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UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

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Before the Atomic Safety and Licensing Board

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

APPLICANT'S REPLY IN SUPPORT OF ITS REQUEST  
FOR EXEMPTION FROM THE REQUIREMENTS OF 10  
C.F.R. §50.47(a) AND (b) RELATING TO  
THE GRATERFORD EMERGENCY PLAN

Preliminary Statement

On February 7, 1985, Philadelphia Electric Company ("Applicant") filed a motion pursuant to 10 C.F.R. §50.12 seeking an exemption from the requirements of 10 C.F.R. §§50.47(a) and (b) insofar as they relate to the disposition of contentions filed on behalf of certain inmates at the State Correctional Institution at Graterford ("Graterford Prisoners"). Answers to Applicant's motion were filed by the Graterford Prisoners (March 13 and 26, 1985), the NRC Staff (March 18, 1985) and the Commonwealth of Pennsylvania (March 18, 1985).<sup>1/</sup>

1/ This reply was authorized by the Licensing Board at a prehearing conference on March 22, 1985 (Tr. 20673). No reply to the answers filed by intervenors Romano (March 15, 1985) and Anthony/FOE (March 15, 1985) is deemed necessary.

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The NRC Staff takes the technical position that the Atomic Safety and Licensing Board ("Licensing Board" or "Board") should deny the requested exemption as premature. It notes that the Licensing Board has not yet ruled upon the contentions proposed by the Graterford Prisoners and that a fuller disclosure of the Graterford evacuation plan has been made by the Pennsylvania Department of Corrections. The Graterford Prisoners and Commonwealth agree with the NRC Staff's position. While Applicant acknowledges that fuller disclosure of the Graterford plan has resulted in a willingness by the Graterford Prisoners to withdraw most of their contentions, any further optimistic predictions are unwarranted and do not justify the Licensing Board's withholding of appropriate relief. Contrary to the NRC Staff's position for delaying licensing, the mere possibility that "subsequent events, i.e., withdrawal or denial of the proposed contentions, could nullify the reason for requesting the exemption"<sup>2/</sup> does not render the exemption request "premature."<sup>3/</sup>

Further, the NRC Staff errs in asserting that the Commission's emergency planning regulations have already taken

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<sup>2/</sup> NRC Staff Response to Applicant's Motion at 7 (March 18, 1985).

<sup>3/</sup> Applicant recognizes that the Staff's answer preceded the prehearing conference on March 22, 1985 and that its position as to alleged prematurity may well be different now.

into account the extremely low risk to Graterford inmates attributable to the operation of Limerick during the interim period of the exemption. As discussed below, generic considerations rather than site-specific risk studies underlie the Commission's regulations establishing an approximate 10-mile radius for a nuclear power plant's plume exposure emergency planning zone ("EPZ"). Thus, the studies cited by the Staff are irrelevant to the site-specific data upon which Applicant relies.

Moreover, the Commission's regulations expressly recognize that there may be compensating factors or compelling reasons to permit plant operation even if emergency planning requirements have not yet been met.<sup>4/</sup> This section provides, in essence, a built-in exemption provision for emergency planning requirements. Further, the regulations state that the size and configuration of an EPZ will vary in accordance with "local emergency response needs."<sup>5/</sup> In conjunction, these provisions plainly demonstrate that the Commission's consideration of core melt accidents (including associated probabilities and consequences) in establishing an approximate 10-mile EPZ does not preclude an applicant from seeking an exemption upon a proper showing. Nothing in

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<sup>4/</sup> 10 C.F.R. §50.47(c)(1). See, e.g., Union of Concerned Scientists, DPRM-83-1, 17 NRC 719, 726 (1983).

<sup>5/</sup> 10 C.F.R. §50.47(c)(2).

10 C.F.R. §50.47 suggests that an appropriate showing cannot be made on a probabilistic basis by demonstrating that interim operation of a nuclear plant above 5% of rated power will not result in any greater risk to a small and discrete population near the EPZ boundary than to the remainder of the general public in the same area.

