

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING APPEAL BOARD

DOCKETED  
USNRC

In the Matter of  
PHILADELPHIA ELECTRIC COMPANY  
(Limerick Generating Station,  
Units 1 and 2)

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Docket Nos. 50-352<sup>0</sup>  
50-353<sup>0</sup>

'84 AGO 29 P3:29  
OFFICE OF SECRETARY  
DOCKETING & SERVICE  
BRANCH

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NRC STAFF RESPONSE TO MOTION BY DEL-AWARE TO SET ASIDE  
THE PARTIAL INITIAL DECISION ON THE ENVIRONMENTAL EFFECTS OF  
THE SUPPLEMENTARY COOLING WATER SYSTEM BASED ON NEW EVIDENCE

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August 27, 1984

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I. INTRODUCTION

On August 6, 1984, Intervenor Del-Aware filed with the Atomic Safety and Licensing Appeal Board ("Appeal Board") a "Motion to Set Aside Based on New Evidence" (Motion) the Partial Initial Decision (PID) issued by the Atomic Safety and Licensing Board ("Licensing Board") on March 8, 1983. The PID which is currently pending on appeal before the Atomic Safety and Licensing Appeal Board concerns the supplementary cooling water system for the Limerick Generating Station (LGS). For the following reasons, the Staff opposes Del-Aware's Motion.

II. BACKGROUND

On March 8, 1983, the Licensing Board issued a PID addressing contentions alleging that significant environmental impacts would arise from Limerick's proposed supplementary cooling water system, the Point Pleasant Diversion.<sup>1/</sup> On March 21, 1983, Del-Aware filed exceptions to

<sup>1/</sup> Philadelphia Electric Company (Limerick Generating Station, Units 1 and 2), LBP-83-11, 18 NRC 413 (1983).

the PID requesting, among other things, that the Licensing Board's decision be reversed.<sup>2/</sup> The Appeal Board heard oral argument in this case on December 5, 1983.

On February 17, 1984, Del-Aware sought to reopen the PID before the Licensing Board on the grounds that the Pennsylvania Public Utilities Commission was about to review the status of Unit 2 of the LGS. The Licensing Board denied Del-Aware's motion.<sup>3/</sup> On May 15, 1984, Del-Aware filed a motion before the Appeal Board seeking to set aside the PID based on indications that the Point Pleasant Diversion may be cancelled. This matter is now pending with the Appeal Board.

In addition to the above mentioned efforts to set aside the PID, Del-Aware has also raised similar issues concerning the Point Pleasant Diversion with the Staff. In a Director's Decision issued on April 25, 1984,<sup>4/</sup> the Director, Office of Nuclear Reactor Regulation, rejected Del-Aware's allegations that recent developments at the Point Pleasant Diversion Project require immediate reconsideration by the NRC staff. On June 29, 1984, in response to another request by Del-Aware the Director restated the Staff's

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<sup>2/</sup> Appellants' Brief in Support of Exceptions From Partial Initial Decision, dated August 23, 1983.

<sup>3/</sup> Del-Aware also sought at that time to have the Licensing Board admit several late filed contentions. The Licensing Board, in the same Memorandum and Order, rejected the contentions. Memorandum and Order Denying Del-Aware's Motion to Reopen the Record to Admit Late-Filed Contentions V-30, V-31, V-32, V-33, V-35 and V-36, dated April 19, 1984.

<sup>4/</sup> The Director's decision was issued pursuant to 10 C.F.R. § 2.206.

position and again declined to take further action in this matter.<sup>5/</sup> The matters brought to the attention of the NRC staff by Del-Aware in these petitions are similar to certain of the issues now being brought to the attention of the Appeal Board in Del-Aware's pending motion concerning the future of the Point Pleasant Division.

On August 6, 1984, Del-Aware filed the present motion to set aside the PID based on "new evidence."

### III. DISCUSSION

Del-Aware styles its pleading as a "Motion to Set Aside Based On New Evidence"; however, it appears that what Del-Aware is in fact now seeking is to reopen the record in this proceeding based on "new evidence" and to file several new late contentions. Accordingly, the Staff will address Del-Aware's present motion in light of the standards required to be met to reopen a record and to file late contentions.

#### Standards Applicable to Del-Aware's Motion to Reopen

The proponent of a motion to reopen the record bears a heavy burden.<sup>6/</sup> In this case, both the standards for reopening the record and for late-

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<sup>5/</sup> See, Letter from Harold Denton, Director, Office of Nuclear Reactor Regulation to Del-Aware, (June 29, 1984). The Director, Office of Nuclear Reactor Regulation, currently has pending still another request by Del-Aware concerning the Point Pleasant Diversion.

