participation in emergency preparedness exercises at the TMI and Peach Bottom plants, tentatively scheduled for the weeks of October 1 and October 15, respectively.

Robert M. Rader
Page two
July 25, 1984

I trust you will find this information helpful in your August 1 meeting with other parties involved in offsite emergency planning matters. I regret I will not be able to attend that meeting, but look forward to reviewing a draft proposed schedule Thursday morning. If you wish to Telefax a copy of the draft proposal, please contact Theresa Dickey (717-783-9983) or Marilyn Wooding (717-783-0220) in my office.

Sincerely,



Zori G. Ferkin
Assistant Counsel

cc: B. Vogler
H. Smolen
M. Mulligan
A. Love
R. Hippert
M. Reilly

ZGF/td

limerick ecology action

BOX 761

POTTSTOWN, PA. 19464

(215) 326-9122

8/1/84

LEA SCHEDULE PROPOSAL "OFF-SITE" EMERGENCY PLANNING CONTENTIONS

Aug. to Continue negotiations between parties; while awaiting:
Sept. 21: PECO Answers to LEA's Second Set of Interrogatories
(due August 2)
additional follow-up info from FEMA on PENN-DOT
traffic analysis
FEMA report on the July 25th. exercise

During this time period, LEA will send out informational surveys to:

teachers and school staff (including day care,
bus drivers pre-school, and
gas station owners summer camps)
towing services
firemen

SEPT. 25: (3) weeks after FEMA report is received (approximately
written filing due to respecify admitted and deferred
contentions

Early Oct: Written reply filings to be filed if Board and parties
deem necessary

Mid-Oct: Pre-hearing conference as soon as possible thereafter
(assuming Board deems this necessary), depending on
Board's schedule

Nov. Testimony due a few weeks after Board's ruling on admitted
respecified contentions (see note below)**

Dec: 4 to 6 weeks later hearings are held on any of the following
contentions that remain to be litigated:

LEA-11, LEA-12, LEA-13, LEA-14 LEA-15, LEA-22, LEA-26, LEA-27,
LEA-28, LEA-24/FOE-1.

** LEA seeks some kind of discovery on the following contentions that
were deferred by the Board's 4/20/84 order: LEA-1, LEA-2, LEA-3,
LEA-4, IEA-5, LEA-6, LEA-23. These could be litigated on the
same schedule as the other contentions, or could be held for last.
Due to the fact that so much time has lapsed since they were
admitted, LEA would agree to keep discovery on an informal basis,
and could litigate these on the same schedule as those above.
LEA-23 (evacuation time estimates) is the one thing that it might
be necessary for LEA to have an opportunity for formal discovery on.
In view of this, LEA is willing to file respecified contentions on
LEA-23 sooner than the above schedule (9/25) in order to make sure
the schedule permits time for discovery. *Could do so by 8/31.*

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

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 "Joint Report of the Parties on Schedule Proposal for Offsite Emergency Planning Matters" dated August 7, 1984 in the captioned matter have been served upon the following by deposit in the United States mail this 7th day of August, 1984:

- | | |
|-----------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------|
| * Lawrence Brenner, Esq. (2)
Atomic Safety and Licensing
Board
U.S. Nuclear Regulatory
Commission
Washington, D.C. 20555 | Atomic Safety and Licensing
Appeal Panel
U.S. Nuclear Regulatory
Commission
Washington, D.C. 20555 |
| * Dr. Richard F. Cole
Atomic Safety and
Licensing Board
U.S. Nuclear Regulatory
Commission
Washington, D.C. 20555 | Docketing and Service Section
Office of the Secretary
U.S. Nuclear Regulatory
Commission
Washington, D.C. 20555 |
| * Dr. Peter A. Morris
Atomic Safety and
Licensing Board
U.S. Nuclear Regulatory
Commission
Washington, D.C. 20555 | Ann P. Hodgdon, Esq.
Counsel for NRC Staff Office
of the Executive
Legal Director
U.S. Nuclear Regulatory
Commission
Washington, D.C. 20555 |

* Hand Delivery

Atomic Safety and Licensing
Board Panel
U.S. Nuclear Regulatory
Commission
Washington, D.C. 20555

Philadelphia Electric Company
ATTN: Edward G. Bauer, J.
Vice President &
General Counsel
2301 Market Street
Philadelphia, PA 19101

Mr. Frank R. Romano
61 Forest Avenue
Ambler, Pennsylvania 19002

Mr. Robert L. Anthony
Friends of the Earth of
the Delaware Valley
106 Vernon Lane, Box 186
Moylan, Pennsylvania 19065

Charles W. Elliott, Esq.
Brose and Postwistilo
1101 Building
11th & Northampton Streets
Easton, PA 18042

Miss Maureen Mulligan Limerick
Ecology Action P.O. Box 761
762 Queen Street Pottstown, PA
19464

Zori G. Ferkin, Esq.
Assistant Counsel
Commonwealth of Pennsylvania
Governor's Energy Council
1625 N. Front Street
Harrisburg, PA 17102

Jay M. Gutierrez, Esq.
U.S. Nuclear Regulatory
Commission
631 Park Avenue
King of Prussia, PA 19406

Angus Love, Esq.
107 East Main Street
Norristown, PA 19401

Robert J. Sugarman, Esq.
Sugarman, Denworth &
Hellegers
16th Floor, Center Plaza
101 North Broad Street
Philadelphia, PA 19107

Director, Pennsylvania
Emergency Management Agency
Basement, Transportation
and Safety Building
Harrisburg, PA 17120

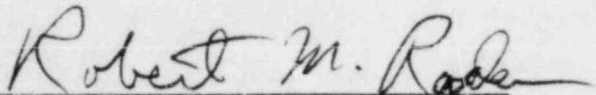
Martha W. Bush, Esq.
Kathryn S. Lewis, Esq.
City of Philadelphia
Municipal Services Bldg.
15th and JFK Blvd.
Philadelphia, PA 19107

Spence W. Perry, Esq.
Associate General Counsel
Federal Emergency
Management Agency
500 C Street, S.W., Rm. 840
Washington, DC 20472

Thomas Gerusky, Director
Bureau of Radiation
Protection
Department of Environmental
Resources
5th Floor, Fulton Bank Bldg.
Third and Locust Streets
Harrisburg, PA 17120

James Wiggins
Senior Resident Inspector
U.S. Nuclear Regulatory
Commission
P.O. Box 47
Sanatoga, PA 19464

Timothy R.S. Campbell
Director
Department of Emergency
Services
14 East Biddle Street
West Chester, PA 19380



Robert M. Rader