Argument

I. The Exemption Request Should Not be Denied or Deferred as Premature.

The Commonwealth argues that the exemption requested by Applicant is unnecessary because "the outstanding matter of the Graterford inmates' contentions will be resolved expeditiously and within the timeframe of this Board's initial decision on emergency planning and the NRC Staff's review of Applicant's full power operating license application."<sup>6/</sup> It bases this prediction upon the discussion among the Board and parties at the prehearing conference on February 27, 1985.<sup>7/</sup>

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<sup>6/</sup> Commonwealth of Pennsylvania Response to Applicant's Motion for Exemption at 8 (March 18, 1985). Again, Applicant recognizes that the Commonwealth's position may well have changed since the prehearing conference on March 22, 1985.

<sup>7/</sup> Id. at 5-6. The Commonwealth describes that conference and its expectation of events thereafter as follows:

[T]he proposed contentions were clearly specified and the underlying concerns aired thoroughly. The March 22 conference should resolve any outstanding

(Footnote Continued)

Similarly, the NRC Staff "submits that the current posture of this case regarding the Graterford matter is such that it would be premature for the Licensing Board to determine whether to exercise the use of such [exemption] authority since subsequent events could nullify the reason for requesting the exemption."<sup>8/</sup> Applicant agrees that progress has been made in eliminating most of the contentions. Nonetheless, it would involve unwarranted speculation to assume that the Graterford Prisoners will voluntarily withdraw from the proceeding.<sup>9/</sup> There is no

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(Footnote Continued)

contentions. If any admissible contentions remain after that conference, the degree to which the contentions have been discussed to date should preclude the possibility of protracted litigation, and should lead to their resolution well within the expected time frame for this Board's decision on emergency planning contentions and the NRC staff's overall finding of adequacy as to the Limerick offsite emergency response plans. (Emphasis added.)

<sup>8/</sup> NRC Staff Response to Applicant's Motion at 6-7 (March 18, 1985).

<sup>9/</sup> At the prehearing conference on March 22, 1985, the Licensing Board set a tentative hearing date on any admitted contention(s) of April 25, 1985. Applicant is fully aware that the Licensing Board has made every reasonable effort to expedite the issuance of its Third Partial Initial Decision related to offsite emergency planning contentions while providing a fair hearing to intervenors. Any prediction regarding the issuance of a decision on Graterford contentions within the same time frame, however, involves inappropriate if not impermissible speculation into the Board's internal decision-making process.



sound reason why the Board should risk delaying licensing action by deferring its ruling upon Applicant's motion until the eleventh hour when it finds that contentions pursued by the Graterford Prisoners (assuming one is admitted) cannot be decided concomitantly with other offsite emergency planning issues.<sup>10/</sup> If the exemption were granted and the proposed contentions are dropped, no harm is done. However, if licensing is delayed by adherence to the Staff's position, significant costs to the public may result.

There is no merit to the Staff's assertion that a licensing board's exercise of its authority is premature if "subsequent events could nullify the reason" for the exercise of that authority.<sup>11/</sup> In general, the Appeal Board has resisted claims of prematurity where the record contains an adequate basis for decision, despite the possibility that

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<sup>10/</sup> Neither the NRC Staff nor the Commonwealth indicate what would trigger the Board's consideration of the motion for an exemption.

<sup>11/</sup> NRC Staff Response to Applicant's Motion at 7 (March 18, 1985). The regulations and cases cited by the Staff in its answer simply state that a licensing board's authority, other than sua sponte matters, extends to issues "in controversy." Those decisions do not define a "controversy" and certainly do not hold that a matter is not "in controversy" because it is susceptible of being rendered moot. Indeed, such a rule would virtually eliminate any controversy in a contested proceeding. Any issue can be rendered moot by withdrawal of the contention or intervenor.

the record might be better developed at a later date.<sup>12/</sup>  
The Licensing Board in Perry expressly rejected this "wait-and-see" approach in admitting a contention which would have been precluded by proposed rulemaking. Although potentially dispositive of the contention, the Board refused to speculate as to what action the Commission might take:

While we could adopt a wait-and-see attitude on this important matter, we believe it to be more prudent to proceed on the assumption that by the commencement of operation of Perry, the requirements of 10 CFR §50.44 will be more stringent. Thus, under the general powers of the presiding officer, we choose to consider this contention admissible, though it might ultimately come to pass that a contrary rule (or no rule) will be enacted. 10 CFR §2.718. To wait to see would be to risk needing to delay the issuance of a license for lack of forethought.<sup>13/</sup>

In other words, the Licensing Board refused to speculate that subsequent events might moot its actions.

Similarly, in the Big Rock proceeding, the Licensing Board determined that an environmental impact statement is required to consider impacts of a proposed spent fuel pool

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12/ Long Island Lighting Company (Shoreham Nuclear Power Station, Unit 1), ALAB-788, 20 NRC 1102, 1160-61 (1984); Offshore Power Systems (floating Nuclear Power Plants), ALAB-500, 2 NRC 323, 325 (1978); Potomac Electric Power Company (Douglas Point Nuclear Generating Station, Units 1 and 2), ALAB-277, 1 NRC 539, 549-50 (1975).

13/ Cleveland Electric Illuminating Company (Perry Nuclear Power Plant, Units 1 & 2), LBP-82-15, 15 NRC 555, 561 (1982).

expansion for a plant licensed prior to passage of the National Environmental Policy Act, 42 U.S.C. §4332. In reviewing its decision in the context of a previous remand by the Appeal Board, the Licensing Board stated:

[The Appeal Board] decided the continued plant operation issue on the merits, apparently accepting our view that this issue could be considered ripe for determination as a matter of law, notwithstanding that the environmental assessment had not yet issued. See LBP-80-25, supra, 12 NRC 364, fn. 2. We concede that a strict adherence to NRC procedures might have required our also delaying this question until after the Staff had spoken. But we were aware that operation of a nuclear plant for some years has heretofore always required an EIS, and we were reluctant to delay such a decision lest the delay result in a shutdown for lack of storage space.<sup>14/</sup>

Accordingly, adjudicatory boards have determined that the potential impact upon plant operation should be considered in deciding whether to defer a decision on requested relief.<sup>15/</sup>

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<sup>14/</sup> Consumers Power Company (Big Rock Point Nuclear Plant), LBP-81-9, 13 NRC 377, 380 n.7 (1981).

<sup>15/</sup> The United States Supreme Court held in Abbott Laboratories v. Gardner, 387 U.S. 136 (1966), that the ripeness doctrine avoids entanglement in "abstract disagreements over administrative policies." 387 U.S. at 148. The Supreme Court stated a two-fold test: (1) the fitness of the issues for judicial decision and (2) the hardship to the parties of withholding court consideration. Id. at 149. On the first factor, it is clear that an adequate record exists for a decision on the instant exemption request. On the second,  
(Footnote Continued)



On March 26, 1985, the Graterford Prisoners filed a supplement to their opposition to the exemption request, noting that Applicant is seeking a temporary, interim supply of supplemental cooling water for operation of Limerick above 5% rated power. Contrary to intervenor's assertion, there is no inconsistency between Mr. Boyer's affidavit filed by Applicant with the Licensing Board as to readiness to begin operations above 5% rated power at Limerick<sup>16/</sup> and Applicant's request to the Delaware River Basin Commission ("DRBC") for an interim supply of supplemental cooling water <sup>17/</sup> Whereas the application to DRBC addressed the

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(Footnote Continued)

Applicant has amply demonstrated that the impact of withholding review "is sufficiently direct and immediate as to render the issue appropriate for [decision] at this stage." Id. at 152. In Pacific Gas and Electric Co. v. State Energy Resources Conservation & Development Commission, 461 U.S. 190, 201 (1983), the Supreme Court held that a challenge to a State statute which conditioned construction of nuclear power plants on findings by a State agency was ripe for review, even though the State courts had not yet reviewed the statute. The Court noted that "postponement of decision would likely work substantial hardship on the utilities." 461 U.S. at 201.