<sup>6/</sup> Kansas Gas and Electric Company (Wolf Creek Generating Station, Unit No. 1, ALAB-462, 7 NRC 320, 338 (1978).

filed contentions must be met.<sup>7/</sup> In order to sustain the burden required to reopen the record, a motion must be (1) timely, (2) addressed to a significant safety or environmental issue, and (3) it must be shown that a different result would have been reached initially had the material submitted in support of the motion originally been considered.<sup>8/</sup> In meeting these standards, significant new evidence must be offered.<sup>9/</sup> In its present motion, Del-Aware has not even attempted to address these three standards with respect to the "new evidence" it requests the Board to consider. That alone is sufficient reason for denying its motion. Nonetheless, the Staff will address these standards in the context of Del-Aware's "new evidence."

Turning next to the standards for accepting late-filed contentions,<sup>10/</sup> it is Del-Aware's responsibility to address each of the five factors that the Licensing Board must balance and affirmatively show that the balance

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<sup>7/</sup> Pacific Gas and Electric Company (Diablo Canyon Nuclear Power Plant, Units 1 and 2) CLI-81-5, 13 NRC 361 (1981).

<sup>8/</sup> Pacific Gas and Electric Company (Diablo Canyon Nuclear Power Plant, Units 1 and 2), ALAB-756, 18 NRC 1340, 1344 (December 19, 1983).

<sup>9/</sup> Diablo Canyon, supra, 13 NRC at 363.

<sup>10/</sup> Those factors, set forth in 10 C.F.R. § 2.714(a)(1), are as follows:

(i) Good cause, if any, for failure to file on time.

(ii) The availability of other means whereby the petitioner's interest will be protected.

(iii) The extent to which the petitioner's participation may reasonably be expected to assist in developing a sound record.

(iv) The extent to which the petitioner's interest will be represented by existing parties.

(v) The extent to which the petitioner's participation will broaden the issues or delay the proceeding.



favors admitting the late-filed contention.<sup>11/</sup> Although Del-Aware briefly discusses in broad brush terms some of the requirements for late-filed contentions, Del-Aware proffers no specific contentions for consideration by the Appeal Board and does not specifically address the standards to be applied to late-filed contentions set forth in 10 C.F.R. § 2.714. Therefore, Staff's response concentrates on the requirements needed to reopen the proceeding.

1. The Pennsylvania Environmental Hearing Board's Decision.

There is no explanation by Del-Aware of how the decision by the Pennsylvania Environmental Hearing Board<sup>12/</sup> (EHB) relates to the PID or why the Appeal Board should even consider reopening the record as a result of this decision. Moreover, as previously indicated, Del-Aware has failed to address the criteria necessary for reopening a record.<sup>13/</sup> Thus, there is no information or evidence in this record to support or substantiate Del-Aware's request that the decision by the EHB warrants the Appeal Board to reopen the record with respect to the Point Pleasant Diversion.<sup>14/</sup>

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<sup>11/</sup> Duke Power Company (Perkins Nuclear Station, Units 1, 2 and 3), ALAB-615, 12 NRC 350, 352-353 (1980).

<sup>12/</sup> Hearing counsel for the NRC staff were not served with a copy of the Pennsylvania Environmental Hearing Board's decision by Del-Aware despite the fact that Del-Aware relies on the EHB decision to support its motion. Staff counsel obtained a copy from another source.

<sup>13/</sup> Fn. 8, supra.

<sup>14/</sup> Del-Aware states (motion at 1) that the EHB sustained the allegations of its rejected Contention V-16(c). Contention V-16(c), which dealt with discharges into the Perkiomen was rejected by the Licensing Board because it lacked specificity and because the impacts of the Perkiomen were dealt with at the construction permit stage of this application. Philadelphia Electric Company (Limerick Generating Station, Units 1 and 2), L3P-82-43A, 15 NRC 1423, 1486 (1982). Del-Aware has not shown how the reasons given by the Licensing Board are affected by the EHB determination. Furthermore, Del-Aware has failed to address the standards for reopening the record on this late-filed issue.

