

ORIGINAL

UNITED STATES
NUCLEAR REGULATORY COMMISSION

IN THE MATTER OF:

DOCKET NO: 50-352 OL
50-353 OL

PHILADELPHIA ELECTRIC COMPANY
(Limerick Generating Station,
Units 1 and 2)

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JUDGE KOHL: Good afternoon, I am Christine Kohl. To my right is Gary Edles, to my left is Dr. Reginald Gotchy. We are hearing oral argument today on the appeals of Limerick Ecology Action, Robert L. Anthony and Friends of the Earth in the licensing's board third partial initial decision in the Limerick operating license proceeding. That decision concerns the off-site emergency plan for the Limerick facility.

Our order of August 29, 1984 sets forth the allotment of oral argument time and the order of presentation. I would now like the parties representatives or their counsel to introduce themselves for the record.

MR. STONE: Dave Stone, with Limerick Ecology Action.

MS. MULLIGAN: Maureen Mulligan, vice president of Limerick Ecology Action. Phyllis Zitzer is here.

JUDGE KOHL: Who will be arguing and how will you share your time, and how much time for rebuttal?

MR. STONE: We were going to reserve 25 minutes for rebuttal and --

JUDGE KOHL: I suggest you reserve a time less than that. Rebuttal is strictly just what it says. I think your time would probably be more wisely spent in allocating the major portion to your principal presentation.

1 MR. STONE: Okay. 15 minutes, then, for
2 rebuttal.

3 JUDGE KOHL: How many people are arguing?

4 MR. STONE: We envision as a panel. I am
5 primarily here to answer the questions on the brief, on the
6 appeal brief.

7 JUDGE KOHL: You do understand what oral
8 argument is about. This is not an evidentiary hearing. We
9 expect the parties to make their presentation to us and if
10 we have questions, so be it. If not, it is up to you to
11 make your best case before us. Who will be presenting that?

12 MR. STONE: I will be presenting the argument,
13 and certainly have enough to present to fill the full time.

14 JUDGE KOHL: Thank you. Mr. Anthony.

15 MR. ANTHONY: I am representing myself and
16 Friends of the Earth in the Delaware Valley.

17 JUDGE KOHL: How much time do you want to save
18 for rebuttal?

19 MR. ANTHONY: Well, I would like to sort of
20 divide the time in half. It isn't very much.

21 JUDGE KOHL: How about saving five minutes?

22 MR. ANTHONY: That is a new kind of half, but
23 let's say five minutes.

24 JUDGE KOHL: Thank you.

25 Counsel for the Commonwealth?

1 MS. FERKIN: My name is Zori Ferkin. I
2 represent the Commonwealth of Pennsylvania in this
3 proceeding. With me is Mr. Hippert, deputy director with
4 the Pennsylvania Emergency Management Agency. I will be
5 presenting the argument for the Commonwealth. We will not
6 be reserving time for rebuttal.

7 JUDGE KOHL: Fine.

8 MR. RADER: Robert Rader with Conner and
9 Wetterhahn. Also with me is Mr. Troy Conner, also a member
10 of the firm, representing Philadelphia Electric Company.
11 And I will be making the presentation for the Philadelphia
12 Electric Company.

13 MR. MC GURREN: Henry J. McGurren, representing
14 the NRC Staff. I would also like to note for the record
15 that on my right is Joseph Rutberg.

16 JUDGE KOHL: Thank you.

17 Mr. Stone? You may raise the podium. There is
18 a little button on the inside that says "raise" and "lower."

19 MR. STONE: Okay.

20 Good afternoon. I will be presenting our oral
21 argument on the appeal, the third partial initial decision.
22 And I just want to say at the outset that Limerick Ecology
23 Action is a nonprofit citizens' group and an all-volunteer
24 group. We have endeavored to participate in this process
25 in good faith, to try to bring from reality what we saw as

1 an emergency plan developed by the Applicants for the
2 Applicants' purposes. It was a lengthy process, and I
3 think it resulted in a record which contains a lot of the
4 material pertinent to the issues which we raised, but
5 perhaps not always in the most coherent form. I think what
6 we ended up with was a lot of circumstantial material,
7 which in our findings we attempted to specify as much as
8 possible, to try to bring out each point that we felt was
9 significant.

10 In the appeal, we tried to organize a core group
11 of issues which interrelate to some extent. If I don't
12 mention all of these issues here today, we don't waive
13 anything thereby. We are just going to try to step back
14 and look at it all.

15 I think one of the key areas in which we
16 disagree with the finding of the Board is in the traffic
17 situation in the King of Prussia area. And this has
18 implications for a couple of other contentions,
19 particularly in that there is a transportation staging area
20 at King of Prussia which we feel affects LEA 23, which is
21 talking about the response time of buses for the
22 transport-dependent, and how that effects the evacuation
23 time estimate study.

24 Generally, the issue of traffic control at King
25 of Prussia was one that during the hearing there was enough

1 there for the board to find a license condition. However,
2 we feel that the resolution of that, which we have attached
3 to our brief, where FEMA lists about 15 or 17 traffic
4 control points, is not anywhere near adequate.

5 JUDGE EDLES: Is not adequate in terms of the
6 number of points or is not adequate qualitatively?

7 MR. STONE: There are a couple things there. I
8 think you are talking about adequacy in terms of numbers,
9 in terms of controlling up to 200,000 people who don't live
10 in the EP2 but are in the King of Prussia area. That
11 number is based on the estimate of the Upper Marion
12 township manager.

13 JUDGE KOHL: You think that you need more
14 traffic control points than the ones that have been
15 identified?

16 MR. STONE: I think that is true. Both, and the
17 manpower to control these numbers. However, there is a
18 qualitative thing there, too, which is simply there are
19 some fundamental planning assumptions which are made in the
20 evacuation time estimate study, which is made by the
21 Montgomery County plan, which involve the principle of
22 keeping this Upper Marion traffic off of these major
23 expressways by the use of these control points.

24 That is a planning principle. As we discussed
25 in our brief at the time of the hearing, the Upper Marion

1 people had never heard of that principle, Mr. Wagman even
2 had some comments about it. To this date, this is not on
3 the record, but to this date, we have not seen anything,
4 seen anybody, that accepts this planning principle,
5 including Montgomery County. As I understand, Penn DOT was
6 asked to make some further study when the plan was rejected
7 recently by the Commissioners.

8 However, I wanted to get back to that. There is
9 that principle, keeping these people off the roads. The
10 second principle which we discussed in our brief is called
11 the zero flow assumption. What this is is the assumption
12 that when you do the ETE for the King of Prussia area,
13 which although outside the EPZ, was modeled in the computer
14 simulations, but what they assumed throughout was a zero
15 flow, which essentially means that at the time that the EPZ
16 traffic is loaded onto the network, you don't have existing
17 traffic using up that capacity.

18 Now, there was some discussion in the record and
19 we discussed in our findings that you could put traffic
20 control in within a half an hour and limit access, and that
21 would clear it up. The time there is important.

22 JUDGE KOHL: You are not saying that they
23 assumed that there were no cars on the streets at the time?

24 MR. STONE: Yes. The computer simulation does
25 that.

1 JUDGE KOHL: But then it adds them in? It
2 necessarily has to start from that point; doesn't it?
3 Isn't it important what is added in the simulation?

4 MR. STONE: There are a couple problems there.
5 I think this was backed up by some municipal concerns in a
6 rush hour scenario which involves a considerable part of
7 the daytime. There is some existing traffic. We had tried
8 to get into evidence a study, the Upper Marion traffic
9 study, which wasn't accepted. We had a witness who
10 prepared the study, we had the township people who
11 participated, and we tried and we couldn't. However, you
12 have existing rush hour traffic which we contend is not EPZ
13 traffic. You have traffic at the malls.

14 JUDGE KOHL: But the model did include existing
15 rush hour traffic?

16 MR. STONE: No, it did not. What they made is
17 the assumption of zero flow. It was discussed in the
18 record. You can see the tables for yourself. You can see
19 the column flow, you can see the zero all the way down the
20 line.

21 It is important to note that I think you can all
22 for yourselves look at these tables, look at what we got
23 into the record under Mr. Climm's testimony where he talks
24 about the columns and the assumptions. You can see for
25 yourself what was and was not actually modeled.

1 JUDGE GOTCHY: You say that most of the traffic
2 flow coming out of the EPZ is not, say, people going to
3 work during the rush hour? Those are people from the EPZ?

4 MR. STONE: They would be there as well.

5 JUDGE GOTCHY: Transients coming through, too.
6 A large flow would be people leaving the EPZ going into
7 town and some people from outside the EPZ coming into work.
8 Didn't the model inherently take care of the permanent and
9 transient residents by assuming that they were all at home
10 at the start of the evacuation? If you had, you can't have
11 people in two places at once.

12 If they are going to work, they are not at home.
13 As I understand what was done in the study, they assumed
14 that if the notice came during the peak flow, that these
15 people would turn around and go back home and there was an
16 allowance made for them to go home.

17 MR. STONE: That is the argument that was made.
18 It may apply more or less well to situations inside the EPZ
19 wherever one is from the EPZ during the rush hour scenario.
20 I would argue there might be some time involved there. I
21 won't go into that.

22 What I am saying is in this area which is
23 outside the Emergency Planning Zone, where and I think the
24 Upper Marion traffic study showed as well as some of the
25 testimony which we did get from for Mr. /WAG man, there is

1 interregional traffic. The 200,000 people in Valley Forge
2 are from, it is a regional nexus of these major inch
3 interstate and expressways.

4 The traffic that would both try to get on that
5 road and the traffic that was already on that road and
6 roads in rush hour would by and large feel the study, the
7 Upper Marion study is not EPZ traffic.

8 Now, the other issue there is that you have to
9 visualize these roads. They involve ramps. If you look at
10 the material in and the maps, you see a complicated hook
11 arrangement of turns. They involve ramps. We have in our
12 findings and we refer to it in our appeal the testimony as
13 to the character of those ramps. Even though we couldn't
14 get the study in, we weren't allowed to bring it in, you
15 are talking one lane ramps, 270 degree turns, backups in
16 normal rush hour.

17 JUDGE GOTCHY: Deposit the ETE study consider
18 the capacities of these ramps?

19 MR. STONE: The capacity of these ramps in the
20 abstract sense that you measure it and see what they can
21 carry. What they didn't consider is that if you have
22 existing traffic which is using a large part of that
23 capacity during rush hour, and then you attempt to load on
24 the EPZ traffic, that isn't taken into account.

25 I think the record in our brief clarifies that.

1 Now, I want to quickly move on to a couple other
2 areas related to this King of Prussia traffic traffic.

3 In our brief we broke it down in two. We feel
4 that we discuss the complexity and sensitivity era of all
5 this traffic routing. Dr. Urbanik, the NRC staff witness,
6 really surprised a lot of us by coming out with concerns
7 which apparently moved the board to find the license
8 condition, but I think in the whole context of it did not
9 lead the board to make the proper conclusion. Which is
10 that it is a complex situation. And according to the NRC
11 precedents, the kind of thing left to staff resolution are
12 the kind of names on a list, the 15 and 17 traffic control
13 points. We are talking about, I think this is based on Dr.
14 Urbanik's testimony, is situation where a traffic control
15 point many miles away from King of Prussia at the turnpike
16 entrance can affect the capacity you have available in that
17 King of Prussia loop. These are all limited expressways.

18 JUDGE EDLES: Give me an idea what you would
19 have us look at if we were to remand to examine some of
20 these? Where would you ultimately come out? What
21 difference would that be from where we are now?

22 MR. STONE: Well, what I would look for, I think
23 is a couple things. First of all, apparently FEMA in
24 verifying the few traffic control points which they saw fit
25 to put there used the services of a consulting firm from

1 Long Island to look at this. We have never seen that
2 report. I think the kind of thing that we would need under
3 cross-examination was to look at what those people, when
4 they looked at the situation, that wasn't available to
5 anybody.

6 JUDGE KOHL: Did you have any dispute with the
7 traffic control points that had already been identified?
8 Was -- did you have any disagreement with the ones that had
9 been named either from a qualitative or a quantitative --
10 well, I know that you believe that there should have been
11 more points, but --

12 MR. STONE: I think the ones that are there, I
13 am not in a position to say that they, they are all
14 perfectly placed. I think they are probably all useful.
15 But I don't think they are anywhere near sufficient. What
16 is also in doubt is the whole planning principle. If you
17 are going to control these hundreds of thousands of people
18 in King of Prussia. I think you plan the county plans for
19 some alternative for these people because they entered the
20 area on these main roads, they have to leave somehow.
21 Again, our study, the Upper Marion study which was done for
22 the township shows the interconnection and the local roads
23 an these expressways. If we could have cross-examined
24 based on that or shown that, you could see the other
25 possibilities.

1 I think it would make a real difference. I
2 think if the brief and in our findings I think you can see
3 where we tried to show that it is a complex issue, nothing
4 simple, nothing that off the top of your head, it is
5 nothing discrete and simple that you can just plug them in.
6 Dr. Urbanik says that. He was asked about the traffic
7 control points that he would recommend. And he said, well,
8 I can't sit here and just pull them off the top of my head.
9 But in fact it is something that you really have to look at.

10 I think --

11 JUDGE KOHL: Is it not true then that we all
12 have to defer to the traffic experts on something like
13 designation of a traffic control point?

14 MR. STONE: Well, I think where we have a
15 problem, given the situation that we raise raised this
16 context, Dr. Urbanik comes in, he expresses these concerns
17 which supported our contention in part. And then we --

18 JUDGE KOHL: And you got some belief in the form
19 of --

20 MR. STONE: These traffic control points --

21 JUDGE KOHL: You may not be satisfied with it
22 but you would have to agree that your concerns have been at
23 least partially addressed by the very fact of the licensing
24 provision.

25 MR. STONE: Not really. The key thing here is

1 that these traffic control points were available in the
2 current Montgomery County plan by and large at the time of
3 the hearing. There may be a difference of one or two. But
4 there is not the kind of extra traffic control which I
5 think Dr. Urbanik's testimony indicates. I think that that
6 is the thing that disturbs us. We would want to bring Dr.
7 Urbanik in and have a chance to cross-examine him. He can
8 evaluate the situation.

9 JUDGE KOHL: Didn't you have that chance though
10 when he was on the stand?

11 MR. STONE: Yes.

12 JUDGE KOHL: You could have pursued it at that
13 point.

14 MR. STONE: There is a secondary thing which we
15 do discuss in our brief which is a time limit thing. There
16 was a situation where he this to catch a plain. We were
17 limited to half an hour. I am going to leave that aside.

18 We do discuss it a little bit. The thing is is
19 that Dr. Urbanik expresses the concern, he says, these are
20 are not sufficient. I am not going to sit here and give
21 you a list right now. He says contrary to what the board
22 and some of the other parties found is, he said, well, the
23 total number of traffic control needed might be less than
24 what is in the EPZ, but I am not going to to say, it might
25 be somewhat less. The assumption made by the parties an

1 letter board is that it is obviously tremendously less than
2 the number already provided for in the EPZ. Dr. Urbanik
3 simply didn't know that. He didn't know how much less at
4 that point.