<sup>16/</sup> By letter dated March 18, 1985, Applicant furnished the Board and parties with an updated affidavit which states: "The schedule for the power ascension phase of operation of Unit 1 of the Limerick Generating Station is such that the plant will be ready to proceed to power levels greater than allowed under our existing license by the end of March, 1985." Affidavit of V.S. Boyer ¶4 (March 14, 1985).

<sup>17/</sup> Letter dated March 15, 1985 from Edward G. Bauer, Jr., Vice President and General Counsel, Philadelphia Electric Company, to Susan Weisman, Secretary, DRBC. A  
(Footnote Continued)

need for an interim water supply, Mr. Boyer's affidavit addressed the status of the facility itself in terms of the existing license. <sup>18/</sup>

II. Site-Specific Data as to Probability and Consequences of a Severe Accident at Limerick as well as Other Interim Compensating Actions Justify Granting the Exemption.

In its motion, Applicant demonstrated that an extensive, site-specific probabilistic risk assessment ("PRA") has been conducted for Limerick. Applicant then demonstrated that even the most severe accidents postulated, i.e., core melt, involve an extremely low risk to the Graterford Prisoners, even assuming very conservative notification and evacuation time periods.

For example, the results of Applicant's analysis show that the probability of exceeding the Protective Action Guideline value of 5 rem associated with 24-hour and 48-hour delays in the evacuation of Graterford are  $1.1 \times 10^{-7}$  and  $1.3 \times 10^{-8}$ , respectively. Given the realistic 6-hour to 10-hour evacuation time frame predicted by the Department of

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(Footnote Continued)

copy of the DRBC application was sent to the Board and parties by Applicant's counsel on March 19, 1985.

<sup>18/</sup> The Commission has held that potential action by a State or local regulatory authority that will affect a facility seeking an NRC license is not reason for the NRC to stay its licensing action pending the outcome of any such proceeding. Kerr-McGee Corporation (West Chicago Rare Earths Facility), CLI-82-2, 15 NRC 232, 269 (1982).

Corrections, the probability of exceeding a 5 rem dose for Graterford inmates is even more remote, i.e.,  $5.0 \times 10^{-8}$  for a 6-hour evacuation delay time and  $8.4 \times 10^{-8}$  for a 10-hour evacuation delay time.<sup>19/</sup>

The Staff asserts that no exemption from emergency planning requirements can be based solely upon "bottom-line figures from probabilistic risk assessments" because the Commission explicitly considered "core melt accidents with their associated probabilities and consequences in promulgating the emergency planning regulations," including designation of an approximate 10-mile EPZ.<sup>20/</sup> The Staff's argument overlooks important facts and distinctions.

First, Applicant is not relying solely upon calculated risk derived from the Limerick PRA. To the contrary, virtually all of the Graterford plan has now been made available to the Licensing Board and parties.<sup>21/</sup> The procedures and information recently disclosed provide a sound basis for the Board to determine that plans are in place to implement adequate protective actions on behalf of

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<sup>19/</sup> See Applicant's Motion for Exemption at 14 and Affidavit of E. Robert Schmidt and Geoffrey D. Kaiser, Table 1 (February 7, 1985).

<sup>20/</sup> NRC Staff Response to Applicant's Motion at 10 (March 18, 1985).

<sup>21/</sup> See also Response of the Commonwealth of Pennsylvania, Department of Corrections to Requests for Information Raised at the February 27, 1985 Atomic Safety and Licensing Board Conference (March 15, 1985).