Del-Aware also argues that the Licensing Board committed an error by requiring Del-Aware to litigate its contentions concerning the Point Pleasant Diversion too soon in that if it had had more time it would have been possible to present the same evidence to the Licensing Board that it presented to the EHB. (Motion at 2). In the first place, the issue concerning the timing of the hearing involving the Point Pleasant Diversion is now pending before the Appeal Board in connection with Del-Aware's exceptions to the PID. In the second place, Del-Aware fails to advise the Appeal Board that it challenged before the EHB the permits issued to PECO concerning the Point Pleasant Diversion in July of 1982. Thus, contrary to Del-Aware's assertions concerning early litigation, its witnesses were available and did present evidence with respect to the Point Pleasant Diversion. To the extent that Del-Aware is talking about presenting evidence with respect to rejected contentions, Del-Aware has not shown why this fact would have caused the Licensing Board to change its decision in any material respect nor why the record should now be reopened to consider rejected contentions.

Next, Del-Aware, in support of its motion, alleges that the EHB decision entails the construction by PECO of a sewage treatment plant and that such construction will delay operation of the Point Pleasant Diversion until at least the Fall of 1986. (Motion at 2). Del-Aware has neglected to give the Appeal Board and the parties a page citation to the 155 page EHB decision to substantiate this claim. Staff review of the decision did not uncover where it was determined that completion of the Point Pleasant Diversion would "entail" the construction of a sewage treatment plant by PECO. What the EHB decision does entail is a requirement that PECO and the Neshaminy Water Resource Board (NWRB) seek another

permit from the Pennsylvania Department of Environmental Resources (DER).

As the EHB determined:

To sum it up, it was an abuse of discretion for DER to have issued the appealed-from permits without requiring that discharges into the receiving streams comply with NPDES permits. This deficiency of DER's actions in issuing the appealed-from permits readily can be remedied by remand to DER, as per our Order infra, without any need to wholly overturn the permits already granted.

(EHB decision, June 18, 1984, Slip op. at 104. See also, Conclusion of Law No. 4, Slip op. at 153).

Del-Aware again fails to point out the impact of this aspect of the EHB decision on the the PID. No effort is made by Del-Aware to satisfy any of the criteria set forth by the Commission in its Diablo Canyon opinion, supra.<sup>15/</sup> All that is known is that in addition to the permits already granted another permit from DER may be required. There is no showing, by Del-Aware, that this action entails the construction of a sewage treatment plant as alleged or justifies a reopening of the PID.

## 2. Pennsylvania Public Utility Commission

On page three of its motion Del-Aware asserts that a recent determination by the Pennsylvania Public Utility Commission (PUC) to institute an investigation into the desirability of proceeding with LGS Unit 2 supports its Motion.<sup>16/</sup> This PUC investigation is alleged to extend to issues regarding the need for power, costs and the effects of construc-

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<sup>15/</sup> Fn. 8, supra.

<sup>16/</sup> In its motion, Del-Aware states that the PUC resolution is attached as Exhibit F. This is incorrect. Exhibit F appears to be a motion by three individuals requesting action by the PUC and not a resolution of the PUC. The Staff has obtained a copy of the resolution referred to by Del-Aware from another source and for the convenience of the Appeal Board has attached, hereto, a copy of the Order to Show Cause.

tion of the LGS. Once again, Del-Aware fails to establish why action by the PUC requires some corresponding action by the Appeal Board. The Staff does not believe that the action by the Pennsylvania PUC would support reopening the record. The Commission, in its Statement of Consideration accompanying the change in 10 C.F.R. Part 51, relating to Need for Power and Alternative Energy Issues in Operating Licensing Proceedings (47 Fed. Reg. 12940, (1982)) stated that it is not necessary, absent a showing of special circumstances, to consider the issues of the need for power and alternative energy sources at the operating license stage of a licensing proceeding. (See also 10 C.F.R. § 51.53(c)). In the Staff's opinion, Del-Aware has not made a showing of special circumstances in its motion. In addition, a decision to conduct an investigation by a state agency is not tantamount to a showing of special circumstances and Del-Aware's motion, to the extent that it relies upon the PUC Order to show cause should be denied.

Next, Del-Aware argues that the PUC has indefinitely deferred approval of the Bradshaw Reservoir. (Motion at 3-4). This aspect of Del-Aware's motion is, however, already pending before the Appeal Board pursuant to a Del-Aware motion to set aside the PID dated May 15, 1984. On June 4, 1984, the Staff responded to Del-Aware's appeal and noted:

An Administrative Law Judge of the PUC has issued an Initial Decision with respect to Philadelphia Electric's application to construct the Bradshaw pumphouse. In Re: Application of Philadelphia Electric Company for finding of necessity for the situation of a pumphouse to contain pumping and accessory equipment on site located at the intersection of Bradshaw and Moyer Roads in Plumstead Township, Bucks County. (December 12, 1983). The Initial Decision would permit construction to begin on one pump and would allow for construction of a second pump if, after one year of operation, Philadelphia Electric could show that operation of one pump did not give rise to significant environmental effects. (Id.) Although the Administrative Law Judge did not authorize construction of four pumps, as

Philadelphia Electric requested, authorization to construct one pump is a step towards allowing the Diversion to operate, and not a step away from it.