5 JUDGE KOHL: He did if he didn't know at that
6 point, how much would he know now if you were to have this
7 providing reopened and we were to call Dr. Urbanik back?
8 Would he be able to provide the answers that you are
9 looking for?

10 MR. STONE: He could look at. There has been
11 some conflict, I think the NRC staff brought that out,
12 about what Dr. Urbanik said in, in another area. They take
13 one view, we take the other. We think the transcript
14 speaks for itself. Dr. Urbanik can clear up that. He
15 could look at the so-called --

16 JUDGE KOHL: He could also read the transcripts
17 as well.

18 MR. STONE: Dr. Urbanik can also look at these
19 so-called new traffic control points and see whether that
20 meets the concern he expressed. He can also go a little
21 further in the NRC staff, he was their witness, he can go
22 further in research into the situation. Again, it was his
23 concern which really brought us to this point in terms of
24 license condition.

25 I will leave aside, we do argue and I think that

1 even the applicants points of view about what you leave for
2 staff resolution and what you don't leave, I think once you
3 accept our position that it is a complex issue, once you
4 take Dr. Urbanik's relative limited testimony under the
5 time constraints and you look at it in some of the
6 principle he is talking about. The principle of traffic
7 control far upstream from where you need this capacity, he
8 is talking, he uses the principle, you don't necessarily
9 discount rush hour traffic. We hear a lot from the other
10 parties that you do. He never said that. He said it is
11 worthwhile considering everything. You can't simply super
12 impose, but it may be worth while to consider the existing
13 rush hour traffic.

14 I want to try to touch on a couple of things in
15 my limited time here.

16 I wanted to jump to a little bit different issue
17 which is the mail survey data and how that was used to come
18 up with numbers of buses for the transport-dependent. I
19 think what we are relying on here initially was just a
20 simple premise, I think it was supported by some municipal
21 witnesses, not expert but people that know the communities,
22 that when you send out something in the mail, a certain
23 number of people respond. A certain number of people don't
24 respond. And you can't from none response draw the
25 conclusion that those people don't need the service.

1 Especially when you are talking about something like, you
2 know, you need a bus ride because you don't have a car in
3 an evacuation accident. I think we talk about this, we
4 talk about the EC's position that somehow that because
5 there is a discrepancy only in the urban areas, that means
6 that people can get rides to their friends and neighbors.
7 I think there is on other common sense explanations for
8 this. People in urban areas are less likely to have cars.
9 We talked in our findings, we just tried to show that this
10 concept that if you really start playing with the numbers
11 an calculate it out, you find out that there are a certain
12 number of cars for that bureau and you almost have one out
13 of the two cars that are available are being asked to put
14 an extra person in them. It is discussed in the findings.

15 I think the appeal brief we boiled it down and
16 we talked again about this comparison between -- remember
17 transport-dependent is not the mobility impaired. I think
18 there was an error in one of the parties brief on that.
19 They are the people that just don't have a car.

20 The numbers of buses involved could be
21 considerable for some of the urban areas we discussed,
22 Pottstown, Phoenixville. And the effect on the ETE, if
23 those buses are among the slowest in evacuation is
24 something we discussed. I think that the thing there is
25 that the board really relies on the heavy artillery that no

1 matter if the numbers are 100 percent off, doesn't really
2 materially affect the whole evacuation.

3 Well, --

4 JUDGE KOHL: What happens if the entire ETE
5 study is discredited for the reasons that you assign and
6 that in fact the estimated evacuation times are twice what
7 they are? Where does that leave us? Does the NRC set an
8 optimum evacuation time? Where are we from a legal
9 standpoint?

10 MR. STONE: I think what you have to look at,
11 there are, I think, we cite some of this, the concept of
12 efficiency evacuation. If you attempt to did an evacuation
13 plan, you do an efficient one giving the site specific
14 characteristics. The other thing there is that Dr. Urbanik
15 testified that at some point of error, the document ceases
16 to be useful to emergency planners.

17 JUDGE KOHL: What if just given the nature of
18 the area that we are discussing, because of the high
19 population density, because of the character of the roads
20 and traffic patterns, to topography, whatever, what if just
21 as a matter of fact evacuation times are twice as long as
22 what the study says? Again, where does that leave us from
23 a legal standpoint,? In what respects then does the
24 Limerick emergency plan, is it no longer valid?

25 MR. STONE: I think there the ETE wouldn't meet

1 the requirements of 0654. I think that that document is
2 something that people's lives depend upon if an evacuation
3 is in fact ordered. When you make the decision to shelter
4 or to evacuate, you will have people looking at these
5 numbers. They will be looking at traffic patterns an
6 traffic control because in an emergency they won't reevaluate
7 the whole thing and say, maybe it should be something else.

8 The other thing there is that certainly a new
9 study with a chance for us to cross-examine and so forth,
10 the other thing there is the willingness of the relevant
11 municipal authorities to I am present implement whatever an
12 assumptions are made in the study and the Montgomery County
13 plan. Those are some of things we would be looking to
14 establish through cross-examination.

15 JUDGE GOTCHY: Getting back to your discussion
16 about the survey, as I understand your argument, you wanted
17 them to use the 1980 census data?

18 MR. STONE: Right.

19 JUDGE GOTCHY: Rather than the survey data?

20 MR. STONE: Right. Then what we would be saying
21 is then, based on that data which we think is the most
22 realistic available, we say it is the recommended --

23 JUDGE GOTCHY: It is five years old?

24 MR. STONE: Well, it could be adjusted for
25 population growth. I think that the thing is you provide

1 buses in accordance with that.

2 JUDGE GOTCHY: But the number of buses you would
3 need, that is based on -- it is really a statistical
4 abstract where you assume 2.59 persons per household
5 without private cars and then you come out, you end up with
6 a bus need.

7 MR. STONE: If you look at that table of data,
8 which was an earlier draft plan -- I think the one we
9 included as an exhibit was Chester County. Actually that
10 per household isn't site-specific to the municipality
11 discussed. They do make a calculation. There may be some
12 imperfect effects there. We aren't quibbling over a few
13 people. We are just talking about the numbers of buses you
14 need to evacuate a place like Pottstown where you have a
15 low-income population of people without cars.

16 We have the testimony of the Montgomery County
17 commissioner Rita Banning, where she lives in Pottstown,
18 and she says that is going to be a problem. Other
19 indications -- I wanted to make a quick step back for a
20 more general point.

21 JUDGE GOTCHY: Would you be satisfied if they
22 made arrangements for transport-dependent people based on
23 the 1980 census data but then used the survey data because
24 that is the only data they have to identify actual people,
25 not some kind of a statistical abstract but actual people?

1 MR. STONE: There is a key difference, which is
2 the actual people with the telephone numbers and so forth
3 are mobility-impaired. And whoever answered the survey and
4 said, I am transport-dependent, you know, I don't have a
5 car, the thing is they make an extrapolation. They make a
6 huge extrapolation from this survey in saying that people
7 that do not respond, which they don't have the telephone
8 numbers for, they don't know who they are, those people are
9 taken care of. They can get rides with friends and
10 neighbors. They make a huge extrapolation. It effects the
11 numbers of buses. It could lead in a real situation to
12 simply the transportation not being there where people are
13 forced to go out in the street literally and look for a
14 ride from somebody, God knows who. I think some of our
15 early analysis showed that that could be a problem.

16 JUDGE GOTCHY: Using your own exhibits, E-39 and
17 E-40 and 42, or 43 where you had some census data figures,
18 I compared those to what was in Applicants' Exhibit E-67
19 which was the results of the survey data. In the case of
20 ambulances there were more people identified in the survey
21 than the census indicated. How do you account for the
22 reverse being true for ambulances but not being true for
23 bus needs?

24 MR. STONE: That is interesting. What that
25 means to us, we had some testimony which the applicant

1 tried to use to say that some of these people were called
2 during the drill and that a lot of them didn't really need
3 an ambulance. That might be an explanation for what you
4 are talking about. Here you have somebody who may for
5 whatever reason say, I might need an ambulance or my
6 grandmother might need an ambulance. They get called.
7 Maybe they could get a ride. We contend that that figure
8 may or may not be inflated slightly. That doesn't answer
9 at all the issue of transport-dependent, who are people who
10 don't need an ambulance, who just need the bus ride.

11 So I think if you --

12 JUDGE GOTCHY: There has to be some kind of
13 reflection on the coverage of the survey and the fact that
14 people had read it and responded to it either by throwing
15 it out because they didn't need it or by sending it back in
16 because they did have some needs.

17 MR. STONE: I think what you see -- and there
18 was some discussion of this on the record -- is that people
19 tended to perhaps overrespond, in some cases with an
20 ambulance, overestimating that they needed an ambulance
21 when they could have just used a ride. That doesn't apply
22 to this issue of transport-dependent. I think it is well
23 discussed in here. I think that really answers the point
24 you raise.

25 I want to just make one general comment and then

1 try to get as specific as I can. The general comment is
2 that we feel that we litigated this very early, all of this
3 emergency planning. We had municipal officials come in
4 under subpoena who expressed various degrees of knowledge.
5 We had -- it was a very -- it was like pulling teeth
6 sometimes to really find out what was known by who, when;
7 and you had the energy consultants coming in and expressing
8 with certainty that there was this level of planning. We
9 find that it was often third-hand, somebody that worked for
10 EC reporting to somebody else that worked for EC. We
11 discuss that a little bit.

12 In that context I think the call for further
13 hearings where our rights could be protected where we can
14 cross-examine is not unreasonable. Remember that the drill
15 even, the July 25 drill, which we have some problems with
16 the extrapolations of municipal staff based on that drill,
17 because there were a number of PECO volunteers, quite large
18 number that are no longer involved at the municipal level.
19 That drill was quite a while ago, July 25, 1984. There
20 wasn't another drill. There won't be one until April.

21 JUDGE KOHL: I thought there was one in November.

22 MR. STONE: That was a make-up drill only for
23 those municipalities who didn't participate the first time.
24 That is key because you have a place like Pottstown, which
25 is one area of concern, you have a place like Phoenixville

1 which supposedly participated the first time. There is
2 just this uncertainty and it is old information.

3 Now, I wanted to jump to municipal staff briefly.
4 I think there is a misunderstanding there. Our argument is
5 that FEMA goes through this process of a July 25, 1984
6 drill. You come up with deficiencies. You have a make-up
7 drill November 20 for those municipalities who either
8 flunked the first time or the ones that didn't participate.
9 You find out there is a certain level of municipal level
10 deficiency.

11 What you are lacking there, and then you are
12 taking this whole thing, as we understand it, and you and
13 you are coming up with this hodge-podge list of several
14 different drills, several different rankings of
15 deficiencies. You end up with a situation where the first
16 drill had a vast number of PECO volunteers which apparently
17 only 50 of them are still involved. We have the position
18 where we relied on Energy Consultants and on the record
19 this disturbed the board, Energy Consultants saying that
20 there is this chart that we give you which includes all the
21 numbers and it is just simply a matter of putting the
22 number in.

23 I think what we are missing here is FEMA
24 supposedly verifies this staffing. We don't know if they
25 just simply compiled their drill reports July 25, November

1 20 and added the numbers up. We don't know -- and we have
2 no indication and I don't believe it happened -- went to
3 the municipality and simply asked them, who is on line, who
4 do you have?

5 There is a lot of discussion by the FEMA
6 witnesses of this process of formal submittal of plans and
7 how people are reluctant to make assumptions about what the
8 municipalities have done. A lot of this was seen through
9 the eyes of energy consultants. I think the board gave undue
10 weight to that. I think a lot of this information is
11 slanted because of their position. I think a lot of
12 litigation which did take place was done at a very early
13 stage. The municipal officials had not reviewed -- I think
14 the planners hadn't really come to grips with all these
15 problems.

16 I wanted to try to jump to a couple other things.
17 I want to talk about Valley Forge National Park.
18 Schuylkill Township, Valley Forge National Park are part of
19 this complex. The park is a little different. Here you
20 have a thing that it looks like an evacuation plan. It
21 acts almost like an evacuation plan. It could be part of
22 the EPZ. I think Dr. Urbanik testified that there was some
23 reason not to make it part of the EPZ.

24 JUDGE KOHL: What is the reason to make it part
25 of an EPZ? You argue in your brief that it is de facto,

1 that the park rangers are going to participate in getting
2 the park visitors out of there. What will be gained by
3 drawing the circle a little wider?

4 MR. STONE: You are gaining whatever is gained
5 by having formal evacuation plans.

6 JUDGE KOHL: What is that?

7 MR. STONE: I think what it is is a certain
8 consistency, efficiency, a certain assurance that under
9 pressure the book will be followed, that the parts will fit.

10 JUDGE GOTCHY: Didn't Chief Fewless testify that
11 he would have traffic control on the east side of the park
12 on 23 and that people evacuating the park would be forced
13 to go out west on 23 or something of that nature and not be
14 allowed to go into 393?

15 MR. STONE: I think off the top of his head --
16 and I think he testified under examination as to how he --
17 he said if it was okay he would probably let the people
18 through and then if it became a problem he would try to
19 shift them another way. I think what the problem there is
20 is that you have got to have established written procedures --

21 JUDGE GOTCHY: This is outside the Emergency
22 Planning Zone as it now exists. 23 is south of the
23 Emergency Planning Zone and 23 runs due west out of Valley
24 Forge Park and --

25 MR. STONE: What I am saying is that 23 west

1 would take you back into Phoenixville and I think --

2 JUDGE GOTCHY: I am sorry. East, 23 east. I am
3 sorry. You are right.

4 MR. STONE: There is another problem there which
5 was not and is not written anywhere is you got the problem
6 that the park is doing traffic control at that end, too.
7 You have a major intersection which we had this business
8 with the maps, you know, it was drawn wrong, HMM map that
9 came in like three times. This intersection ends up being
10 in. It is really part of the park. You have the park
11 rangers with a lot of responsibility.

12 I think, just again what do you benefit by
13 having a formal plan? Well, first of all, they are
14 involved really in the planning process. Fewless testified
15 that he was never asked whether Valley Forge should be
16 included or not. He is a chief ranger. If there had to
17 have been an evacuation plan for Valley Forge, I am sure
18 his input would have been more highly regarded and it would
19 have been formal instead of at the hearings.

20 JUDGE KOHL: I thought according to the
21 Commonwealth's brief the Park Service was consulted by PEMA
22 and they had an opportunity for whatever input they desired
23 to make.

24 MR. STONE: I think this is one reason for these
25 formal proceedings and this formal planning process that we

1 come in and we try to bring some reality to it. In the
2 real world, who the heck wants to think about evacuation
3 plans for their park? Who the heck ever thinks it is going
4 to happen?