Graterford inmates in an actual emergency. Moreover, FEMA has found in its evaluation of the tabletop exercise that "[d]uring the exercise, the Graterford authorities adequately demonstrated an understanding of the emergency response procedures and the ability to adequately implement them, therefore, this portion of Category A deficiency 2 has been corrected."<sup>22/</sup>

Further, at the prehearing conference on March 22, 1985, counsel for the Graterford Prisoners withdrew all but one contention, relating to the adequacy of medical services to treat contaminated injured individuals. Thus, the only timely contention which would be encompassed by the requested exemption <sup>23/</sup> postulates that prisoners would be radioactively contaminated and injured. The probability of such an occurrence some eight miles from Limerick is

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<sup>22/</sup> Memorandum for Edward L. Jordan, Director, Division of Emergency Preparedness and Engineering Response, Office of Inspection and Enforcement, NRC, from Richard W. Krimm, Assistant Associate Director, Office of Natural and Technological Hazards Program, "Remedial Exercise at Graterford State Correctional Institution in Support of Limerick Generating Station" (March 27, 1985). The foregoing information was furnished by the NRC Staff to Applicant's counsel. The Staff is awaiting clearance by the Department of Corrections to distribute the report to Applicant and the other parties.

<sup>23/</sup> At that time, the Graterford Prisoners attempted to orally amend their petition for intervention by adding late contentions. The concerns expressed in those late contentions, e.g., planning input from prison guards, are highly problematical and do not point to any specific, substantive deficiency in the plan.



extraordinarily remote, certainly less than Applicant's calculated probabilities for exceeding a 5 rem dose.<sup>24/</sup> Accordingly, the record contains far more than PRA risk calculations to support the finding required under 10 C.F.R. §50.12 that the interim exemption requested by Applicant "will not endanger life or property" at Graterford.

Second, the Staff apparently gave no consideration to the effect of the Commission's regulations under 10 C.F.R. §50.47(c)(1), which authorize issuance of an operating license where an Applicant has not satisfied the specific criteria for onsite and offsite emergency response plans<sup>25/</sup> by demonstrating "to the satisfaction of the Commission that deficiencies in the plans are not significant for the plant in question, that adequate interim compensating actions have been or will be taken promptly, or that there are other compelling reasons to permit plant operation." Thus, a licensing board can authorize issuance of a full-power

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<sup>24/</sup> In San Onofre, the Commission accepted the Appeal Board's "estimate" of the "number of individuals both onsite and offsite who may become contaminated and injured" to range from one to perhaps 25 or so individuals. Southern California Edison Company (San Onofre Nuclear Generating Station, Units 2 and 3), CLI-83-10, 17 NRC 528, 535 (1983). The Appeal Board stated that the number of contaminated injured "would be principally workers onsite . . . [and] emergency workers, who might be involved in monitoring a contaminated area onsite and are then injured (for example) in a traffic accident." San Onofre, supra, ALAB-680, 16 NRC 127, 137 (1982).

<sup>25/</sup> 10 C.F.R. §50.47(b)(1) - (16).



operating license even without the formal grant of an exemption, although Applicant has conservatively sought a formal exemption.

In Shoreham, the Commission held that the built-in exemption under Section 50.47(c)(1) applied even "in the absence of State and local government-approved plans" because the Commission "has the ultimate authority to determine whether [the] submission is sufficient to meet the prerequisites for the issuance of an operating license."<sup>26/</sup>

As the Appeal Board stated in San Onofre, Section 50.47(c)(1) "allows compensating measures to be undertaken for any emergency planning deficiency" and requires a board "not only to look to the requirements that have been imposed, but also to exercise judgment as to the significance of whatever deficiencies there may be and the adequacy of interim measures to rectify them."<sup>27/</sup> In that proceeding, the Licensing Board expressly relied upon a probabilistic analysis in determining that full-power operation of the plant would not endanger the public health and safety while

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<sup>26/</sup> Shoreham, supra, CLI-83-13, 17 NRC 741, 743 (1983).