(In the Matter of Philadelphia Electric Company, (Limerick Generating Station Units 1 and 2), NRC Staff Response To Del-Aware's Motion To Set Aside The Partial Initial Decision On The Environmental Effects Of The Supplemental Cooling Water System (SCWS) June 4, 1984 fn. 6 at 5)).

The Staff went on to observe in its June 4, 1984 Response to Del-Aware that:

In short, Del-Aware has shown little more than that Bucks County hopes to successfully cancel the Diversion and is taking steps to do so. That being so, the relief being sought is inappropriate. Granting Del-Aware's motion on that basis would fly in the face of the Commission and the Appeal Board's determination that the licensing process should not be halted merely on the potential that a governmental entity will take a particular action. Kerr-McGee Corporation (West Chicago Rare Earth Facility), CLI-82-2, 15 NRC 232, 269 (1982)<sup>7/</sup> Cleveland Electric Illuminating Company (Perry Nuclear Power Plant, Units 1 and 2), ALAB-443, 6 NRC 741, 748 (1977), Southern California Edison Company (San Onofre Nuclear Generating Station, Units 2 and 3), ALAB-189, 7 AEC 410 (1974), Southern California Edison Company, (San Onofre Nuclear Generating Station, Units 2 and 3), ALAB-171, 7 AEC, 37, 39 (1979).<sup>8/</sup> (Id. footnotes omitted).

Again, no effort is made by Del-Aware to explain how the actions by the PUC affect the Licensing Board's PID. Nor has Del-Aware made any effort to satisfy the Commission's three criteria necessary to reopen a proceeding.<sup>17/</sup> In view of the foregoing, Staff submits that the actions of the Pennsylvania PUC do not form the basis for the Appeal Board to reopen this proceeding.

Del-Aware next alleges that additional material discovered from PECO's files have disclosed that Schuylkill River alternatives would suffice for one, but not two units at LGS (Motion at 2). This allegation is hardly

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<sup>17/</sup> See supra., p. 4.

a new contention that is based on "new evidence" as Del-Aware states on page one of its motion. The Licensing Board considered and rejected this matter in its April 19, 1984 Memorandum and Order where it stated:

To the extent Del-Aware's motions to reopen and add late-filed contentions now before us seek to argue that the decision of Judge Kranzel of the Pennsylvania Public Utility Commission (PUC) supports alternatives other than use of the Delaware River (such as the Blue Marsh Reservoir on the Schuylkill), this is wrong. As Judge Kranzel emphasizes in his June 13, 1983 denial of Del-Aware's exceptions, at 6, he found that some water from the Delaware is necessary for operation of even just one Limerick unit. Moreover, Del-Aware continues to fail to address the fact that the Delaware River Basin Commission (DRBC) would be the proper body to determine whether additional allocations of Schuylkill River water should be permitted for Limerick. See our March 8, 1983 order, supra at 5 n.\*, and previous decisions cited therein.

Much of Del-Aware's current spate of motions is grounded on its belief that Limerick Unit 2's present status of being deferred due to action by the Pennsylvania PUC is tantamount to cancellation of that unit. But again, Del-Aware ignores the fact that this is an old point previously raised by Del-Aware and disposed of by us. In prior rulings, we assumed arguendo that only Unit 1 would be operated. We found, similar to Judge Kranzel's finding, that "the amount of time that cooling water would be unavailable without the Point Pleasant diversion of Delaware River water, given the applicable DRBC conditions and water allocations, would not vary significantly between operation of two Limerick units and, arguendo, operation of just Unit 1." See our March 8, 1983 order, supra at 6-7. (Memorandum and Order, April 19, 1984, Slip op. at 7-8).

In still another Memorandum and Order<sup>18/</sup> the Licensing Board rejected Del-Aware's contentions concerning Schuylkill River alternatives and reminded Del-Aware that Delaware River Basin Commission river allocation decisions are not reviewable by the Licensing Board.