5 JUDGE KOHL: Park administrators, that is within
6 the scope of their responsibilities. I am just trying to
7 determine whether or not you say that they did not
8 participate, were not consulted. As I understand the
9 briefs from the other parties, they were. I am trying to
10 determine what reality is.

11 MR. STONE: I don't think it really swings so
12 much on that factual point as the fact that essentially the
13 park wants an evacuation plan. They have one. It should
14 be part of the formal process.

15 JUDGE KOHL: Where in the record has any park
16 official expressed concern or displeasure with the fact
17 that Valley Forge National Park is not formally included in
18 the EPZ? Is that anywhere in the record?

19 MR. STONE: No. However, I would point out that
20 they did see fit to make these arrangements, and I also
21 point out that the NRC in its responsibility to implement
22 0654 has a much more sophisticated task before it.
23 Whatever reason, whatever ignorance there might be at that
24 level, whatever political reason there may be for noninclusion,
25 it is really the business of the NRC to cut through all

1 that and say, you are going to evacuate your people. You
2 are going to do traffic control. You are going to try to
3 do route alerting. You have got to be consistent with
4 everyone else. You can't be sending traffic this way and
5 this way. You have to have it written down.

6 JUDGE KOHL: It is written down. But you
7 disagree with the way in which it is written down, correct?
8 It is not that they haven't drafted a plan. There is a
9 plan. There is nothing in Commission regulation that would
10 require the inclusion of Valley Forge National Park.

11 As I understand it, the Schuylkill River is
12 the natural boundary and that was one of the reasons chosen
13 for not extending the zone a little further to the opposite
14 side of the park.

15 Isn't that consistent with the Commission's
16 regulations that say it is roughly ten miles in radius and
17 you take into account various topographical and other
18 features of the site in question?

19 MR. STONE: I think there what you run up
20 against are a couple things. First of all, the park has
21 chosen to be de facto part of the EPZ. Whether the NRC
22 feels it is your responsibility to bring it into the fold
23 so to speak and make it part of the program, that is really
24 how you interpret the regulations. We interpret them to
25 mean -- I think there was a case, South Carolina, there

1 have been a couple cases where there has been issues of
2 something that is the edge of an EPZ. I have to get that
3 cite.

4 JUDGE EDLES: Is there a provision made for
5 communication by PECO with the park directly?

6 MR. STONE: There is supposed to be provision
7 for communication. We don't have a plan. We never
8 cross-examined on a plan. We never filed a contention on a
9 plan. I think what we would be looking for is some kind of
10 process where we can protect the rights of our members who
11 may be using the park, other members of the public. They
12 are, they are going to be put through this procedure. The
13 park officials are going to be participating in the
14 evacuation one way or another. They are entitled to the
15 written thing which meets the NRC guidelines.

16 That is the protection we need.

17 We would seek as a minimum, the right to
18 cross-examine on whatever plan might exist, but we would
19 really think this may be the most straightforward way to do
20 it, is to make it part of the EPZ. Get a plan and Energy
21 Consultants can prepare it and look at that.

22 I want to touch on a couple things I may not
23 have hit here. A lot of this stuff is in the brief and in
24 the findings.

25 The bus drivers I wanted to talk about. This

1 board makes this generalized assertion about bus drivers,
2 adequate numbers. We spent a lot of time in the hearings
3 looking at an exhibit Annex I of the Montgomery County plan.
4 We had a witness come in from -- it is all in the record.

5 They have a problem here, some questions. You
6 have a very careful list of response times for these
7 various outfits. One, two hours, they were asked to fill
8 this in, when they do deliver or mobilize a bus. That that
9 is separate from the time it takes that bus to leave that
10 point and get to where they are supposed to be. There is
11 some discussion on this with respect to LEA contention 24.
12 We feel that to some extent these times are additive. They
13 may be overlapping a little bit, but they are basically
14 additive.

15 If you look at the numbers in Annex E, it is
16 very close to what Montgomery County says it needs. In
17 Chester County you have an unmet need. What you have the
18 board doing in the end of it is to say, there is ample --
19 they take some figure like one third of bus drivers outside
20 the EPZ are all that would be needed.

21 That doesn't say anything about whether these
22 bus drivers or their companies have been lined up, whether
23 they have been offered training. One third to me
24 seems a high number for a big county like Montgomery when
25 all these bus companies have other responsibilities. The

1 board seemed to find that conclusive.

2 I think that is irresponsible. I think there is
3 much specific data which even specific evidence which
4 caused them to question what is assumed in Annex E or Annex
5 I.

6 JUDGE GOTCHY: In retrospect, doesn't the May 21,
7 1985 FEMA findings tend to substantiate what the board
8 concluded based on the record? With regard to buses?

9 MR. STONE: Insofar -- you have to understand
10 that in a drill situation or what FEMA looks at is not
11 actual mobilization of buses. I think that --

12 JUDGE GOTCHY: In numbers, yes.

13 MR. STONE: What are they using? We think they
14 are using probably Annex I. We think they are using
15 whatever agreements are supposedly under negotiation and so
16 forth. We think that the record shows that we have shown
17 at least this much, that Annex I cannot be relied upon.

18 FEMA at the point of the hearing did not make a
19 statement that there was efficiency. This had been
20 post-hearing. I think that the problem there is the board
21 just pushed it all aside and said there is plenty. I don't
22 think that should be allowed to stand. It doesn't breed
23 responsibility at the local level. There had been some
24 school plans approved since that date.

25 JUDGE GOTCHY: At the time of the hearing there

1 were a lot of unmet needs identified. The question was,
2 here the board is trying to make a finding and there are
3 plans being developed which certainly aren't finished at
4 the time you had the hearing. And the emergency plans are
5 living documents. They are continually being revised.

6 MR. STONE: We believe as of this date there
7 aren't enough bus drivers to be there, for the documented
8 needs, let alone the transport-dependent and the day care
9 children.

10 However, if the board is going to find that way,
11 let them confront the evidence in Annex I. Let them
12 confront the people that we brought in and let them say,
13 this one is credible. This one is not credible. Instead
14 of coming in with a broad brush and saying there is plenty.
15 That doesn't even take in the issue of response times in
16 terms of distances of traffic which may affect LEA 23 with
17 respect to ETE.

18 I think that is a problem there. I am out of
19 time, but it is discussed in the brief and in the appeal.

20 JUDGE KOHL: Thank you.

21 Mr. Anthony.

22 MR. ANTHONY: I am here again. Judge Kohl,
23 gentlemen.

24 It was a few months ago, I guess it was in April
25 that we met before.

1 JUDGE KOHL: March.

2 MR. ANTHONY: That PID number 2 is still waiting
3 for a decision. I know you people are hard pressed. You
4 have a lot to do.

5 JUDGE KOHL: You fellows keep us awfully busy.

6 MR. ANTHONY: And you are working hard at it.
7 Meanwhile, we have got a serious danger. There is a plant
8 operating, a plant called Limerick. There are almost 3
9 million people that can be affected by an accident there
10 and the plant is not safe. The emergency plans will not
11 work. So I think it is a heavy responsibility you have as
12 a board to do something about that. I recommend that you
13 suspend the license and do it on the basis that the
14 emergency plans are not adequate and cannot be implemented.

15 In my brief of the 6th of June, I asked for the
16 following remedies: Reverse the third PID, reverse the
17 decision; order the NRC to return the emergency plans to
18 the Commonwealth and to FEMA stating they are inadequate
19 and not able to implement it; order the NRC to begin the
20 evacuation planning process over again to the boundaries of
21 the EPZ set up in consultation with FEMA, as required by
22 FEMA regulations, and consultation with the National Park
23 Service.

24 Four, order the NRC to submit revised evacuation
25 plans to the parties with provision for, including the

1 Valley Forge Park, King of Prussia area and Marshalls Creek
2 Park/Exton area in evacuation planning.

3 JUDGE KOHL: Mr. Anthony, why do you think FEMA's
4 participation in this emergency plan has not been adequate
5 or in accordance with its regulations?

6 MR. ANTHONY: Well --

7 JUDGE KOHL: Haven't they reviewed the plan in
8 various stages and issued interim findings improving that
9 plan?

10 MR. ANTHONY: I submitted evidence, and one is a
11 freedom of information request I made to FEMA and to the
12 National Park Service asking if they have anything in their
13 records that show they ever were consulted or ever
14 consulted about the setup of the EPZ. Neither organization
15 ever had anything to do with it.

16 JUDGE KOHL: Those letters, though, are not in
17 the record of this proceeding; correct?

18 MR. ANTHONY: They are in my brief.

19 JUDGE KOHL: But were they ever tendered as
20 evidence in this proceeding?

21 MR. ANTHONY: No.

22 JUDGE KOHL: They are not in the record then?

23 MR. ANTHONY: No, they are not in the record.

24 JUDGE KOHL: Wasn't there testimony concerning
25 the views of various FEMA officials and --

1 MR. ANTHONY: Yes, there is testimony and they
2 disclaim any connection with the EPZ. They said they
3 accepted it from the Commonwealth.

4 JUDGE KOHL: But then they have approved it.
5 Why isn't that adequate?

6 MR. ANTHONY: Well, it must be set up in
7 connection, in consultation with FEMA. FEMA never
8 consulted about the setup.

9 JUDGE KOHL: I thought FEMA's regulations
10 indicate that FEMA relies heavily on the state and local
11 entities for purposes. After all, they are the people who
12 know best about the region that is involved. I thought
13 what FEMA's usual practice was was to leave it to the state
14 in the first instance and its function was more in the
15 nature of review.

16 MR. ANTHONY: With due respect, the FEMA is
17 responsible for all off-site planning. They are the
18 ultimate responsibility. And --

19 JUDGE KOHL: Ultimately, yes. But I thought we
20 were talking about the initial drafting of the --

21 MR. ANTHONY: If they don't have anything to do
22 with drafting the original EPZ or the formulation of the
23 plans, then how can they be ultimately responsible?

24 JUDGE KOHL: Why isn't their review of what
25 somebody else does adequate? Why isn't that an adequate

1 means for FEMA to contribute whatever expertise it has in
2 the emergency field?

3 MR. ANTHONY: If --

4 JUDGE KOHL: I am trying to determine what it is
5 that FEMA would have added by its -- by a more substantial
6 participation?

7 MR. ANTHONY: I am glad you used that
8 "substantial." I think they didn't add anything --

9 JUDGE KOHL: I said "more substantial."

10 MR. ANTHONY: If you want my frank opinion, they
11 act as a rubber stamp. I think they don't have the
12 resources. I don't think they were set up properly to
13 handle the resources to do this kind of job that they were
14 expected to do so they have to accept what is handed out by
15 the utility or by the state. They do that -- even I was
16 told by the man in charge the other day, that they get
17 their plans right from the utility. They don't even bother
18 to get them from the state.

19 JUDGE KOHL: Even if all that is true, for
20 purposes of argument only, why then does that render the
21 Limerick emergency plan inadequate? Couldn't it be
22 adequate in any event?

23 MR. ANTHONY: It rendered it inadequate because
24 the EPZ was not set up in a way that provides for the
25 public safety. I will go into --

1 JUDGE KOHL: In what specific way?

2 MR. ANTHONY: I will refer to NUREG 0654. Page
3 7, paragraph 2, definition of the area over which planning
4 for a predetermined action should be carried out. That is
5 when the EPZ is set up. That is the basis.

6 Paragraph 3, the same page, the time frames are
7 very important. Initial recognition of when radioactive
8 releases are going to start to the surrounding environment.

9 Page 8, time available for exposures; when the
10 radioactivity reaches several miles off-site. Paragraph 3,
11 areas for major exposure pathways dependent on the
12 characteristics of the planning areas. This is where they
13 should come in.

14 Page 9, paragraph 1, general downwind direction,
15 the prevailing wind from Limerick is down the Schuylkill
16 River toward the population concentration at King of
17 Prussia.

18 Page 10, number 2, areas for planning to assure
19 the prompt and effective action to protect the public in
20 the event of an accident.

21 Page 11, number 2, for the worst -- this is the
22 key, the key to the whole thing -- for the worst possible
23 accident protective actions would need to be taken outside
24 the planning zones.

25 This was never done in the planning.

1 Paragraph 3, the actual shape would depend on
2 the characteristics of the particular site, and there we
3 come into the regulations of the 10 CFR 5047 and 44 CFR 350
4 which governs the FEMA.

5 I want to mention that these plans are made on
6 the basis of a TMI scenario; that there are going to be
7 hours, maybe days in which to make a decision. The worst
8 case was not considered at all.

9 The worst case is table 2 in the NUREG 0654.
10 The worst case says, a release starting in the first half
11 hour. The major portion of the release starting in the
12 first half hour and continuing for a day and the travel of
13 the radioactive cloud could go 10 miles in one hour.

14 JUDGE GOTCHY: Under those conditions,
15 Mr. Anthony, what would be the protective action taken?

16 MR. ANTHONY: Well, you may decide in your
17 wisdom, I hope you will, as a board, that there is no
18 protective action that can be taken.

19 JUDGE GOTCHY: I think they call it, sheltering
20 is the alternative. You either shelter or evacuate?

21 MR. ANTHONY: Is there any plan for sheltering
22 for King of Prussia? King of Prussia is an hour and a half
23 away at this rate, downwind.

24 JUDGE GOTCHY: At 15 miles an hour, what wind
25 speed?

1 MR. ANTHONY: Well, 10 miles an hour, 10 miles
2 for the first hour. So if King of Prussia is 15 miles, you
3 would have to add a half an hour to it.

4 So this is a mortal threat, 300,000 people at
5 peak times in the King of Prussia area, and there is no
6 plan for them, if this radioactivity is going to reach them
7 in an hour and a half. This is a worst case, and there is
8 no way to make an average out of a worst case. It has got
9 to be a worst case.

10 Maybe FEMA could have, if they really were on
11 the job, if they had enough manpower, if they really knew
12 what they were doing, they would have discovered this.
13 They wouldn't have left it up to me to discover this.

14 I am not the expert, but I know when people are
15 in danger and I can read a table which says these releases
16 can start half an hour, and you know it can happen. It is
17 in the record. It is in all the figures. These towers can
18 collapse. They can be collapsed by a tornado. They can be
19 collapsed by an explosion on this railroad right here. It
20 is all in the record. When those towers collapse, they can
21 put out of commission the cooling pond up here.

22 JUDGE KOHL: Mr. Anthony, your time has expired
23 and I think you are arguing on the second PID. Thank you.

24 MR. ANTHONY: Excuse me. This is -- I mean on
25 the PID, the fact of what can happen in a worst case.

1 JUDGE KOHL: Thank you, Mr. Anthony.

2 MR. ANTHONY: Might I show you just one more
3 exhibit?

4 JUDGE KOHL: One more. We have all got it in
5 front of us.

6 MR. ANTHONY: You don't have this. This is --
7 this was an addition.

8 JUDGE KOHL: I am sorry. We go by the one that
9 was admitted to the record.

10 MR. ANTHONY: The roads are all in there, but
11 they are not pointed out. This is the way the through
12 traffic goes across this circle. And this was not
13 considered at all in the time studies, and Dr. Urbanik
14 brought up the theory, the idea that the 76 has traffic on
15 it all the time and these routes have traffic on them all
16 the time.

