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UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

Before the Atomic Safety and Licensing Board

OFFICE OF SECRETARY  
DOCKETING & SERVICE  
BRANCH

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

APPLICANT'S MOTION FOR CONFIRMATION OF  
AUTHORIZATION TO ISSUE LOW-POWER LICENSE  
CONFIRMING ITS ORAL MOTION BY TELEPHONE  
CONFERENCE CALL ON OCTOBER 3, 1984

In its Second Partial Initial Decision ("Second PID"), issued August 29, 1984,<sup>1/</sup> the Licensing Board authorized, inter alia, the Director of Nuclear Reactor Regulation, upon making appropriate findings under 10 C.F.R. §50.57(a), to issue Applicant a license or licenses for low-power testing (up to five percent of rated power) of the Limerick Generating Station, Unit 1.

Subsequently, on September 26, 1984, the Appeal Board issued ALAB-785,<sup>2/</sup> affirming an earlier PID issued by the Licensing Board, which concerned the supplementary cooling water system for Limerick,<sup>3/</sup> except on two points. These

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1/ Philadelphia Electric Company (Limerick Generating Station, Units 1 and 2), LBP-84-31, 20 NRC \_\_\_\_ (1984).  
 2/ Limerick, supra, ALAB-785, 20 NRC \_\_\_\_ (1984).  
 3/ Limerick, supra, LBP-83-11, 17 NRC 413 (1983).

*DS03*

were (1) the impact of the withdrawals of water at Point Pleasant for Limerick on the salinity of the Delaware River; and (2) the impact of the Point Pleasant Pumping Station on the Point Pleasant Historic District. The Board stated that the intervenors, if they chose, would be given the opportunity to offer new contentions which the Licensing Board might accept or reject, in the light of the specific information included in the Staff's FES.<sup>4/</sup> The Board did not, however, stay the authorization of the Licensing Board in the second PID, dated August 29, 1984, authorizing the Director of Nuclear Reactor Regulation ("NRR") to issue a license for fuel loading and low-power testing.

Today the Staff confirmed to Applicant that it did not believe the Director of NRR could issue the authorized low-power license without an order from the Licensing Board which would determine that the possibility of the two issues permitted by ALAB-785 being raised and litigated, would not preclude issuance of the license. The Staff further stated that it would support the Applicant's position that those issues are unrelated to fuel loading and low-power testing.

As the Board and parties are aware, the Applicant filed the affidavit of Vincent S. Boyer, its Senior Vice President, Nuclear Power, dated September 28, 1984, stating that the Limerick plant would be ready for fuel loading at the

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<sup>4/</sup> Limerick, supra, ALAB-785 at 32.

end of the week beginning October 1, 1984. The Staff has further indicated that, while the Office of Nuclear Reactor Regulation is now ready to issue the license, completion of inspection by the Office of Inspection and Enforcement may take until approximately October 15. Any delay in the issuance of the low-power license and, indeed for the issuance of the license authorizing operations above five percent power, would increase costs of the plant by some one million dollars per day in interest charges alone.

As the Licensing and Appeal Boards fully understood in their respective decisions, construction of the supplementary cooling water project is not complete and is subject to pending litigation.<sup>5/</sup> Therefore, Limerick will utilize cooling water from either the Schuylkill River or Perkiomen Creek for low-power testing. There is no reason why the two matters left open by the Appeal Board in ALAB-785 should affect in any way the Licensing Board's authorization to the Director of Nuclear Reactor Regulation to issue Applicant a low-power license for Limerick.

The Commission expressly endorsed the approach in Diablo Canyon, of not delaying a lower power license on such issues, where it acted to reinstate the low-power license for Unit 1. Denying the intervenors' request for a stay until completion of a review of their allegations, the

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<sup>5/</sup> See, e.g., Limerick, supra, ALAB-785 at 17.

Commission ruled that "none of these allegations warrant a delay in the reinstatement of the low-power license."<sup>6/</sup> The same principle was utilized in Shoreham, where the Board raised the question of whether certain diesel generators were necessary for low-power testing.<sup>7/</sup> In suggesting a summary disposition procedure for applicant to show that the diesel generator contention had no effect on low-power testing, the Board clearly determined that low-power testing need not await the litigation of unrelated contentions. Here, of course, the two contentions at issue do not relate to any safety issue, as in Shoreham, and, as shown, low-power testing would not even utilize Delaware River water.

The Applicant, therefore, confirming its oral motion of this date, moves that the Licensing Board enter an Order determining that, even in the event contentions may be filed and granted by the Board on the issues (1) of the possible impact on the salinity in the Delaware River from withdrawals of cooling water at Point Pleasant and (2) of the

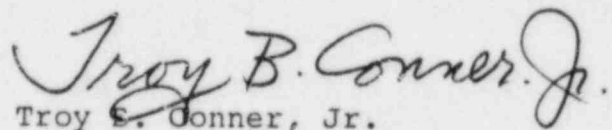
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<sup>6/</sup> Pacific Gas and Electric Company (Diablo Canyon Nuclear Power Plant, Units 1 and 2), CLI-84-5, 19 NRC 953, 960 (1984). In an earlier aspect of the case, the Commission approved a reopening of the record to consider quality assurance issues, but noted that its action "does not necessarily require that fuel loading and low-power testing be stayed." Diablo Canyon, supra, CLI-82-39, 16 NRC 1712, 1715 (1982).

<sup>7/</sup> Long Island Lighting Company (Shoreham Nuclear Power Station, Unit 1), LBP-83-50, 17 NRC 1132, 1155 (1983).

possible impact of the Point Pleasant structures on the Historic District, such contentions have no relationship to fuel loading and low-power testing, and that the Board confirm its authorization to the Director of the Office of Nuclear Reactor Regulation to issue the fuel loading and low-power license.

Respectfully submitted,  
CONNER & WETTERHAHN, P.C.

  
Troy B. Conner, Jr.  
Counsel for the Applicant

October 3, 1984

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

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CERTIFICATE OF SERVICE

I hereby certify that copies of "Applicant's Motion for Confirmation of Authorization to Issue Low-Power License Confirming its Oral Motion by Telephone Conference Call on October 3, 1984," dated October 3, 1984 in the captioned matter, have been served upon the following by deposit in the United States mail this 3rd day of October, 1984:

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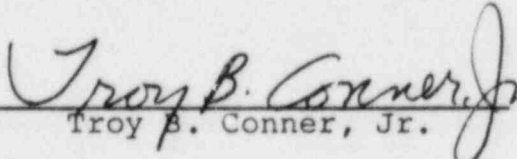
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\*\* Telecopied and delivery by Federal  
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