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<sup>18/</sup> Memorandum and Order, (Denying Petitions of Del-Aware for Reconsideration and to admit a Late-Filed Contention), March 8, 1983, Slip op. at 7-8.

Finally, the two exhibits submitted by Del-Aware, entitled Exhibit C and Exhibit D, do not substantiate Del-Aware's allegations. They contain information that has been generally known to the parties to this and the related state proceedings for some time. In sum, Del-Aware has again failed to satisfy the Commission's requirements for reopening the PID. In fact, Del-Aware has failed to furnish any evidence at all that even approaches the requirements for reopening.

3. The NRC Staff

On page 3 of its motion Del-Aware accuses the NRC staff of ex parte contact with PECO. Del-Aware alleges that Staff's action was concealed from the intervenors herein and is contrary to "10 C.F.R. § 27.80."<sup>19/</sup> Del-Aware's assertions are without foundation and incorrect as a matter of law.

Del-Aware's interpretation of 10 C.F.R. § 2.780 simply misses the mark. A review of this section establishes that it is concerned with Commissioners, their immediate Staffs and other NRC officials or personnel, who in the exercise of their quasi-judicial functions advise the Commission. In other words, the Commission's Rules prohibit ex parte contacts with the members of the Commission and its decisionmaking boards. The NRC staff, which is a party to the proceeding, is not prohibited from consulting with another party to the proceeding, including the Applicant.<sup>20/</sup>

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<sup>19/</sup> There is no 10 C.F.R. § 27.80 as cited by Del-Aware. The correct citation is 10 C.F.R. § 2.780.

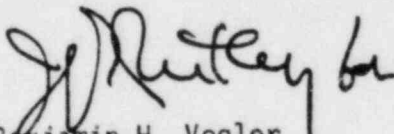
<sup>20/</sup> See, 10 C.F.R. § 2.102(a) where Staff may request another party to confer informally.

Moreover, what has been supplied by Del-Aware to the Appeal Board in Exhibit E are notes taken by someone at PECO that reflect the results of a telephone conversation with three members of the NRC staff on April 17, 1984. On their face, the notes reflect an interest in determining the current status of the Point Pleasant diversion project and does not reflect any improper motivation. The notes reflect nothing more. An inference that the Commission is somehow involved with PECO and the issue of supplemental cooling water on the basis of this telephone conversation is not supported by that memorandum. Finally, Del-Aware again fails to relate how this baseless allegation meets any of the requirements needed to reopen the PID with respect to the Point Pleasant Diversion.

IV. CONCLUSION

Based on the foregoing, the Staff submits that Del-Aware's motion has not satisfied any of the Commission's requirements for reopening this record. Accordingly, Del-Aware's motion should be denied.

Respectfully submitted,

  
Benjamin H. Vogler  
Counsel for NRC Staff

Dated at Bethesda, Maryland  
this 27th day of August, 1984



PENNSYLVANIA  
PUBLIC UTILITY COMMISSION  
Harrisburg, PA 17120

Public Meeting held July 6, 1984

Commissioners Present:

Linda C. Taliaferro, Chairman, dissenting  
Michael Johnson  
James H. Cawley, dissenting  
Frank Fischl  
Bill Shane

Limerick Unit No. 2 Nuclear Generating  
Station Investigation

Docket No.  
I-840381

ORDER TO SHOW CAUSE

BY THE COMMISSION:

By order entered October 10, 1980 this Commission instituted an investigation at Docket No. I-80100341 into certain issues concerning Philadelphia Electric Company's (PECO) construction of the Limerick Nuclear Generating Units 1 and 2 in order to gather information in an orderly and expeditious manner prior to PECO seeking to include Limerick in its rate base as used and useful property. At the conclusion of said investigation we found that the simultaneous construction of Units 1 and 2 was not financially feasible if PECO was to insure the continued maintenance of safe and reliable service to the public. PECO was then given the option of either suspending or cancelling the construction of Unit 2. In the event PECO refused to suspend or cancel the construction of Unit 2, we declared that we would not approve any new securities issuances, in whole or in part, for the construction of Unit 2. The Commission's decision was upheld by the Pennsylvania Supreme Court. Pennsylvania Public Utility Commission v. Philadelphia Electric Company, 501 Pa. 153, 460 A.2d 734 (1983).

Subsequent to the Court's decision, PECO elected to suspend construction at Unit 2 in accordance with the Commission's orders. On February 22, 1984 we accepted PECO's response to our order requiring suspension or cancellation as being in compliance with the Commission's Orders of August 27, 1982, June 10, 1983 and December 23, 1983.