17 This is a main route from West Chester to
18 Allentown, from Chester to Allentown, Wilmington to
19 Allentown, Philadelphia to Pottsville and west. These are
20 all considerations that were completely left out of the
21 time study.

22 They have to be considered; the whole study is
23 disqualified because of this. And the plan cannot work.

24 The other thing that cannot work is people in
25 King of Prussia who have come in to, commute in or gone

1 there to shop, at the first sound of an alarm, will head
2 back so that the opposite flow will take a partial amount
3 of the time. For if the inflow took an hour, the outflow
4 back to rescue their houses and pack up their goods and
5 flee will take half that time.

6 These people cannot be stopped by any kind of a
7 traffic control device. They will seek other ways to go
8 around. There will be a terrific traffic jam. There's no
9 way to make this work.

10 JUDGE KOHL: Thank you, Mr. Anthony. Mr. Rader.

11 MR. RADER: Thank you. I would like to point
12 out at the outset that over the course of this hearing
13 Mr. Stone and LEA have been trying to characterize, as
14 Mr. Stone did today, these plans as the Applicants' plans.
15 And as something that has just been foisted off on the
16 various jurisdictions. The evidence of record is exactly
17 to the contrary and demonstrates that the plans were
18 developed from prototypes which were approved by PEMA
19 before they were even distributed to the counties, to the
20 municipalities and the school districts for their review.

21 Those prototypes included the basic principles,
22 assumptions and underlying operational concepts and
23 principles that are used by PEMA for the other nuclear
24 power plants in Pennsylvania.

25 So they are anything but the "Applicants' plans"

1 quote unquote.

2 Further, the record demonstrates that as these
3 plans were developed and submitted to the various
4 jurisdictions, comments, suggestions, recommendations and
5 resource information was received in return by Energy
6 Consultants, and all of this information was incorporated
7 in successive drafts and submitted to the jurisdictions for
8 their further review and comment. So that each successive
9 draft has in fact incorporated all of the material which
10 the various counties and school districts feel is essential
11 for them to implement their plans.

12 JUDGE EDLES: What provision is made in the
13 plans for communicating with the folks at the National Park?

14 MR. RADER: The Montgomery County plan contains
15 an appendix on notification, I believe it is annex C,
16 appendix 2, which lists all of the various officers or
17 entities which would be notified in the event of an
18 emergency. Park Services are listed at the alert stage.
19 The record demonstrates that the park would be notified at
20 the alert stage by Montgomery County.

21 I believe Mr. Bigelow so testified. If he
22 didn't, I am sure that the Energy Consultant witnesses or
23 perhaps the park ranger himself has so testified that they
24 would receive notification at the alert stage. That
25 notification would be passed on to the park visitors via

1 the public address system of the park and the visitors
2 could do as they liked at that point; if they evacuated
3 they would be assisted.

4 JUDGE KOHL: For all intents and purposes then
5 the park is included. Why wasn't it officially included?

6 MR. RADER: Because it was not deemed necessary
7 to include the park in the EPZ to effectuate the purposes
8 of NUREG 0654 in the Commission's regulations, which are
9 primarily aimed at implementing protective actions.

10 The park officials were simply faced with a
11 situation of what to do with this -- with these -- this
12 number of people, given the fact that they would probably
13 hear the sirens in neighboring areas and be wondering what
14 to do. I think the general consensus was that they would
15 simply be alerted so that if they wanted to leave, they
16 could do so. But this was not as a protective action for
17 their benefit or welfare under NUREG 0654, but merely more
18 as an informational service.

19 JUDGE KOHL: I realize it is not in the record,
20 but it is curious -- I am referring to the letter that,
21 from the National Park Service that was attached to Mr.
22 Anthony's brief in response to his FOIA request. That
23 letter, as well as one to FEMA, indicates that neither the
24 Park Service nor FEMA had any papers in their files
25 regarding the Limerick EPZ. Isn't that a little curious

1 for two government agencies not to have any papers in their
2 files on something that they allegedly did participate in?

3 MR. RADER: I can assure you just about every
4 agency in this town wishes it had less papers in its files,
5 and it's certainly not unusual at all because the record
6 shows that Montgomery County met with the park officials along
7 with Energy Consultants and I believe officials from PEMA,
8 at least once, maybe twice prior to the arrangements which
9 were made in the plans for traffic control points outside
10 at either end of the park and for the notification
11 arrangements which I mentioned. So the fact that this was
12 not reduced to any particular form of paper, I think is not
13 unusual.

14 JUDGE KOHL: Would they even have a copy of the
15 plan?

16 MR. RADER: The plans as such do not really
17 affect the Park Service. The Park Service has an extremely
18 limited responsibility in the event of an emergency. And
19 as I stated, it was not really an implementation of a plan
20 as such because there is no requirement under a plan or
21 anyone's plan that the Park Service notify people in the
22 park and alert them to the alert situation at Limerick.

23 However, this was deemed a problem under the
24 circumstances.

25 Now, with regard to the access control which was

1 touched upon, my understanding is now that the park rangers
2 will perform a traffic control point function at the
3 intersection of Route 23 headed east out of the park where
4 that dumps off into what used to be -- what is still Route
5 363.

6 For the Board's benefit, at the time of the
7 hearing, the major expressway, known as the County Line
8 Expressway, Route 363, headed from Trooper Road down to 202,
9 was known as 363.

10 My understanding now is that Penn DOT has
11 renamed that whole segment 422, so that if you start with
12 the segment from the Schuylkill extension above the park,
13 it heads down, all of that is 422, and 422 continues down
14 into what used to be designated the County Line Expressway.
15 I think you will find that on our Exhibit 92.

16 So that juncture all the way down to 202 is now
17 422.

18 With regard to the issue of traffic control
19 points, Mr. Stone stated this was a very complex issue. It
20 may be complex to him, but it is certainly not complex to
21 the planners. 403 traffic control points have been
22 established under this plan for the area inside and outside
23 the EPZ to manage the flow of traffic. There are a total
24 of 108 access control points also to assist in the
25 management of traffic and to keep unnecessary traffic

1 outside the EPZ in the event of an emergency.

2 JUDGE KOHL: When we talk about a traffic
3 control point, what are we talking about here? A policeman
4 at the corner waving people on by?

5 MR. RADER: Exactly; assisting the flow of
6 traffic. In other words, it is not access control as such,
7 it is simply assisting traffic in keeping moving.

8 With regard to the zero flow assumption that
9 Mr. Stone referred to in the evacuation time estimate, I
10 think he has demonstrated again today that he still doesn't
11 understand it.

12 It is not an assumption that roads will be
13 emptied in fact at the time an evacuation commences. It is
14 an analytical assumption that all cars will be evacuating
15 the EPZ and therefore will be assumed to be loadings onto
16 the EPZ network at some point. So what the planners did
17 was to assume a range of mobilization preparation times
18 starting from 30 minutes to 150 minutes and then loaded the
19 cars in the EPZ on the network throughout that period.

20 So there is no assumption that the roads will be
21 literally empty at the time. The assumption is the access
22 control measures will be adequately in place such that the
23 EPZ flow can come out of the EPZ without being impeded.

24 JUDGE KOHL: It assumes, stating it another way,
25 it assumes the maximum vehicle usage at that time? In

1 other words, everyone who has a car or access to it gets in
2 it and leaves?

3 MR. RADER: Within the EPZ that is correct,
4 given the vehicle occupancy factor which was used.

5 JUDGE GOTCHY: And the different time
6 distribution assumptions.

7 MR. RADER: On the time distribution from 30
8 minutes to 150 minutes; yes, sir.

9 With regard to the area outside the EPZ, I think
10 the Board adequately explained at pages 50 and 51 of its
11 opinion exactly how these areas of the roadway network were
12 examined by HMM Associates in preparing their conclusions.
13 They did look at the actual roads in use, the
14 configurations of the road. I think they used the term
15 "geometrics," which includes the ramps that would be used
16 for the particular expressways under consideration,
17 including what used to be called the County Line Expressway
18 and which I have now explained is basically Route 422.

19 Also, I think Mr. Stone misspoke himself when he
20 stated that Mr. Urbanik said that peak hour traffic might
21 be considered or should be considered. What Mr. Urbanik
22 said that is that a good planner never excludes anything.
23 I suppose a good witness always leaves himself an opening,
24 too.

25 With regard to the control points that have been

1 added as a result of the Board's condition, I think
2 Mr. Stone also misspoke himself when he said that Upper
3 Marion didn't have any input. As a matter of fact, a
4 letter dated -- the memorandum, rather, date May 30 from
5 FEMA to the NRC attaching the PEMA review of the matter
6 clearly states that PEMA reviewed it with the townships,
7 with HMM Associates and together they reviewed it with the
8 Pennsylvania state police and then they adopted the
9 additional traffic and access control points which were
10 attached to that letter from PEMA.

11 Moving on to the area of unmet needs, again, I
12 am totally at a loss to understand what Mr. Stone believes
13 would be added to the planning by using Census data. The
14 Census data doesn't identify people. In order to identify
15 people that you know who need transportation in the event
16 of an emergency, you have to know their names and addresses.
17 This information appears in the EOC lists which are kept on
18 file for each municipal EOC as stated in Annex G of the
19 municipal plans. You will see a reference to 21 names or
20 41 names which are kept on file in the municipal files.
21 This is the information that is needed. Not just for
22 mobility impaired individuals, but also for
23 transportation-dependent individuals.

24 JUDGE KOHL: You are referring to the survey
25 then that the counties conducted using what, PECO billpayer

1 lists; is that how it was done?

2 MR. RADER: That is correct.

3 JUDGE KOHL: What about people who live in
4 apartments who don't pay their utility bills themselves?
5 How would they be identified under that survey?

6 MR. RADER: They would be identified because
7 municipalities would be aware of those special
8 circumstances and they would make an effort to identify
9 those kinds of individuals. They were not part of the
10 survey per se.

11 JUDGE KOHL: What was done in terms of
12 identifying people who live in apartments and condominiums
13 and so forth? How were they figured into the survey?

14 MR. RADER: I don't know what particular efforts
15 were made by municipal officials in that respect. I do
16 know that efforts were made.

17 JUDGE KOHL: Doesn't that undercut then the
18 reliability of the survey that you relied upon?

19 MR. RADER: Not at all. Because in the plans it
20 is stated that additional persons may call the municipal
21 EOC at the time of an actual emergency, and it has always
22 been recognized that the list which --

23 JUDGE KOHL: What if they are an elderly person
24 without a car, living in an apartment building?

25 MR. RADER: That person is going to do one of

1 two things. That person is going to call the local police,
2 city hall, that person is going to call somebody. And in
3 some way that person is going to get 'directed to the
4 appropriate transportation officer in the municipal EOC.
5 That person is not going to stand idly by. A person in
6 that situation is likely to have family or friends in the
7 area who are likely to be looking out for the person.

8 JUDGE KOHL: Isn't that a big assumption?

9 MR. RADER: Not really. The record has
10 demonstrated that in emergency evacuations with far less
11 planning than we have here that there really hasn't been a
12 problem with people being left behind. I am talking about
13 instantaneous evacuations that are a result of gas spills,
14 chemical spills, people are evacuated. There has really
15 never been a problem as demonstrated in the testimony of --

16 JUDGE EDLES: Are those historical data
17 extrapolatable to those circumstances? Are those spills
18 and various things, do they produce the type of sort of
19 mass exodus that we are contemplating in the event of a
20 necessary evacuation at this plant?

21 MR. RADER: In terms of the notification issue,
22 yes, I think they are roughly analogous because basically --

23 JUDGE EDLES: In other words, a spill, for
24 example, would involve a 10-mile circle similar to the
25 Emergency Planning Zone?

1 MR. RADER: In total geographic size, probably
2 not.

3 JUDGE EDLES: Would be a lot smaller?

4 MR. RADER: Let me point out, however, sir, that
5 in the record below, there was testimony that, I believe it
6 was the Phoenixville, utilized its plan with regard to a
7 flood situation, and I think there were some 10-, 15,000
8 people evacuated. I know of no evidence in that respect
9 that there were any people who were left behind because
10 they hadn't received the proper notice.

11 JUDGE GOTCHY: Mr. Rader, I know that the record
12 shows that public service agencies and municipalities also
13 had these survey forms available to people who were seeking
14 their services and doing business with them?

15 MR. RADER: That is correct.

16 JUDGE GOTCHY: The media did make announcements
17 to people, too. So that if presumably they didn't get a
18 mailing, why they could request it.

19 MR. RADER: That is correct. Any elderly person
20 who had reason to deal with a local social welfare agency
21 giving help to the aged, would necessarily have that
22 information as well.

23 JUDGE GOTCHY: Let me ask you the question about
24 the wording of the survey. It says "Does everyone in your
25 household usually have private transportation available?"

1 That is a direct quote from the LEA Exhibit 44.

2 If you had asked them, instead of using the word
3 "usually," if you had said, "Does everyone in your
4 household always have transportation available," is it
5 possible you would have gotten a greater response?

6 MR. RADER: It is possible, but that might have
7 caused some confusion. People customarily have to leave
8 their cars in a garage for repair and things of that nature.
9 It might have been taken too literally and produced a
10 response which was not intended. I think that anyone who
11 owns a car is going to say he usually has a car. It boils
12 down to that.

13 JUDGE KOHL: I have another question relating to
14 the reliance on historical incidents of evacuation and so
15 forth.

16 Is it, is that a reliable thing to use in this
17 case where we are talking about a possible radiation
18 exposure. Civil defense workers and so forth are used to
19 dealing with floods and hurricanes and other natural
20 disasters of that sort, but do we have a problem here of
21 public perception? I am thinking in terms of possible
22 reluctance by bus drivers and other emergency workers to
23 enter the EPZ to help transport people out of the zone. Is
24 it fair to say because they have done it before in a flood
25 situation they would do it in a situation involving an

1 emergency at the Limerick facility? Are the things
2 comparable?

3 MR. RADER: The same basic question was asked by
4 LEA of virtually every emergency planner who testified.
5 All county planners, people and officials and the
6 Applicants and all Applicant's witnesses answered with an
7 unqualified yes. That they are comparable, and we can rely
8 upon the historical analogies.

9 JUDGE GOTCHY: Is there any historical evidence
10 that is in the record other than these expert statements,
11 that this is the historical experience?

12 MR. RADER: Well, they did testify as to the bus
13 driver response at a site emergency at Genny and also the
14 emergency at Three Mile Island. There were bus driver
15 responses then and they did come and respond as requested.

