

November 22, 1988

Timothy D. Searchinger, Deputy General Counsel
Office of General Counsel
Commonwealth of Pennsylvania
17th Floor, Harrisburg II
333 Market Street
Harrisburg, PA

Dear Mr. Searchinger:

The purpose of this letter is to document the substance of our discussion following the Pennsylvania Senate Committee hearing on November 16, 1988. Since I was first informed that you wished to meet with me during the hearing and was unaware of the subjects you wished to discuss, the NRC staff did not have an opportunity to notify Philadelphia Electric Company (PECO) prior to this meeting. In an effort to keep all interested parties informed of matters of interest to Peach Bottom, I considered it appropriate to document our discussion. This is not to imply that all meetings between NRC and the Commonwealth need to be open to observation by PECO or any other organization. However, it would have been appropriate in this instance because the subjects discussed relate to potential NRC positions on matters under current negotiation between the Commonwealth and Philadelphia Electric Company.

The first of two areas discussed related to possible methods available to incorporate into NRC requirements a contemplated agreement between the Commonwealth and PECO. It was not clear from our discussions whether the contemplated agreement was related to the current license amendment hearing to which the Commonwealth is a party or to restart issues outside the scope of that hearing, or both. Therefore, I generally described the several means whereby commitments can become a part of the regulatory process including a Confirmatory Action Letter, an FSAR amendment and/or a joint motion to the Atomic Safety and Licensing Board presiding on the License Amendment Hearing. I recommended further discussions between the Commonwealth and Region I Counsel regarding these procedures.

The second procedural subject related to NRC Enforcement Policy. Your concern seemed to be focused on negotiated agreements which go beyond NRC requirements and whether NRC would enforce such negotiated agreements. I stated that utility compliance with NRC requirements was mandatory and that the inspection program and Enforcement Policy are used to ensure licensee compliance with NRC requirements. The issue of what enforcement action the NRC would take if noncompliance was found relative to a negotiated item is a matter of agency discretion guided by the NRC Enforcement Policy. I further stated that subject to NRC review, as described in my August 22, 1988 letter to PECO regarding your current negotiations and the method used to incorporate the negotiated settlement, elements of the negotiated agreement could become NRC requirements that would be enforceable by NRC.

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It was at this point in the discussion that you provided examples of issues being negotiated, that appear to go beyond NRC requirements. The two examples were related to a NO overtime position after a certain date based upon extra licensed operators being available and to commitments related to how a PECO Nuclear Review Board (NRB) oversight committee would conduct its reviews.

With respect to your position on overtime, I stated that although we would review any agreement in accordance with my August 22, 1988 letter, it appeared your position was counter-productive to safety and that the licensee commitment to incorporate the NRC policy on overtime and to amend the facility license Technical Specifications would ensure that fatigue of workers does not impact safety. I stated that based upon my understanding of the proposed NO overtime position of the Commonwealth, I could not agree to such a position. My principal basis for this position is that if an individual is performing an important safety related task that could be completed within the NRC overtime guidelines, then it is probably safer to have that individual complete the task rather than turn it over to another individual and either delay completion or risk a human error during turnover. These are the types of decisions which must be left to those responsible for operating the reactor to judge, and it appears to be both unnecessary regulation and counter to safety to impose stricter controls. I further pointed out that under the NRC policy statement on Technical Specifications, NRC was moving in the direction of removing administrative requirements such as overtime constraints and organization charts from the facility Technical Specifications. Thus, any licensee proposal to amend the Technical Specifications to incorporate overtime limits may not be approved.

With respect to the second example related to the manner in which reviews of documents by NRB members and consultants will be conducted, I stated NRC practice of reviewing results of oversight activities and comparison of the NRC findings to those of the licensee to determine the effectiveness of the oversight function. I stated that being overly prescriptive with respect to oversight methods and internal procedures would be a concern to NRC.

On November 18, 1988, I phoned Mr. C. McNeill (PECO) and told him that I had met with you and would document a summary of our November 16, 1988 meeting.

Should you have questions concerning this letter please do not hesitate to contact me directly or M. Miller, Region I State Liaison Officer.

Sincerely,


Original Signed By
WILLIAM T. RUSSELL
William T. Russell
Regional Administrator

cc:

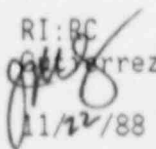
John S. Kemper, Sr., Senior Vice President-Nuclear
C. A. McNeill, Executive Vice President-Nuclear
J. W. Gallagher, Vice President, Nuclear Services
E. C. Kistner, Chairman, Nuclear Review Board
Dickinson M. Smith, Vice President, Peach Bottom Atomic Power Station
Jack Urban, General Manager, Fuels Department, Delmarva Power & Light Co.
John F. Franz, Plant Manager, Peach Bottom Atomic Power Station
Troy B. Conner, Jr., Esquire
W. H. Hirst, Director, Joint Generation Projects Department,
Atlantic Electric
Bryan W. Gorman, Manager, External Affairs
Eugene J. Bradley, Esquire, Assistant General Counsel (Without Report)
Raymond L. Hovis, Esquire
Thomas Magette, Power Plant Siting, Nuclear Evaluations
W. M. Alden, Director, Licensing Section
Doris Poulsen, Secretary of Harford County Council
Public Document Room (PDR)
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NRC Resident Inspector
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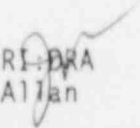
Region I Docket Room (with concurrences)
Management Assistant, DRMA (w/o encl)
Section Chief, DRP
PAO (2) SALP and All Inspection Reports
Robert J. Bores, DRSS
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RI:DRP
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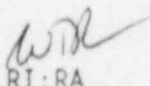
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RI:BC
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