<sup>27/</sup> San Onofre, supra, ALAB-680, 16 NRC 127, 131, 142 (1982). See also San Onofre, supra, ALAB-717, 17 NRC 346, 369 (1983).

a deficiency in offsite medical arrangements was being corrected.<sup>28/</sup>

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28/ The Board stated:

There are several factors present in this case supporting our conclusion that full power operations should be allowed, pending rapid development of appropriate medical arrangements for the offsite public. First and most important is that such operations for a brief period, no longer than six months, will not significantly endanger the public health and safety. As discussed previously, our principal concerns arise from the risk of a serious accident over the facility's 30-year life. Everything in the record indicates that the risks posed by operations in any given year or less are very remote - significantly less than  $10^{-6}$ , or one in one million. Although the Applicants' onsite plan cannot do service for possible offsite needs over the long run, the onsite plan is very well conceived and staffed, and its capacities appear to exceed what would be needed by persons injured at the site. Accordingly, it could provide some medical services to the offsite public.

San Onofre, supra, LBP-82-39, 15 NRC 1163, 1199-1200 (1982) (footnote and citation omitted), aff'd, CLI-83-10, 17 NRC 528, 531 (1983). The Appeal Board did not review this decision because the Commission accepted interlocutory review by certification. See San Onofre, supra, ALAB-717, 17 NRC 346, 369 n.40 (1983). In denying a stay of the Licensing Board's decision, however, the Appeal Board accepted its conclusion that the asserted planning deficiency was not significant and that adequate interim compensating actions have been or will be taken promptly within the meaning of Section 50.47(c)(1). See note 24, supra. See also Duke Power Company (Catawba Nuclear Station, Units 1 and 2), LBP-84-37, 20 NRC 933, 940-41 (1984).

These authorities provide ample basis for the grant of an exemption to Applicant regarding plans for Graterford. Indeed, there are no proven "deficiencies" in the Graterford plan within the meaning of Section 50.47(c)(1). The plan has simply not yet been subjected to an evidentiary hearing. Adequate interim compensating actions have been amply demonstrated by the Department of Corrections in disclosing plan contents and supporting information almost in their entirety. The Applicant has demonstrated compelling reasons to permit plant operation in proving that the risk to the Graterford population, particularly considering the enhanced sheltering capacity of the Graterford facility, is no greater than that for other segments of the population at the same distance from Limerick.<sup>29/</sup>

Third, the NRC Staff errs in its assertion that the Commission has implicitly excluded reliance upon site-specific risk calculations to justify a temporary exemption from emergency planning requirements. The Staff contends that the Commission's designation of the approximately 10-mile EPZ took into account associated

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<sup>29/</sup> See Applicant's Motion for Exemption at 10 (February 7, 1985). No site-specific data has been cited by any party to dispute the validity of Applicant's calculations of risk to Graterford inmates which support its motion.

probabilities and consequences of core melt accidents.<sup>30/</sup> This argument lacks merit. The designation of an approximate 10-mile EPZ for the protection of the populace around a nuclear reactor as a general planning standard in 10 C.F.R. §50.47(c)(2) derives from an NRC/EPA task force report published as NUREG-0396, which relied upon a quantitative assessment of the probability and consequences of severe accidents analyzed in WASH-1400.<sup>31/</sup> NUREG-0396 also relied upon other generic considerations, i.e., reactor siting criteria, a meteorological model and licensing

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<sup>30/</sup> In a somewhat similar vein, the Answer filed by the Graterford Prisoners discusses a number of documents which analyze or comment upon generic PRA's, such as WASH-1400. Much of what is argued by the Graterford Prisoners is irrelevant to the exemption requested by Applicant and the planning standards under 10 C.F.R. §50.47(b). Intervenor's allegations regarding the criminal sentences of Graterford prisoners and disruptions at Graterford are plainly irrelevant to any radiological planning standards which could be the subject of litigation. See Graterford Inmates' Motion in Opposition to Applicant's Motion for Exemption at 13 (March 13, 1985).