16 Also, I might point out that although a toxic
17 spill or a gaseous release might be different, it does pose
18 the same kind of idea of a somewhat invisible threat, which
19 is a little bit different of a flood or hurricane and
20 individuals have responded under those circumstances as
21 well.

22 JUDGE KOHL: Did any of the witnesses testify
23 about that sort of emergency, a chemical release?

24 MR. RADER: Yes, the Union Carbide incident --

25 JUDGE KOHL: I mean was there any testimony

1 involving that from any of the people who testified at the
2 Limerick hearing? Did any of the emergency personnel who
3 you called as witnesses refer to that?

4 MR. RADER: Yes. Mr. Bradshaw did, I am sure.
5 And I believe that is in the board findings regarding
6 historic responses in the section dealing with bus driver
7 responses.

8 With regard to Mr. Stone's complaint that the
9 board shouldn't have relied upon EC's testimony so much, I
10 think the board had excellent reason to rely upon the EC
11 testimony. They were intimately involved, particularly the
12 witness who testified, with the development of the plans
13 and with the collection of resource information from the
14 time the plans were first developed to the time that they
15 were presented to the various municipalities in the form
16 that they were received at the time of the hearing.

17 They demonstrated highly detailed memory and
18 highly credible responses were given to the questions, and
19 also I pointed out that with regard to the staff
20 information in particular, it is in my mind irrelevant
21 whether the board relied upon them or not because the board
22 didn't make predictive findings with regard to EC staff
23 levels. The board said they have to be okay before a
24 license can be issued. So it is irrelevant what
25 Mr. Bradshaw said about the staff levels, although the

1 information was correct and was subsequently confirmed by
2 FEMA. Because at the time of the hearing, there were only
3 a few spaces empty. I believe there were a few spaces
4 missing in Union Township, South Coventry was as yet
5 undetermined and there were three other municipalities each
6 missing one space. The board said, no license until that
7 staffing level comes up to meet the 24 hour capacity.

8 JUDGE GOTCHY: No license or they could go --

9 MR. RADER: No full power license until that
10 condition was met.

11 JUDGE GOTCHY: You brought in these FEMA
12 findings. I didn't see anything in there about SEPTA. Is
13 SEPTA no longer considered a backup for busing?

14 MR. RADER: I wouldn't use the term "backup."
15 The SEPTA general manager testified that SEPTA buses would
16 be made available even without an agreement, because there
17 are at least 300 buses on average available every day
18 because they are out for routine repairs and inspection and
19 so forth. The testimony by both him and the Chester County
20 chairman, who is on the SEPTA commission, was quite clear
21 that those buses would be made available even without an
22 agreement.

23 JUDGE EDLES: What about the drivers?

24 MR. RADER: The manager and again the chairman
25 testified that in their professional opinion the drivers

1 would be available and the drivers would cooperate.

2 JUDGE GOTCHY: But Mr. Taus who is their union
3 boss says that he is going to tell them not to show up.

4 MR. RADER: Mr. Taus lost any credibility with
5 the comments he made to the board. I know of no other way
6 to describe it than to say the man's views of government
7 border on anarchy. He simply is not --

8 JUDGE KOHL: Isn't that beside the point? If he
9 still has credibility with his membership and his union,
10 isn't that the key thing that we should be concerned with?

11 MR. RADER: I think that from an objective point
12 of view, one finds it difficult to make that connection
13 based upon what he said. I believe the historic record as
14 to the responses for schools and other emergencies in
15 general is so great to -- is so greatly to the contrary
16 that there is no basis for finding that Mr. Taus on his own
17 is going to be able to convince 4000 SEPTA drivers not to
18 drive the buses.

19 JUDGE EDLES: How do they actually go about
20 getting these people? If an emergency is announced and
21 these bus drivers are doing their normal everyday activity --
22 maybe there are these 300 buses sitting on the lot but
23 where do they get the 300 drivers while everybody else is
24 out there driving their regular bus routes?

25 MR. RADER: Keep in mind there are shifts.

1 Drivers have days off.

2 JUDGE EDLES: In other words, they have a plan
3 for calling them up?

4 MR. RADER: Yes. Yes, sir. They would be
5 called, although SEPTA would consider pulling certain buses
6 off their routes, and the SEPTA manager so testified that
7 they would consider pulling buses off their regular routes,
8 if that were necessary. But from everything he stated,
9 that wouldn't be necessary because they have a sufficient
10 pool of buses not used or out of use for maintenance, so
11 that could be easily accomplished.

12 JUDGE GOTCHY: The FEMA findings indicate the
13 SEPTA buses are not going to be needed. I think there is
14 something about three different counties having adequate
15 buses?

16 MR. RADER: I would put it this way: The FEMA
17 findings indicate that other agreements have been reached
18 which further supplement the total pool of buses. This
19 involves the RED Lion Bus Company in York County and the
20 Johnson Bus Company in Lancaster County, and this is set
21 forth again in the PEMA letter which is attached to the
22 FEMA letter you are referring to of may 21, I believe it is.
23 And it states that these buses will be made available under
24 agreement.

25 Here again, who Chester County would choose to

1 use under the circumstances or call upon first, I don't
2 know. But it is clear that there is a sufficient pool of
3 buses for Chester County to use to evacuate the few
4 remaining children who would be there. In that respect,
5 let me point out, we are only talking about a very small
6 number of buses that were missing at the time because
7 although in their annex Q, which states their resources,
8 they were 103 short at the time of the hearing.
9 Mr. Campbell, the Chester County director of emergency
10 services testified at the hearing that an additional 100
11 buses had been secured by letters of agreement which were
12 found acceptable by the board, by FEMA and could be
13 utilized in an actual emergency. So there was really only
14 a very small shortfall of about 30 or 40 buses at the time
15 of the hearing. It was those buses that would have to be
16 filled from resources from SEPTA or as I mentioned the
17 Johnson Bus Company or the Red Lion Bus Company.

18 With regard to the point made by Mr. Anthony, I
19 would only point out that regulations are quite clear, they
20 do not become involved in the EPZ boundary designation.
21 Ordinarily they consult, they provide advice. Customarily
22 they accept the EPZ boundary if it is reasonable and if it
23 complies with 0654 and the requirements of 5047-C2. The
24 only time they become involved is if there is some
25 interjurisdictional dispute. That was not the case here.

1 Everyone was in agreement that the Valley Forge Park need
2 not be included in the EPZ. The park rangers discussed it
3 with Montgomery County and PEMA officials. They certainly
4 knew that they could ask that it be included, yet they
5 never did.

6 I believe the other points which I would have
7 made are covered adequately in our brief. Unless the board
8 has any further questions, I think I have used my time.

9 JUDGE GOTCHY: I had a couple more questions.
10 Just a couple quick questions. Exhibit 67, the ETE study,
11 shows about 130,000 people evacuating the EPZ in Montgomery
12 County.

13 MR. RADER: Yes, sir.

14 JUDGE GOTCHY: I am trying to figure out what
15 the basis is for the, apparently, about 48,000 people that
16 are assumed to evacuate in Bucks County, and there is an
17 assumption that half of them seek refuge in mass care
18 facilities in Bucks County?

19 MR. RADER: Yes, sir.

20 JUDGE GOTCHY: How do you get from the 130,000
21 down to, I think, the 48,000 number? I can understand
22 taking half of that, I can find the 24,000 or so people
23 identified at the reception centers and mass care centers
24 in the exhibits, but how do you get from 130,000 down to
25 48,000?

1 MR. RADER: Keep in mind, sir, that the
2 Montgomery County, Bucks County and Chester County, while
3 they are risk counties, they also function as support
4 counties for their own population. So there would be a
5 much -- Montgomery County would simply be moving out or
6 much of Montgomery County would simply take refuge beyond
7 the EPZ in Montgomery County.

8 JUDGE GOTCHY: Is there something in the record
9 that explains this? I couldn't find it.

10 MR. RADER: I can't state for a certainty that
11 there was any part of the record which analyzes which
12 segment of the population is predicted to go where. I
13 think there was a basic assumption that a number of the
14 population go to Montgomery County outside the EPZ. Other
15 portions of the population would go further east, perhaps
16 all the way to Philadelphia and elsewhere, and the best
17 estimate was that approximately 40,000 would go into Bucks
18 County and about half of those individuals would seek
19 refuge in the mass care centers.

20 Incidentally, I point out in passing that as the
21 record establishes, that 50 percent assumption was
22 extraordinarily conservative. The historic record shows
23 that only about 10 or 15 percent of all evacuees actually
24 use mass care centers. I think that is important in the
25 board's evaluation of the points made by LEA on the

1 development of plans for mass care centers.

2 JUDGE GOTCHY: There was a survey characterized
3 as a one-time survey. But as I read the exhibits for the
4 plans, this is supposed to be redone annually or something
5 of that nature. Has that survey been redone?

6 MR. RADER: Yes. A survey was conducted by
7 another consultant in July of this past year. The results
8 are being tabulated. I under understand that they will be
9 shortly transmitted to the various risk counties for use in
10 incorporation in their plans.

11 JUDGE GOTCHY: I was curious if the results had
12 significantly changed?

13 MR. RADER: I couldn't answer that because I
14 don't think the results have been compiled. But of course,
15 as you pointed out, the counties will do precisely that.
16 They will adjust their list accordingly.

17 JUDGE KOHL: Thank you, Mr. Rader.

18 Ms. Ferkin.

19 MS. FERKIN: Good afternoon. Before I begin, I
20 would like to make an introductory comment. In these
21 proceedings on off-site emergency planning for the Limerick
22 stations, the Commonwealth has provided information and
23 testimony for the purpose of insuring a clear and complete
24 record. On review of the appeals filed by Limerick Ecology
25 Action and by Friends of the Earth on these matters,

1 Commonwealth determined that it is important to address
2 certain of the issues raised therein for the purpose of
3 aiding this board in ruling on those appeals. That is the
4 purpose of our presentation and our participation here
5 today.

6 I would like to turn to an --

7 JUDGE KOHL: I just wanted to thank you for
8 providing all the board members earlier this week with
9 Commonwealth Exhibit E-9. Unfortunately, our own record in
10 this case is not as complete as it should be. That was one
11 of the items that seemed to be missing. So I do appreciate
12 your sending us the three maps as promptly as you did.

13 MS. FERKIN: You are very welcome.

14 With that introduction, why don't I turn first
15 to an issue that has received quite a bit of attention
16 today. That is the question of Valley Forge Park.

17 LEA and FOE raised a contention about whether
18 traffic congestion in certain areas outside the Limerick
19 plume exposure pathway EPZ would adversely affect the
20 ability to evacuate and the timeliness of an evacuation of
21 the plume EPZ. One of these areas is Valley Forge National
22 Historical Park which lies generally to the south and east
23 of the Limerick EPZ.

24 The board heard evidence on plans for traffic
25 control in this area and heard expert NRC Staff testimony

1 which stated that traffic in the area of Valley Forge Park
2 as well as other areas beyond the EPZ is not unmanageable
3 and that the EPZ need not be expanded to include these
4 areas. The Commonwealth agrees.

5 NRC regulations in 10 CFR 50.47 C2 provide that
6 the plume EPZ for a nuclear power plant will generally
7 consist of an area about 10 miles in radius. The exact
8 size and configuration of the EPZ is to be determined in
9 relation to local emergency response needs and capabilities
10 as they are affected by a variety of factors.

11 These are listed in the regulation: demography,
12 topography, land characteristics, access routes and
13 jurisdictional boundaries.

14 In setting up the boundaries of the plume EPZ
15 for Limerick, the Commonwealth, in consultation with
16 appropriate local officials, took all of these factors into
17 account.

18 JUDGE KOHL: What about park officials, National
19 Park Service officials?

20 MS. FERKIN: There is testimony in the record of
21 this proceeding by Park Ranger Fewless that he had a number
22 of meetings with Commonwealth and county officials with
23 respect to the participation, if you will, of Park Service
24 personnel in facilitating the flow of traffic from the
25 Limerick EPZ through the park.

1 JUDGE EDLES: Did he say whom he actually spoke
2 with at the Commonwealth?

3 MS. FERKIN: I would have to go back to the
4 transcript. I have transcript pages which I could refer
5 you to at this point. Would the board like that?

6 JUDGE EDLES: I am curious, I can't quite figure
7 out why there is this disagreement over the role -- whether
8 or not the Park Service was consulted, given that people
9 said he was consulted. And yet there are no records of any
10 of this.

11 JUDGE GOTCHY: Isn't the man who discussed it
12 with Chief Fewless sitting there.

13 MS. FERKIN: No, that is Mr. Ralph Hippert who
14 was present at a number, if not all of these meetings. I
15 certainly have Mr. Hippert here to testify to you now as to
16 who was at those meetings. I think the issue is not
17 whether -- or the difference between what the Park Service
18 knew or didn't know or participated in and didn't
19 participate in. I think what you are referring to are the
20 letters that Mr. Anthony has shown you here today.

21 JUDGE EDLES: That is right.

22 MS. FERKIN: Those, as I understand it, were
23 requests for file information as to the Limerick generating
24 station.

25 JUDGE EDLES: I realize that they could be

1 rationalized. It is possible that there were meetings
2 which were never memorialized in anybody's files. But what
3 I am trying to get at is whether there is testimony in the
4 record which discusses any consultations or meetings
5 between the Commonwealth on the one hand or local officials
6 on one hand and the National Park Service on the other.

7 You tell me that there is although you can't off
8 the top of your head give me the page citations.

9 MS. FERKIN: It would be Chief Ranger Fewless'
10 testimony in the vicinity of transcript page 14,500.

11 JUDGE KOHL: He is the chief park service
12 administrator for the park; is that correct?

13 MS. FERKIN: There is a chief in his title.

14 JUDGE GOTCHY: He is the chief ranger, but I
15 don't think he is the chief administrator.

16 JUDGE KOHL: Who is in charge?

17 MS. FERKIN: Well, my understanding is there is
18 an administrative director for the Park Service. My
19 understanding is that Mr. Fewless is the chief ranger for
20 Valley Forge National Historical Park.

21 JUDGE EDLES: If Mr. Fewless is not in charge,
22 he at least speaks for whoever is in charge on the record?

23 MS. FERKIN: That is my understanding.

24 Now, even though the Schuylkill River in this
25 portion of the area around the Limerick station is more

1 than 10 miles from the Limerick station, the river forms a
2 natural boundary for the EPZ on this southeastern side.
3 The choice of the river for the boundary of the EPZ is thus
4 consistent with considerations of topography and land
5 characteristics in accordance with 10 CFR 50.47 C2.

6 Mr. Stone conceded in his argument earlier that
7 nowhere in the record of this proceeding is there evidence
8 that the National Park Service ever requested to be made a
9 part of the Limerick EPZ. Mr. Fewless testified that the
10 Park Service never asked that Valley Forge or any portion
11 of it be included in the EPZ.

12 Commonwealth and local emergency planning
13 officials met with Park Service officials to discuss
14 notification procedures for the park and the responsibility
15 of park officials to facilitate traffic leaving the EPZ,
16 such traffic flowing through the park to join the
17 evacuation routes away from the EPZ and onto the turnpike
18 and other routes.