In the Order entered February 22, 1984 we also recognized that PECO's decision to suspend construction meant that the company intended to resume construction of Unit 2 upon completion of Unit 1. We also recognized that PECO, at some future date, might seek Commission approval of securities financing for construction of Unit 2. Pursuant to Section 1903(a), we would then have to consider whether the proposed financing is "necessary or proper for the present and probable future capital needs" of the company. We therefore directed PECO to file certain information concerning Unit 2 no less than 120 days prior to the filing of any securities certificate for the financing of Unit 2.

Since the company's anticipated in service date for Limerick Unit 1 is April, 1985, it is reasonable to assume that PECO will resume construction of Unit 2 upon completion of Unit 1. However, we believe that serious questions exist regarding the need for the additional generating capacity represented by Unit 2, the cost effectiveness of Unit 2 as compared to other alternatives, and the effect upon PECO's financial health and its ability to provide safe and adequate service at reasonable rates. In addition, we are concerned about the potential effect of the cost burden of Unit 2 upon PECO's existing customer base. Recent actions by some of PECO's industrial customers to generate their own power or to switch to alternate suppliers may come to typify these classes of customers. The loss of revenues from such customers could, of course, exacerbate PECO's financial situation and impact its ability to serve other PECO customers.

For the aforementioned reasons and to enable us to exercise informed judgment when security certificates to finance Unit 2 are presented to us for registration, we believe that certain issues must be examined prior to any commitment by PECO to the resumption of construction on Unit 2. In order to gather information in an orderly and expeditious manner prior to having to render any decision on the resumption of construction of Unit 2, it is necessary to institute an investigation into such matters and to order PECO to show cause why the completion of Limerick Nuclear Generating Station, Unit 2, would be in the public interest. The following issues should be examined in this proceeding:

1. Is construction of Unit 2 necessary for PECO to maintain adequate reserve margins?
2. Are there less costly alternatives - such as cogeneration, additional conservation measures, or purchasing power from neighboring utilities or the P.J.M. interchange - for PECO to obtain power or decrease consumption?
3. How will the capital requirements necessary to complete Unit 2 affect PECO's financial health and its ability to provide adequate service?
4. Should the Commission reject any securities filings, or impose any other appropriate remedy, to guarantee the cancellation of Unit 2?
5. If Unit 2 is cancelled, what, if any, percentage of the sunk costs should PECO be permitted to recover from its ratepayers?

6. If construction of Unit 2 is found to be in the public interest, should the Commission adopt an "Incentive/Penalty Plan" as an inducement to cost efficient and timely construction?

In recognition of the complexity of these issues and the need to proceed with such an examination prior to the completion of Unit 1 and the resumption of construction of Unit 2, we cannot delay instituting this investigation until the time frame established in our February 22, 1984 order at Docket No. I-80100341. An examination of the issues listed herein must be commenced at this time. THEREFORE,


IT IS ORDERED:

1. That the Philadelphia Electric Company is directed to show cause why the completion of Limerick Nuclear Generating Station, Unit 2, is in the public interest.
2. That pursuant to the Order to Show Cause a formal investigation is hereby instituted and that this investigation shall include, but not necessarily be limited to, an examination of the following issues:
  - Is construction of Unit 2 necessary for PECO to maintain adequate reserve margins?
  - Are there less costly alternatives - such as cogeneration, additional conservation measures, or purchasing power from neighboring utilities or the P.J.M. interchange - for PECO to obtain power or decrease consumption?
  - How will the capital requirements necessary to complete Unit 2 affect PECO's financial health and its ability to provide adequate service?
  - Should the Commission reject any securities filings, or impose any other appropriate remedy, to guarantee the cancellation of Unit 2?
  - If Unit 2 is cancelled, what, if any, percentage of the sunk costs should PECO be permitted to recover from its ratepayers?
  - If construction of Unit 2 is found to be in the public interest, should the Commission adopt an "Incentive/Penalty Plan" as an inducement to cost efficient and timely construction?

3. That this investigation be referred to the Office of Administrative Law Judges for hearing and Initial Decision.

4. That a copy of this Order be served upon all parties to the Commission's Investigation at Docket No. I-80100341.

BY THE COMMISSION,



Jerry Rich  
Secretary

(SEAL)

ORDER ADOPTED: July 6, 1984

ORDER ENTERED: August 7, 1984

REC'D LAW DEPT  
1984 AUG -9 AM 11:33



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