<sup>31/</sup> NUREG-75/014, Reactor Safety Study: An Assessment of Accidental Risks in U.S. Commercial Nuclear Power Plants (October 1975). In fact, recent task force studies by the American Nuclear Society and the American Physical Society confirm that source term estimates which the NRC previously relied upon were seriously overstated by an order of magnitude or more. As a result, the overall risks estimated in the 1974 Reactor Safety Study or WASH-1400 are significantly lower than believed. Because only a very small percentage of fission products would be dispersed to the environment in even the worst case accident, it is generally agreed that the 10-mile EPZ could be reduced substantially, perhaps to about two miles. See 7 Ins.de NRC at 7-10 (March 18, 1985).



criteria.<sup>32/</sup> Nothing in Section 50.47(c)(2) or the Commission's statements of consideration in adopting the rule<sup>33/</sup> precludes an applicant from demonstrating that the NRC should change the size of the EPZ temporarily (or even permanently) to less than a 10-mile perimeter.<sup>34/</sup> In

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<sup>32/</sup> See NUREG-0396, Planning Basis for the Development of State and Local Government Radiological Emergency Response Plans in Support of Light Water Nuclear Power Plants (December 1978). In a policy statement, the Commission concurred in the conclusions of NUREG-0396 and endorsed its use as guidance for Staff evaluation of State and local emergency response plans. 44 Fed. Reg. 61123 (October 23, 1979). The policy statement was cited as the basis for the Commission's decision to adopt a planning requirement for an EPZ with a radius of about ten miles under 10 C.F.R. §50.47(c)(2). See 45 Fed. Reg. 55402, 55406 (August 19, 1980). Thus, the designation of an EPZ with a radius of about 10 miles follows from the generic conclusion of NUREG-0396 that "the doses from 'melt-through' releases (involving thousands of curies) generally would not exceed even the most restrictive PAG beyond about 10 miles from a power plant." NUREG-0396 at I-6.

<sup>33/</sup> 45 Fed. Reg. 55402 (August 19, 1980).

<sup>34/</sup> Indeed, the rule expressly states that the EPZ "shall consist of an area about 10 miles (16 km) in radius" and that the "exact size and configuration of the [plume exposure pathway EPZ] surrounding a particular nuclear power reactor shall be determined in relation to local emergency response needs and capabilities as they are affected by such conditions as demography, topography, land characteristics, access routes, and jurisdictional boundaries." 10 C.F.R. §50.47(c)(2) (emphasis added). In this very proceeding, the Licensing Board explained its admission of Contention LEA-24/FOE-1 as involving a potential adjustment of the radius of the EPZ "of only a few miles." Limerick, supra, LBP-84-18, 19 NRC 1020, 1069, 1070 (1984). See also Pacific Gas and Electric Company (Diablo Canyon Nuclear Power Plant, Units 1 and 2), ALAB-781, 20 NRC 819, 829-32 (1984).



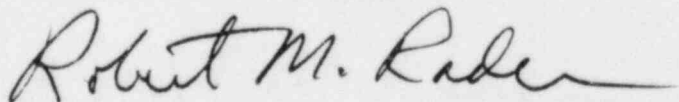
effect, the requested exemption would result in a minor, temporary adjustment of the EPZ with respect to a small and discrete population for whom the overall risk attributable to the operation of Limerick for the brief period in question would be extremely small and no greater than that for the general populace in the same area.

Conclusion

For the reasons discussed above, Applicant's motion for an exemption is ripe for consideration. The request is fully justified on the record, which contains information disclosed by the Department of Corrections showing that plans are in place to implement adequate protective actions for Graterford prisoners in an actual emergency. The exemption is further justified by site-specific data demonstrating that the risk to Graterford prisoners even as a result of a very severe accident is extremely small. Accordingly, the Board should grant Applicant's motion for an exemption.

Respectfully submitted,

CONNER & WETTERHAHN, P.C.



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April 1, 1985

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

In the Matter of )  
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Philadelphia Electric Company ) Docket Nos. 50-352  
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(Limerick Generating Station, )  
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CERTIFICATE OF SERVICE

I hereby certify that copies of "Applicant's Reply in Support of its Request for Exemption From the Requirements of 10 C.F.R. §50.47(a) and (b) Relating to the Graterford Emergency Plan," dated April 1, 1985 in the captioned matter have been served upon the following by deposit in the United States mail this 1st day of April, 1985:

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