

062  
RELATED CORRESPONDENCE

LAW OFFICES

GONNER & WETTERHAHN, P.C.

1747 PENNSYLVANIA AVENUE, N.W.  
WASHINGTON, D.C. 20006

TROY B. CONNER, JR.  
MARK J. WETTERHAHN  
ROBERT M. RADER  
INGRID M. OLSON  
ARCH A. MOORE, JR.  
ROBERT H. PURL  
OF GUNNEL  
NOT ADMITTED IN D.C.

DOCKETED  
USNRC

August 10, 1984

(202) 833-3500

'84 AGO 15 A10:53 CABLE ADDRESS: ATOMLAW

OFFICE OF SECRETARY  
DOCKETING & SERVICE  
BRANCH

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

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

Dear Miss Mulligan:

This will respond to your letter to me dated August 6, 1984, enclosing LEA's supplemental responses to Applicant's discovery requests. Initially, I disagree with your statement that my August 1, 1984 letter "mischaracterizes our telephone conversation of July 17, 1984." For purposes of Applicant's motion to compel, filed August 2, 1984, it was necessary to determine, to the best extent possible, LEA's position on Applicant's request that it supplement its answers. Recognizing that a party can always change its mind, my letter accurately reflects the status of LEA's position at that time.

As you are aware, it is the policy of the NRC and this Licensing Board that parties work out whatever discovery disputes they can with resort to the Board. Because of the deadline for filing a motion to compel, it was necessary for Applicant to file its motion based upon LEA's stated position at the time. However, you will recall that during our conversation as well as at the meeting on August 1, 1984, I stated that I would be happy to consider withdrawing any aspect of Applicant's motion to compel which has been satisfied by your response. Having reviewed your August 6 letter, and subject to your agreement with the discussion that follows which would moot outstanding differences, I will withdraw Applicant's motion to compel.

I will now discuss each of the supplemental answers you have provided.

8408150477 840810  
PDR ADDCK 05000352  
PDR  
6

*DS03*

U. S. NUCLEAR REGULATORY COMMISSION  
DOCKETING & ALIEN BRANCH  
OFFICE OF THE SECRETARY  
WASHINGTON, D. C.

Event Date 8/10/84

Case No. 3

By RIDS, OGC

General Interrogatories

1-2. You now state, contrary to what you stated during our July 27 conversation, that LEA has not yet lined up specific witnesses on its contentions. You go on to list the kinds of witnesses (teachers, bus drivers, day care center administrators, etc.) who are likely to be called as witnesses. As to school officials, you state: "Whether or not any of the above would appear as witnesses on behalf of LEA will depend on whether or not they are satisfied with their plans at the time litigation takes place."

From your statements, it seems that particular witnesses have been identified and LEA is simply waiting to see whether such individuals are satisfied with the plans developed for their particular facilities. At other points, however, you imply that no witnesses have yet been chosen. At the end of your response, you state: "LEA will provide other information that becomes available to the applicant as requested by Aug. 31." I interpret this to mean that you agree to provide a complete answer to General Interrogatories 1 and 2 by that date.

3. Contrary to your agreement during our July 27, 1984 conversation to provide me a specific list of documents upon which LEA will rely, you now state that such a request is burdensome. Obviously, Applicant is fully aware of the contents of documents it has provided LEA informally as the plans have developed and by formal discovery (the items made available as Discovery 34 and Discovery 35). This does not relieve LEA of its obligation as a party to specify precisely those documents it intends to rely upon in its case in chief or on cross-examination. Applicant desires this information.

The remainder of your response here as well as the discussion on document production at page 5 of your letter states that "LEA is perfectly willing to file the requested affidavits to verify that a good faith effort has been made to provide all available documents to Philadelphia Electric (and to verify that no documents have been withheld or destroyed)." You also state: "To the best of my knowledge, no 'documents' or drafts of any information relating to LEA's emergency planning contentions has been discarded or destroyed." While the latter statement is at variance with your statements to me during our July 27, 1984 telephone conversation, Applicant accepts in satisfaction of this request for further information your offer to provide by

August 31, 1984 the requested affidavits in the form proposed by Applicant in its motion to compel.

Specific Interrogatories

4, 5, 8, and 21. LEA has agreed to provide Applicant with the requested information, subject to consultation by school staff with their unions before authorizing LEA to release their names. As I noted during our July 27, 1984 conversation, the desire of any teacher or bus driver for anonymity (or any pledge by LEA of anonymity) does not preclude Applicant from receiving information or documents discoverable under the NRC's rules. Therefore, Applicant requires the names of all school staff and bus drivers with whom LEA consulted on issues covered by the contentions.

16. LEA agrees to specify its concerns about "training" as soon as possible and no later than August 31, 1984.

18. LEA agrees to specify alleged defects in the plans, implementing procedures and training provisions as regards the assignment of school bus drivers to transport students as soon as possible and not later than August 31, 1984.

22. All but the last sentence of your response on this item is nonresponsive for the reasons discussed in Applicant's motion to compel. Applicant requires an answer to this interrogatory along with the other answers or supplemental answers provided by LEA by August 31, 1984.

35 and 38. LEA has agreed to re-examine its files and provide appropriate responses as requested by August 31, 1984.

At page 5 of your letter, you note that Applicant requested you to supplement your answers based upon any information arising from the July 25, 1984 Joint Exercise. You state that "We would not expect this to impact contentions relating to schools, because they were not involved in the drill." LEA's contentions, however, are not limited to emergency planning for schools. Applicant requires information from LEA arising from the Joint Exercise insofar as it is relevant to any of LEA's or FOE's contentions.

Document Production

LEA's agreement to conduct a survey of its members and provide the necessary affidavits to demonstrate good faith compliance with discovery requests has been discussed previously with regard to General Interrogatory 3, above.

Stipulation

If the statements by Applicant in this letter accurately reflect LEA's intentions in providing answers and supplemental answers to Applicant's interrogatories and request for production of documents by August 31, 1984, please execute the Stipulation below. Upon receipt of the signed Stipulation, I will advise the Licensing Board that Applicant's motion to compel has been withdrawn.

Respectfully submitted,

*Robert M. Rader*

Robert M. Rader  
Counsel for Applicant

I have read this letter and agree to provide information and documents in accordance therewith and in accordance with the commitments in my letter dated August 6, 1984 as restated by this letter.

---

Maureen Mulligan  
LEA Vice President

cc: Service List