19 This, these discussions were for the purpose of
20 insuring that park traffic does not adversely affect or
21 have any impact on an evacuation of the Limerick EPZ.

22 All of this information came out through
23 Mr. Fewless' testimony in the evidentiary hearings held in
24 this proceeding and is of record evidence.

25 The Park Service has agreed to provide traffic

1 control assistance at certain intersections within the park.
2 These are intersections which persons evacuating the EPZ
3 could be expected to cross. And FEMA has confirmed in a
4 memo which we have heard discussed today to the NRC, dated
5 May 30 of this year, that additional traffic control points
6 are being established and although this is not record
7 information, are, to the best of the Commonwealth's
8 knowledge, reflected in current county plans.

9 These points are being established and manned to
10 ensure a smooth flow of traffic along what used to be Route
11 363, which is the eastern border of Valley Forge Park.

12 FEMA --

13 JUDGE GOTCHY: How many additional control
14 points were discussed in that, in addition to the numbers
15 that were already in the record? Do you know?

16 MS. FERKIN: I can verify that for you right now
17 by consulting the May 30 memorandum. I believe -- I would
18 say 17 additional traffic control and access control points.
19 All aimed at, again, facilitating the flow of traffic away
20 from the park and towards the Pennsylvania Turnpike.

21 JUDGE GOTCHY: That is primarily in the King of
22 Prussia area you are talking about?

23 MS. FERKIN: Yes.

24 The nature of the license condition imposed by
25 the board dealt specifically with the area in Route 363,

1 King of Prussia, which is on the southeastern end of the
2 EPZ; the Marshall Creek Exton area is a different area.

3 I would also note in response to comments by
4 Mr. Anthony -- this is reflected very clearly in the
5 Commonwealth's brief -- that there is record testimony by
6 FEMA witness Richard Kinnard that the U.S. Department of
7 Transportation representative on the FEMA assistance
8 committee reviewed the configuration of the Limerick plume
9 EPZ. He did not recommend including Valley Forge Park
10 within the EPZ.

11 Mr. Kinnard testified that based on that expert,
12 that transportation expert's evaluation, FEMA did not
13 support expanding the EPZ to include Valley Forge Park.
14 FEMA testified explicitly in these proceedings that the
15 Limerick plume EPZ as it is now is in accordance with the
16 provisions of 10 CFR 50.47 C2.

17 Commonwealth's position on this point is that
18 there has been in this proceeding no affirmative showing by
19 any party of any reason to include any portion of Valley
20 Forge Park in the Limerick plume EPZ.

21 The board's findings on this point should be
22 affirmed.

23 In our brief we did address two additional
24 points. I have just a few minutes left. I would like to
25 touch on them just for a minute.

1 One point that we addressed was to explain our
2 position on whether or not the Commonwealth believes that
3 current emergency plans, even though they have not been
4 formally accepted in many cases by many of the
5 jurisdictions, nonetheless could be reasonably expected to
6 be implemented in the event of an emergency at Limerick.

7 JUDGE KOHL: Do you know how many offhand
8 haven't yet been approved by the respective jurisdictions?

9 MS. FERKIN: I am going to pose a caveat to my
10 answer before I give it. Not all of the current draft
11 plans -- I am not necessarily referring to plans that were
12 in evidence in this proceeding, but there have been a
13 number of revisions to certain plans since then, but not
14 all of these plans have been officially submitted to the
15 Commonwealth for review.

16 Of the plans that have been submitted to the
17 Commonwealth for review, my understanding is there are two
18 school district plans, I believe that is Downingtown and
19 Phoenixville which have been formally accepted by the
20 district governing boards. I cannot speak for the
21 remainder of the plans. It is possible some of them have
22 been formally accepted.

23 JUDGE GOTCHY: I am glad to know the kids don't
24 have to walk out of the EPZ.

25 MS. FERKIN: Again, my knowledge is limited on

1 that point. I do have to caution you on that one.

2 More recent drafts of --

3 JUDGE EDLES: May I ask a question. I am not
4 certain you can answer it, but I notice in the May 21 FEMA
5 letter, the bottom line conclusion is that "Off-site
6 radiological emergency planning and preparedness is now
7 adequate to provide reasonable assurance that protective
8 measures can be implemented to protect the public health
9 and safety."

10 Does the fact that it says only "can" and not
11 "will," does that mean that they are not sure that these
12 plans will be implemented?

13 MS. FERKIN: No, I don't think so. I think
14 there was testimony in this proceeding by FEMA witnesses
15 that the goal was to insure that these plans would in fact
16 be implemented.

17 Our position is that we heard sufficient
18 testimony in this record by municipal officials and other,
19 and county officials of an intent to comply with state law
20 on emergency planning. That state law, which is, we refer
21 to it as public law 1332, mandates that local government's
22 prepare disaster/emergency response plans.

23 JUDGE KOHL: How is that state law enforced?
24 Whose responsibility? The attorney general?

25 MS. FERKIN: Well, the oversight is by the

1 Pennsylvania Emergency Management Agency. The Emergency
2 Management Agency reviews local plans, insures that they
3 are consistent with the overall state emergency plan. But
4 in terms of a penalty for noncompliance with the law, I
5 don't believe that the law sets forth a precise penalty.
6 However, it is state law, it is mandatory that each local
7 political subdivision in the Commonwealth prepare a
8 disaster plan.

9 JUDGE KOHL: So there is no teeth to the law.
10 When you say it is "mandatory," that is as far as it goes?
11 What if PEMA was actually presented with a school district,
12 township, whatever, that either affirmatively refused to
13 adopt any plan, or just didn't get around to it because
14 there were more pressing items on the agenda? Is there
15 nothing that PEMA can do to facilitate the process?

16 MS. FERKIN: I think what is more important here
17 is insuring that the needs of the public in that particular
18 jurisdiction are protected. If, for some reason, at a
19 particular point in time a local jurisdiction did not have
20 an emergency plan, there is a provision in public law 1332
21 for the needs of that jurisdiction to be addressed to the
22 extent possible by higher authorities. In the case of a
23 municipal, that higher authority would be the county. If
24 for some reason the county could not address the resources,
25 that needs would be passed on to the state, even to the

1 Federal Government if necessary.

2 So there is provision in the law for local
3 citizens to be protected, even if at a particular point in
4 time there is not an accepted emergency plan in place.

5 JUDGE KOHL: Does the Commonwealth have a time
6 schedule yet for when it will invoke the 44 CFR part 350
7 procedure to get final FEMA approval?

8 MS. FERKIN: Yes, we do. There is a full scale
9 participation joint exercise of the Limerick off-site
10 emergency plans scheduled for April of 1986. The
11 Commonwealth intends following that exercise.

12 JUDGE KOHL: Does that mean all of the entities
13 involved are expected to participate this time?

14 MS. FERKIN: It is intended that all the
15 entities involved in the Limerick EPZ participate. The
16 licensee of course would participate.

17 JUDGE KOHL: Whether or not they have approved
18 their plans? In some of these jurisdictions that, let's
19 say, they haven't yet by that time actually approved their
20 radiological response plans, they would still be expected
21 to participate?

22 MS. FERKIN: Yes. We would hope that the
23 exercise would provide them with, I guess the word is
24 enough comfort with the ability of their plan to work so
25 that they would, if they had not at the time of the

1 exercise, be prompted to in fact accept their plan,
2 following the exercise. And with that --

3 JUDGE KOHL: Of course, the opposite could
4 happen; could it not?

5 MS. FERKIN: The intent of an exercise is to see
6 if a plan works. We would hope that all of the entities
7 would approve -- or, excuse me, accept their plans as soon
8 as possible. And if there are any questions remaining, we
9 would hope that the exercise would have resolved those
10 questions.

11 After the April 1986 exercise, it is the present
12 intention of the Commonwealth to invoke the formal review
13 process under part 350 and obtain FEMA review and approval
14 of the local government, county and state plan for Limerick,
15 which has not yet gone through that process.

16 JUDGE KOHL: I think your time has expired.

17 MS. FERKIN: I think it has. If there are no
18 further questions.

19 JUDGE KOHL: I have one that I ask more out of
20 personal curiosity than anything. If and when this
21 evacuation -- or if it is ever necessary and it is
22 necessary for some of the traffic to evacuate onto I-76,
23 the Pennsylvania Turnpike, is it Penn DOT's intention to
24 waive the toll?

25 MS. FERKIN: That is a question that has come up

1 during these hearings. If you will give me a moment, I can
2 consult with Mr. Hippert on this issue. It was not in my
3 brief.

4 JUDGE KOHL: I realize that. I realize it was
5 not part of this case, but it did occur to me as a former
6 frequent traveler on the Pennsylvania Turnpike.

7 MR. HIPPERT: It is our intention that it will
8 be waived. We do not have formal approval from the
9 Turnpike Commission yet, but it is our intention that it
10 will be -- booths will be closed or open, but no toll paid.

11 JUDGE KOHL: Thank you. We will take a ten-minute
12 break and resume the argument at 3:00.

13 (Recess.)

14 JUDGE KOHL: Mr. McGurren.

15 MR. MC GURREN: I defer to the request of
16 counsel for the Commonwealth for a moment.

17 MS. FERKIN: With the board's indulgence. Thank
18 you, Mr. McGurren. The board had questions with respect to
19 whether our state law, public law 1332 contained any
20 enforcement provisions or penalties for noncompliance. I
21 have taken a moment to review the statute which I would be
22 happy to provide the board at a later time. The statute
23 does provide in section 7707 as a general rule that any
24 person violating any plans and programs adopted under the
25 Act shall upon conviction be sentenced to pay either a fine

1 or be imprisoned for not more than 30 days. There is also
2 an additional fine for subsequent offenses.

3 I think it is more relevant to the board
4 questions, however, the section that provides that
5 political subdivisions who in effect do not comply with the
6 Act, do not prepare plans, as one example of noncompliance,
7 are subject to a loss of federal personnel and
8 administrative funding for the remainder of the fiscal year
9 in which they do not comply. So municipalities, counties
10 who do not comply with the provisions of the Act are
11 subject to a loss of funds.

12 JUDGE GOTCHY: I see where Rita Banning's road
13 can turn into one big pothole.

14 JUDGE KOHL: Thank you. I would appreciate it
15 if you could send us that statute and any other relevant
16 provisions because we don't have Pennsylvania law in our
17 library here. So if you could send us a copy, we would
18 appreciate it.

19 MS. FERKIN: I would be happy to. Thank you.
20 Thank you, Mr. McGurren.

21 JUDGE KOHL: Mr. McGurren?

22 MR. MC GURREN: Good afternoon. Judge Kohl,
23 members of the board, my name is J. McGurren. As I
24 indicated, I am speaking on behalf of the Nuclear
25 Regulatory Commission Staff. I see from the counsel that

1 have preceded me that I am going to be touching on many
2 areas that have been addressed before and I apologize if my
3 response might sound a bit repetitious. I will make every
4 effort to cut from my argument things that have been said
5 before and will try to emphasize as I go along those points
6 that I think have not been touched on. It appears to me at
7 this point that there are not many of those. But I will
8 make an attempt to be as brief as possible.

9 With regard to LEA 24, FOE 1, a subject that has
10 been brought up much this afternoon, LEA does argue that
11 the board erred in not including within the EPZ the Valley
12 Forge Park, King of Prussia area in particular. We feel
13 that what LEA has failed and what FOE has failed to do is
14 show how the configuration, present configuration fails to
15 meet 5047 C2.

16 I think what was touched on earlier was that
17 Valley Forge Park lies outside the EPZ with the exception
18 of a small portion of the park which is north of the
19 Schuylkill. I think the record is clear that that portion
20 of the park that does lie within the EPZ on the north side
21 of the Schuylkill contains only a small trail headed to the
22 parking lot and is not very often used.

23 Furthermore, with regard to the Valley Forge
24 Park, the board found that control of access to the
25 evacuation routes near Valley Forge would be required and

1 would be easily put in place. As the report indicated by
2 other counsel, Park Service did not request that any
3 portion of this park be included within the EPZ.

4 With regard to FOE's argument that there was a
5 failure on the part of this board to meet the requirements
6 of part 350, 44 CFR 350, what is clear from the record was
7 that there was consequence station with FEMA. Furthermore,
8 FEMA testified that the configuration of the EPZ as drawn
9 did meet 5047 C2.

10 JUDGE KOHL: Is it your position that there was
11 also consultation with the Park Service?

12 MR. MC GURREN: Your Honor, my recollection of
13 the record is it was focused on whether or not the Park
14 Service found -- actually made a request. My understanding
15 of the record was that they did not request that this be
16 placed in the EPZ. I cannot recall whether or not there
17 was a consultation between the Park Service --

18 JUDGE KOHL: If they have agreed to participate
19 in the evacuation, there would have had to have been some
20 consultation there, wouldn't there?

21 MR. MC GURREN: I would assume so. My
22 understanding with regard to the participation in the event
23 of an evacuation goes to, with the procedures that have
24 been set out, that there would be notification of the Park
25 Service, that the Park Service would go out by way of

1 either -- go out with their rangers and notify the visitors,
2 and I think the record shows that, as well as showing that
3 the congestion would be out of that area before the
4 evacuees would reach that area.

5 Another point raised by LEA was that the board
6 erred with regard to zero base flow. I would just like to --
7 since this area has been covered, I would just like to
8 point out that Dr. Urbanik pointed out that it seems to be
9 the argument of LEA that we superimpose the simulated ETE
10 study, traffic analysis, upon the peak traffic flow, what
11 we are doing is double counting. I think that is exactly
12 what LEA, the result of what LEA is arguing to do.

13 Furthermore, there was mention made of 200,000
14 shoppers in the Valley Forge area. I think the record is
15 clear that with only a small number of access control
16 points in that area, it will be manned, that they could
17 restrict the flow of evac, of the evacuees so that these
18 200,000 people in that area would not interrupt that flow
19 of evacuees from the EPZ.

20 JUDGE KOHL: What is your response to Mr. Stone's
21 characterization of Dr. Urbanik's testimony? LEA contends
22 that that staff witness' testimony reflected considerable
23 level of concern about the adequacy of the traffic control
24 points and the whole evacuation plan.

25 MR. MC GURREN: I would like to note that

1 Dr. Urbanik said that the ETE study met the requirements of
2 0654, appendix 4. He said that he had a concern about the
3 movement of traffic beyond the EPZ to the south and the
4 east in urban areas. And we feel that what the board has
5 done with regard to its condition 1, with regard to
6 verification of -- from -- to FEMA and then receipt of that
7 verification by the staff takes care of this concern.

8 JUDGE KOHL: Was there any further consultation
9 with Dr. Urbanik on the subsequent identification of the
10 traffic control points in question?

11 MR. MC GURREN: No, your Honor. What followed
12 was, as indicated in the memorandum from Grimm to Jordan,
13 dated May 30, where in the selected points were indicated --
14 that was received by the Commission and this was addressed
15 in the SER supplement to the Limerick station, I think it
16 is supplement 5. That was the closing of the loop on that
17 matter. Dr. Urbanik did not look at these.

18 JUDGE KOHL: But SER 5 then considers that
19 matter resolved satisfactorily?

20 MR. MC GURREN: That is correct.

21 With regard to planned implementation, LEA
22 argues that the board improperly made a finding of
23 reasonable assurance in light of the fact that there were
24 few of the 43 municipal plans that had been adopted.

25 We feel that public law 1332, which was

1 referenced by counsel for the Commonwealth, imposes a
2 mandatory, not a discretionary obligation, upon the local
3 government's to have in place workable plans. We also
4 belief that the record shows that each county and municipal
5 official testified it was the intention of his or her board
6 to comply with public law 1332 by working toward the
7 adoption of a workable plan.

8 Furthermore, the school districts unanimously
9 stated the intention of their school districts to work
10 toward the adoption of a workable plan.

11 JUDGE KOHL: As a hypothetical question, is it
12 the Staff's position that a state law such as public law
13 1332 is necessary in order to achieve an adequate emergency
14 response plan?

15 MR. MC GURREN: No. I think that the case law
16 is clear that the Commission does not require that there be
17 a state law but that the evidence showed that there is an
18 effort towards a workable plan but there are no obstacles
19 toward adopting of a workable plan. The board on that
20 basis can find that there is reasonable assurance, make a
21 predicted finding that the plan can be used and protect the
22 public in the event of an emergency.

23 JUDGE KOHL: So in this case, the existence of
24 that state law is just one further piece of evidence
25 indicating that the plans will be implemented?

1 MR. MC GURREN: That, and the fact that each of
2 these individuals representing these municipalities and
3 districts and risk counties as well as the support counties
4 has indicated that they will comply with public law 1332.

5 JUDGE GOTCHY: I meant to ask, has anything
6 further been done in Bucks County, or are the commissioners
7 still kind of awaiting the outcome of all of this?

8 MR. MC GURREN: With regard to Bucks County, I
9 can't indicate what has happened since recently. I can
10 indicate what was in the May 30 -- May 31 response
11 indicating -- FEMA has made its final interim finding that
12 there is reasonable assurance that the proper protective
13 actions can be made.

14 Just touching on Bucks County, I think that the
15 record is clear in light of the history of that county, the
16 fact that for 15 years they have had a plan, they annexed
17 the radiological plan to their plan in the way they reacted
18 in the Three Mile Island incidents and as well as the
19 exercise report on November 20, 1984 exercise that this
20 record supports a finding of reasonable assurance with
21 regard to implementation of that support plan.

22 I believe that Mr. Stone touched upon the fact
23 that their cross-examination was from time to time limited.
24 I think that the board addressed this point in a great deal
25 of detail. It is in partial initial decision at page 1234

1 and 1235 when they noted that FOE and LEA with regard to
2 LEA 24 and FOE 1, that they were consolidated and that the
3 board had every right pursuant to the Commission's policy
4 statement to have them identify lead intervenor, which they
5 did. And that they still allowed Mr. Anthony for FOE to
6 conduct some cross-examination.

7 JUDGE EDLES: Does the lead intervenor provision
8 permit to a board to assign responsibility to one
9 intervenor to the exclusion of another, total exclusion of
10 another?

11 MR. MC GURREN: I can't say. My best
12 recollection of that decision was that when requested, the
13 board can request that they select a lead intervenor.

14 JUDGE EDLES: But does request mean that they
15 can't order it?

16 MR. MC GURREN: I would say that in light of the
17 other provisions that the board does have to it under 2.757
18 C as well as -- that is with regard to prevention of
19 repetitious or cumulative type of cross-examination. 2.71E
20 has to do with the power of a board with regard to
21 conducting the course of the hearing as well as the thrust
22 of the policy statement, That there should be fair but
23 timely hearings, that the board would have the authority to,
24 if there couldn't be a selection made, that a board would
25 have the authority to indicate who would be the

1 representative of an intervenor group.

2 I was just going to add that I think the record
3 shows that it was only after 14 days of hearing that the
4 board did set limitations. Those limitations that were set
5 were based upon estimates from the parties.

6 JUDGE KOHL: So, in other words, they didn't --
7 the board went strictly, if the individual party said, I
8 need another two hours for oral or for my cross-examination,
9 the board said, fine, you have got two more hours, but when
10 the two hours approached and they still had further
11 questions, the board made them stick to their own original
12 estimate?

13 :

14 MR. MC GURREN: Yes. And at times they even
15 allowed some more, some further questioning.

16 I would also like to add one other point. That
17 is with regard to a recent decision in the Catawba, ALAB
18 813 where it indicated that a party that is concerned about
19 loss of a right in terms of cross-examination has a duty to
20 show that there is some sort of prejudice and that the kind
21 of prejudice that the Court there indicated was that they
22 have to show that there is a substantial effect on the
23 outcome of the proceeding.

24 We feel that neither LEA or FOE has made that
25 showing. They have not shown that there has been an impact,
a large impact from any limitation that they have asserted.

1 With regard to buses, I believe that one of the
2 judges questioned whether or not with regard to the 300
3 buses that Mr. Wert, who was the deputy general manager of
4 SEPTA, indicated would be available sort of on an impromptu
5 basis, where would you get drivers. I think it is
6 important to note that the record shows that Mr. Wert
7 testified that he had, that there were approximately 4000
8 bus drivers who worked for SEPTA, 15,000 buses with 4000
9 bus drivers. I would like to note that there would appear
10 to be a large availability of drivers and that Mr. Wert
11 furthermore testified that in his opinion these people
12 would respond in an emergency.

13 JUDGE KOHL: That is the total work force though,
14 correct?

15 MR. MC GURREN: I believe it was total work
16 force but the record will show that he indicated that
17 approximately there were 4000 potential drivers, that they
18 were licensed to drive.

19 JUDGE KOHL: My point is that most of those, a
20 major portion of those would be otherwise committed to
21 their usual duties. So then, what you ought to focus on,
22 should you not, is how many additional drivers there are
23 off shift or who would be available to be called in for
24 this overtime or emergency duty? Isn't that correct?

25 MR. MC GURREN: If you look at the record, you

1 also see that Mr. Wert said that even in a peak situation,
2 there are up to one third to one fourth of the buses, 1500
3 buses that would likely be available.

4 JUDGE KOHL: I have a question that maybe you
5 could clarify a matter on. On the contention that LEA
6 withdrew during the hearing regarding the drills and
7 exercises, was that contention admitted and then they
8 withdrew it, or did they withdraw it before the licensing
9 board ruled on its admissibility?

10 MR. MC GURREN: I think if you will look at the
11 particular page that is cited by LEA, I don't have it with
12 me here, but it appears that they withdrew it after the
13 statements were made by both Ms. Ferkin and Ms. Nathene
14 Wright for the NRC Staff. I think that there was certainly
15 no deception there.

16 JUDGE KOHL: That is not my question. My
17 question is, had the board ever ruled on the actual
18 admissibility? In other words, at what stage of the
19 proceeding were you at at the time that that exchange
20 occurred?

21 MR. MC GURREN: My best recollection was that it
22 was at the stage of determining whether or not there was a
23 contention that met 2.714.

24 JUDGE KOHL: In other words, it was before the
25 board had ruled on its admissibility?

1 MR. MC GURREN: That is my understanding. But I
2 would like to add that with regard to that, that the
3 exercise report that followed the July 25 exercise was
4 placed in evidence by FEMA. It is a FEMA exhibit. That
5 there was an opportunity by LEA and FOE to cross-examine
6 on the basis of that report as well as the testimony, and
7 the opportunity to cross-examine Mr. Asher and Kinnard for
8 FEMA; so they had every opportunity to conduct litigation
9 on the basis of the full scale exercise of July 25, 1985.
10 I think the record will also show that they had an
11 opportunity to cross-examine on the basis of the
12 supplemental exercise of November 20, 1984.

13 JUDGE KOHL: As someone who works for a
14 government agency, don't you find the responses of FEMA and
15 the National Park Service to Mr. Anthony's FOIA request
16 rather curious, that there was no paper generated --
17 particularly the Park Service response. We have no
18 information in our files, including the files at Valley
19 Forge National Historical Park, on the Limerick nuclear
20 plant, plume exposure Emergency Planning Zone.

21 MR. MC GURREN: I think in response to your
22 question, as a government employee, I just don't --
23 certainly I find it curious. I don't know if this is
24 something that could be explained away in terms of the type
25 of research that was done or research that was done under

1 the FOIA request.

2 JUDGE KOHL: The regional director of FEMA in
3 his responses, after a review of our files, we have found
4 no correspondence, notes, drawings or any other matter
5 pertaining to the establishment of the Limerick plume
6 exposure Emergency Planning Zone. Does that mean region 3
7 of FEMA doesn't even have this map in its file?

8 MR. MC GURREN: I just can't say. I don't know.

9 JUDGE EDLES: With respect to the Park Service,
10 they at least did invite Mr. Anthony to come in and look
11 through their files, didn't they, which at least suggests
12 some good faith on their part, I guess. The more curious
13 matter is the FEMA letter. I also realize, Mr. McGurren,
14 it is not your agencies that we are dealing with here. I
15 am not holding you accountable for their letters or their
16 filing procedures.

17 JUDGE KOHL: But as counsel for the Staff, the
18 Staff, as I understand it, in NRC emergency planning,
19 people have a lot of dealings with FEMA. Again, it seems
20 rather interesting that there wouldn't be the matter in
21 their files. Don't they have an ongoing correspondence
22 with the NRC?

23 We have seen several memoranda, the May 21 and
24 May 30 memoranda that all of the parties have received and
25 as it has been referred to here it seems to be part of an

1 ongoing general correspondence.

2 MR. MC GURREN: I just don't have anything to
3 add other than that it appears, based upon the record, that
4 there was no difficulty with regard to configuring the EPZ;
5 and other than that, I can't add anything on that point.

6 JUDGE KOHL: Your time has just about expired.
7 Do you have anything further?

8 MR. MC GURREN: If I might add one point, it
9 doesn't directly relate to something that Mr. Anthony did
10 raise, but it concerns 44 CFR part 350. While it is not a
11 Commission regulation, it is something that is not ignored
12 by the Commission in its adjudicatory process and what
13 follows the process of the license itself.

14 I would just like to point out that as a
15 condition of the license, paragraph 15, subject emergency
16 planning procedures subject to 44 part 350, it states that
17 "In the event the NRC finds that the lack of
18 progress in completion of the procedures in the Federal
19 Emergency Management Agency's final rule, 44 CFR part 350
20 is an indication that a major substantive problem exists in
21 achieving or maintaining an adequate state of emergency
22 preparedness, the provisions of 10 CFR section 5054 S 26789
23 II will apply. Which in essence, that section of our
24 regulations gives the Commission the right to follow up on
25 any difficulty with making sure that there is reasonable

1 assurance of protective actions.

2 I would just like to at this point say that it
3 is the position of the NRC Staff that we don't feel that
4 the arguments of LEA or FOE are substantiated by the record
5 and furthermore, we request that this board reaffirm the
6 third partial initial decision.

7 Thank you very much.

8 JUDGE KOHL: Thank you, Mr. McGurren.

9 Mr. Stone, you have 15 minutes in rebuttal.

10 MR. STONE: Thank you. I am just going to run
11 through rapid fire manner here things we have written down
12 during the preceding material. The Applicant seems to have
13 this idea about prototypes which is almost a
14 scholastic-type argument. They made this argument way back
15 at the beginning of this proceeding and they think -- and
16 they didn't think we had to litigate anything at all. That
17 is the problem. These plans, the Applicant may think these
18 plans exist, but that doesn't mean that they do.

19 I think there is a similar problem we discussed
20 in our brief with respect to public law 1332. Public law
21 1332 mandates that a community try, but it doesn't mandate
22 and cannot mandate that a community succeed in achieving
23 that capability to protect their people. And furthermore,
24 even to have a predictive basis upon which to make a
25 finding, there has got to be, we feel, some solid proof of

1 some beginning of the achievement. I think the record, as
2 it stands, doesn't have that.

3 Now, I want to jump to this drill. Based on the
4 information we have gotten today, where in fact PEMA will
5 will begin its formal plan review in response to the April
6 drill, we would have to modify our request at least orally
7 here; the opportunity we sought to have input into this
8 drill evaluation is even further pushed away and in fact,
9 it is this new drill which will be the basis of what is
10 going to be decided.

11 I am just going to leave that real quick and try
12 to move.

13 I want to talk about some of the procedural
14 problems which resulted from consolidation of LEA FOE. The
15 problem is those procedural problems affected the traffic
16 situation in King of Prussia/Valley Forge, which seems to
17 be an area of concern this afternoon. And if you look at
18 things like why the Upper Marion study wasn't entered into
19 the record by stipulation, we had this problem where at one
20 point LEA was a lead intervenor and couldn't control
21 Mr. Anthony and at another point we couldn't. This led to
22 problems of cross-examination, of such key witnesses as
23 Dr. Urbanik, Mr. Fewless, who has been discussed this
24 afternoon. So I think it is a material consequence, at
25 least on the King of Prussia/Valley Forge situation.

1 About the time limits in general, the time
2 limits were established in the beginning of the hearings
3 for LEA witnesses only. LEA did express grave concerns
4 about the same limits being applied to PEMA and FEMA and
5 NRC with testimony on multiple contentions. In some cases
6 we were limited to about eight minutes per context,
7 especially Mr. Hippert and Dr. Urbanik.

8 JUDGE KOHL: Mr. Stone, there were 32 days of
9 hearings on these contentions. How can you say that is not
10 enough to develop your arguments?

11 MR. STONE: First of all, this is a very complex
12 and densely populated EPZ. In Pennsylvania the
13 municipalities are the root element of government. There
14 are 43 of them. A difficult situation at best. But the
15 problem we had, we come into the hearings and you have
16 Energy Consultants up there. We don't know at that point
17 whether our subpoenas for our other witnesses are going to
18 be honored or not. That happened in the middle of the
19 process. If you look at the timing, we were brought in, we
20 feel like we have got to take a crack at these guys while
21 we got them.

22 JUDGE KOHL: Isn't there an exchange of prefiled
23 testimony before you ever get to hearing? Both sides are
24 expected to present their case, there is pretrial discovery?
25 It is not exactly a case of walking into a hearing room and

1 seeing and hearing people for the very first time?

2 MR. STONE: The problem we faced as a volunteer
3 nonprofit group is simply this: You have got public
4 officials who are being, you know, shown 1332 by God knows
5 who. You have all this going on. They often --

6 JUDGE KOHL: The public officials should already
7 know about 1332. It is state law. Irrespective of any
8 Nuclear Regulatory Commission --

9 MR. STONE: Until Limerick came around, nobody
10 had ever heard of it. It had been in effect for several
11 years.

12 We had to bring in on subpoena many of these
13 public officials. They certainly didn't want to get
14 themselves in legal hot water by venturing opinions in
15 prewritten form. We can see it even in Bucks County and
16 other places that may be involved in litigation with PECO
17 in other matters. It is a very difficult situation.

18 In fact, even when these people finally come in
19 after having been served a subpoena, they often didn't have
20 that much knowledge.

21 Part of our point, going back to what I said
22 before, 1332 may exist. It may or may not have sanctions
23 or threats that people may associate with it. But
24 certainly it is the municipalities' ability to at least
25 begin to implement that, implement their plan, work at it

1 in the real world which counts.

2 I want to keep moving if I may, to this problem
3 of Valley Forge. The Applicant said that it was in the
4 Montgomery County plan that that denoted the notification
5 of Valley Forge Park occurs.

6 Our information is that the Montgomery County
7 and Chester County RERP do not contain any reference to
8 notification of Valley Forge Park. The PEMA brief says
9 Chester County will contact. Which is it? This is the
10 problem we have. This is the problem we have in these maps.
11 Which of the many versions of maps that we have seen in
12 this proceeding are applicable?

13 In terms of sirens, we don't know what sirens
14 are audible for Valley Forge Park. The NRC Staff is not
15 going to make that determination because they simply don't
16 have the jurisdiction because it is not in the EPZ.

17 In terms of Philadelphia buses, we are getting
18 into an abstract argument. There may be buses in
19 Philadelphia. It is a long way from Philadelphia to the
20 EPZ. It is a long leap of the imagination for Mr. Taus'
21 employees to get on a bus and go up to Montgomery County.
22 Just think about that for a minute. That is the kind of
23 thing that we tried to show through our brief and through
24 the record.

25 The survey, this new survey, I got the survey,

1 it was a blank envelope and it had Philadelphia Electric
2 return address on it. I thought I was an electric bill or
3 something. I threw it away. That is the kind of thing you
4 run into.

5 JUDGE KOHL: You are a concerned citizen though
6 about this, why would you throw it away?

7 MR. STONE: What I am really saying is that how
8 the survey is conducted is something -- this second survey,
9 we don't get a chance to protect ourselves in due process
10 with this? We don't get a chance to find out how it was
11 done. No response, you aren't listed. That is it.

12 ; Again, as I understand it, you have to open it
13 up inside to see what it was. It says "Dear resident."

14 We had testimony from Phoenixville from the
15 bureau counsel president who called a few apartment
16 dwellers and found that they weren't surveyed. So this is
17 the kind of thing we tried to show in the municipal
18 witnesses.

19 Taus' testimony was discussed in LEA findings of
20 fact 455 and 464. Mr. Campbell's testimony with respect to
21 his unmet bus needs was that they remained despite the
22 written letters of agreement he had at the time due to the
23 need for buses for day care facilities still being arranged
24 for. Of course, on top of that, we would impose that the
25 U.S. Census results should be used to assign more buses to

1 the urban areas which we feel are underplanned for and that
2 would increase its problems.

3 I think under LEA 23 the problem of the distance
4 the buses have to travel for the transport-dependent comes
5 in. Let me go to another area here.

6 With this County Line Expressway 422 situation,
7 again we see how complicated things get after the hearings.
8 We have now the name of the road changes to 422. There is
9 another 422, which is another evacuation corridor which is
10 local 422, which was planned for. What we mention in our
11 appeals brief is this concept of this new Pottstown
12 extension. There are two areas where this is brought up,
13 in the ETE, in the place we cite. It is also mentioned in
14 the transcripts.

15 I can give the citations. Here you have another
16 corridor, a recently completed road which the ETE says
17 can't shorten evacuation times because you would be
18 funneling people into the same Valley Forge corridor.
19 There is nothing in the new traffic control plan in the
20 Valley Forge area to indicate they are going to keep people
21 off this new corridor to make them take old 422 away from
22 King of Prussia as opposed to being channeled right in on
23 top of Valley Forge in this new --

24 JUDGE KOHL: But doesn't the addition of any new
25 road enhance the evacuation?

1 MR. STONE: The problem here is really --

2 JUDGE KOHL: Isn't that just one more road for
3 people to use, whether they are directed there or whether
4 they decide because that is the most convenient one they
5 are going to use it? Doesn't the failure of the ETE to
6 take that into account simply make it that much more
7 conservative.

8 MR. STONE: If you look at that road, what it
9 does is it funnels traffic that would otherwise have taken
10 old 422 and some of the older plans and funnels it into the
11 Valley Forge area at exactly the same route as the 363
12 County Line Expressway traffic. The problem is you are ;
13 just adding more cars onto that route.

14 JUDGE KOHL: But you are not creating more cars.
15 You are giving the cars an additional road to travel on?

16 JUDGE GOTCHY: Aren't they just getting there
17 quicker?

18 MR. STONE: No, because this traffic was
19 assigned to old Route 422, which doesn't go into the Valley
20 Forge area. We tried to get into the record like the Upper
21 Marion township wide traffic study which makes this clear.
22 But again, this is the kind of complexity you run into.
23 What is going to keep people from taking that expressway
24 and taking instead old 422? It is an unanswered question.

25 I want to keep moving here. This historical

1 record --

2 JUDGE EDLES: Let me ask you a question, is it
3 your basic position that these matters are sort of
4 categorically unresolvable or is it that there just wasn't
5 enough time and energy going into resolving them?

6 MR. STONE: I think they involve matters of
7 principle. I think they involve exactly the kind of
8 planning assumptions and -- that should be stated out
9 clearly in any workable plan or any plan that meets 0654.
10 The problem is, for example, Dr. Urbanik said that the ETE
11 met the criteria of 0654 with the exception of the traffic
12 problems he mentioned. So I think you have got to look at
13 the principle of keeping these non-EPZ people off these
14 highways, how you do it, if you have the resources to do it,
15 are you the people right now, is the principle going to be
16 to keep people off this Pottstown expressway?

17 That is a tough one. You know, those basic
18 principles. You got to bring in a few public officials,
19 you have got to bring in Penn DOT, who apparently is
20 reviewing all this now. I would like a chance to
21 cross-examine this mysterious Long Island consultant who
22 has looked at all this. If it is only 15 traffic control
23 points, I want to know why they had to hire a Long Island
24 consultant. You can't have it both ways.

25 The problem we had with FOE/LEA consolidation

1 was the same thing. It was both ways. As I was saying,
2 one time we were in charge, another time we weren't. I
3 think it affected all of this mess in Valley Forge.

4 I want to get back to reality here. We had
5 substantial municipal witnesses who, such as Dr. Vutz, a
6 really qualified man, his reaction, he has got concerns. I
7 mean, you can't just brush these people away.

8 JUDGE KOHL: Is he an expert in traffic?

9 MR. STONE: He does traffic analysis in his job.
10 Admittedly a lot of it has to do with rail transportation.
11 He was not even -- this is -- this bothers me, when all
12 this ETE stuff was generated, a man like him at the
13 municipal level which in Pennsylvania is basic to
14 government, a man like him was not given input. I don't
15 know who was. A couple officials at the county level maybe
16 at best. A man like him could have made the kind of
17 suggestions, could have had the input and even the hearing
18 time. He did not have that input and so he was ignored.

19 There is Mr. Fedders.

20 JUDGE KOHL: Did he make any effort on his own
21 to offer his expertise to PEMA?

22 MR. STONE: As early as 1983 he wrote a letter
23 detailing his concerns, expressing his concerns. These
24 officials live in the community. They are busy but they
25 still made the effort early. The problem is, as I see, you

1 have a product of bureaucracy here at all different levels.
2 It just kind of turns out material. I wanted to know, and
3 I think further hearings in a focused way would specify how
4 do things stand now in these various areas we mention in
5 our brief.

6 I think that -- I guess I am just going to wrap
7 it up here -- we really took a lot of concern with both our
8 brief and our findings. We are an overworked volunteer
9 organization. Many times it seems like the NRC Staff and
10 the applicant say we don't understand something, or many
11 times they answer our arguments and I think if you compare
12 what we have written with their answer, I think you will
13 find that in many cases they just simply did not grasp what
14 we were saying. I think it is there clearly.

15 I think this simple matter of transport
16 dependence, our point is simply you can't verify who
17 doesn't return a survey form by calling those who might.
18 That seems a very simple thing to us.

19 There are some other examples.

20 JUDGE GOTCHY: It does verify the accuracy of at
21 least what they have on the list, but it doesn't verify
22 whether there is anything missing.

23 MR. STONE: If the second survey makes the same
24 assumption, it is going to have similar results, if it
25 makes the same assumption that people who don't respond

1 don't need help.

2 JUDGE GOTCHY: You want to see a door-to-door
3 survey?

4 MR. STONE: That was recommended by a couple of
5 municipal witnesses. As a minimum we would want to
6 certainly cross-examine these survey outfits. Why did they
7 hire a second outfit? What is the procedure? This comes
8 down to critical issues though. Buses for people who need
9 them. And you can't just -- you just can't talk it away.

10 JUDGE KOHL: Mr. Stone, you have about one
11 minute left.

12 MR. STONE: I think that I will just end it with
13 a plea for that. I think these issues, if you look at it
14 in its entirety, many of them overlap a little bit. They
15 are all related to focused contentions. I think they do
16 affect workability of the plan in its entirety. I think
17 that an opportunity if properly focused to cross-examine
18 some of the new players in this thing would be beneficial
19 to the plan, which after all we we all have to live with
20 for 20 or 30 years. And I would just end with that.

21 Thanks a lot.

22 JUDGE KOHL: Thank you. Mr. Anthony, you have
23 five minutes for rebuttal.

24 MR. ANTHONY: All that. Wow.

25 JUDGE KOHL: That long.

1 MR. ANTHONY: Mr. Rader said that the visitors
2 to Valley Forge Park would be notified and they could do as
3 they like. That is a tragic and ridiculous statement. It
4 sums up just what is the matter, and if there are worst
5 case accidents and people are told at Valley Forge, do what
6 you like but there is a radioactive cloud coming this way,
7 it will be here in an hour, what kind of advice is that?

8 What has been done --

9 JUDGE KOHL: Do you seriously think anybody is
10 not going to leave in that scenario?

11 MR. ANTHONY: They might not be able to leave.
12 By that time there will be a rush of traffic from King of
13 Prussia through the park. It is a two-lane highway
14 situation all the way through the park. These roads will
15 be blocked in no time. The question is, has anybody
16 thought through whether there will be sheltering at the
17 park. What buildings are there, what food, what water will
18 there be available for people who are stuck in the park?
19 All these things are what has to go into planning for an
20 emergency which is a worst case.

21 As far as the Valley Forge being included in the
22 park, in the EPZ, Mr. Fewless testified that he was never
23 asked, nobody was ever asked. Why should I be the one who
24 had to go to the superintendent of the park and why should
25 I be the one that goes to the regional director of the

1 National Park Service? Why wasn't FEMA, why wasn't that
2 FEMA's job? Why wasn't somebody else involved? Why can't
3 we be protected now?

4 Ms. Ferkin also says that the park had plenty of
5 chance to be included.

6 Mr. Fewless testified the park was never given a
7 chance to, never given a choice, they were never notified
8 that any jurisdiction that was in 10 miles of the plan of
9 this park is included; part of it is that within 10 miles
10 has a choice to be included in the EPZ. They were never
11 given that choice, never notified.

12 She seems to think there will be perfectly
13 smooth traffic going through the park. I say that this is
14 not so. There will be blockades.

15 She said that Mr. Kinnard testified that the
16 FEMA did review the EPZ, that the U.S. Department of
17 Transportation representative on the RAC was the one who
18 approved it. What does the U.S. Department of
19 Transportat.on expert have to do with radioactivity? He is
20 an expert on transportation and pipelines.

21 JUDGE KOHL: But isn't transportation a key
22 element of the emergency evacuation plan?

23 MR. ANTHONY: It is a part of it. But the
24 judgment was what is going to happen with the radioactivity
25 that comes from this worst case? What does he know about

1 that?

2 JUDGE KOHL: He was just one representative on
3 the --

4 MR. ANTHONY: He was the one that she cited and
5 Mr. Kinnard cited as the ultimate authority on FEMA. He
6 doesn't even come in under the FEMA regulations. He has
7 his own regulations. He is not required to meet the 44 CFR
8 350 regulations. It is a completely specious argument.
9 Mr. McGurren said that there was no violation of the
10 configuration of the EPZ. This is not the point at all.
11 The point is that if Valley Forge is not included in the
12 EPZ, little details -- not so little either: there is no
13 monitoring equipment for the park rangers. That is not
14 even provided for them because they are outside the EPZ.

15 As far as Dr. Urbanik goes, I have a couple of
16 citations of the record. One is 19226. He was asked about
17 the time estimates prepared by HMM Associates. The
18 question is, are you satisfied that adequate traffic access
19 and traffic control points have been established to
20 adequately manage traffic in the areas of the EPZ as well
21 as beyond the EPZ. His answer was, no. He did not think
22 the traffic control was adequate.

23 We did not have time to finish our questioning
24 of Dr. Urbanik, so this is not in the record, what else he
25 found wrong with the time estimates. However, he did say,

1 describing the variations that could cause, quote, a peak
2 condition on the population side, he concluded: "We would
3 have a list that would be so long that it would make the
4 plan useless or the estimates useless, I should say."

5 In other words, it doesn't plan for any peak
6 shopping or employment rushes and so forth. The plan is
7 useless.

8 As far as PEMA and Mr. Asher, I would like to
9 quote from his testimony. The last testimony I mentioned
10 was transcript 19240. This one is transcript 20238. The
11 question to Mr. Asher of FEMA was: "Have you had any part
12 of the deliberations that were considering whether that" --
13 what is the park -- "should be included in the EPZ?"
14 Answer: "No." Question: "Have you heard any talk about
15 it at all?" Answer: "Only from you." That is me.

16 JUDGE KOHL: Thank you, Mr. Anthony. Your time
17 has expired.

18 I would like to thank all the parties for their
19 participation today. The case is submitted.

20 (Whereupon, at 3:55 p.m., the oral argument was
21 adjourned.)

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CERTIFICATE OF OFFICIAL REPORTER

This is to certify that the attached proceedings before the UNITED STATES NUCLEAR REGULATORY COMMISSION in the matter of:

NAME OF PROCEEDING: PHILADELPHIA ELECTRIC COMPANY
(Limerick Generating Station,
Units 1 and 2)

DOCKET NO.: 50-352 OL; 50-353 OL

PLACE: BETHESDA, MARYLAND

DATE: FRIDAY, OCTOBER 11, 1985

were held as herein appears, and that this is the original transcript thereof for the file of the United States Nuclear Regulatory Commission.

(sig) Rebecca Eyster

(TYPED)

REBECCA E. EYSTER

Official Reporter

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