

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

Before the Atomic Safety and Licensing Appeal Panel

In the Matter of :
PHILADELPHIA ELECTRIC COMPANY :
Limerick Generating Stations
Units 1 and 2 : NOS. 50-352 and 50-353

SUPPLEMENTAL MOTION OF THE GRATERFORD INMATES
IN OPPOSITION TO THE APPLICANT'S REQUEST
FOR AN EXEMPTION UNDER 10 C.F.R. 50.12(a) and (b).

I. INTRODUCTION

The Inmates hereby incorporate by reference their initial Motion in Opposition to the Applicant's Request for an Exemption under 10 C.F.R. 50.12(a) and (b) from the Requirements of Emergency Planning listed in 10 C.F.R. 50.47(a) and (b). The applicant has requested this exemption from the emergency planning requirements outlined above as they apply to the radiological emergency response plan of the Pennsylvania Bureau of Corrections with regard to the State Correctional Institute at Graterford, Pennsylvania. In the applicant's request for said exemption, they led the Licensing Board to believe that they were ready to ascend to full power, but for the continuing litigation of the Graterford Inmates. New evidence suggests otherwise, thus the Inmates file this Supplement.

8507230166 850517
PDR FOIA PDR
ABEL85-304

II. LEGAL ARGUMENT - The applicant has misled the Board as to its state of readiness at the Limerick Generating Station with regard to its request to ascend to full power.

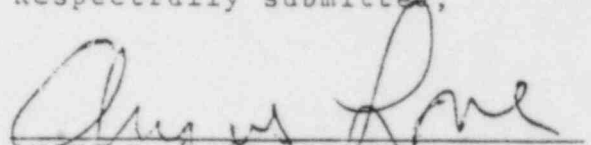
On February 7, 1985, the applicant filed a Motion entitled, "Applicant's Motion for Exemption from the Requirements of 10 C.F.R. 50.47(a) and (b) as they Relate to the Necessity of Atomic Safety and Licensing Board Consideration of Evacuation Provisions of the Emergency Plan for the State Correctional Institute of Graterford". Attached to the applicant's Motion was an affidavit executed by V.S. Boyer, purported to be the Vice President of the Philadelphia Electric Company (see Exhibit "A"). In this affidavit, Mr. Boyer states in paragraph 3, that the Limerick Generating Station is a plant that "will be ready to proceed to power levels greater than allowed under our existing license by March 1, 1985". The applicant supplemented this Memorandum by way of letter and attached affidavit on March 18, 1985, at which time they included a second affidavit signed by V. S. Boyer, Vice President, Philadelphia Electric Company, stating in paragraph 4, "The schedule for the power ascension phase of operation of Unit 1 of the Limerick Generating Station is such that the plant w'll be ready to proceed to power levels greater than allowed under our existing license by the end of March, 1985." (See Exhibit "B".) The applicant uses this affidavit in support of their contention that a grant of such an exemption under 10 C.F.R. 50.12 would be

in the public interest. On page 7 of their Motion, they re-iterate that the "Limerick facility will be physically ready to begin operations above 5% power by March 1, 1985. They further state that "any delays in its preparation are beyond the control of the applicant" (see page 8). They then go on to cite numerous financial arguments that they contend will result in a considerable loss of money if said exemption is not granted.

On March 13, 1985, the same Vincent S. Boyer, Vice President of the Philadelphia Electric Company filed an application with the Delaware River Basin Commission requesting yet another exemption from the 59 degree temperature constraints on withdrawals of water from the Schuylkill River. In a letter to the Delaware River Basin Commission by Edward G. Bauer, Jr., also a Vice President and General Counsel for the Philadelphia Electric Company, he indicates that: "In order to proceed with the power ascension program after issuance of the license, it is necessary to have in place a supplemental cooling water system." (See Exhibit "C" attached.) Upon examination of this request, it would appear to the Inmates that the Limerick Generating Station is not yet ready to begin its power ascension program as previously stated in Mr. Boyer's affidavits supporting their request for an exemption from further emergency planning now pending before this Licensing Board. The Inmates contend that Mr. Boyer, who admittedly is "deeply involved in the licensing process" has

misled the Licensing Board in an attempt to gain the exemption requested herein. The Inmates request a clarification on this issue and believe that the Board should take this matter into consideration in their deliberations regarding the applicant's request for said exemption.

Respectfully submitted,



ANGUS R. LOVE, ESQUIRE
Attorney for Inmates, SCIG

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

Before the Atomic Safety and Licensing Appeal Panel

In the Matter of :
PHILADELPHIA ELECTRIC COMPANY :
Limerick Generating Stations :
Units 1 and 2 : NOS. 50-352 and 50-353

CERTIFICATE OF SERVICE

I, Angus R. Love, attorney for the Inmates at the State Correctional Institute at Graterford, hereby certify that a true and accurate copy of the Supplemental Motion of the Graterford Inmates in Opposition to the Applicant's Request for an Exemption under 10 C.F.R. 50.12(a) and (b), in reference to the above-captioned matter, was mailed first class, postage prepaid, on March 26, 1985, to the following list:

Administrative Judge Helen F. Hoyt
Atomic Safety & Licensing Board
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

Martha W. Bush, Esquire
Municipal Services Building
15th & JFK Blvd.
Philadelphia, PA 19107

Administrative Judge Jerry Harbour
Atomic Safety & Licensing Board
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

Atomic Safety & Licensing
Appeal Board Panel
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

Administrative Judge Richard F. Cole
Atomic Safety & Licensing Board
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

Robert J. Sugarman, Esquire
Sugarman, Denworth & Hellegers
16th Fl, Center Plaza
101 North Broad Street
Philadelphia, PA 19107

Ann P. Hodgdon, Esquire
Counsel for NRC Staff
Office of the Executive Legal Director
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

Docket & Service Section
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555 (3 copies)

Mr. Robert L. Anthony
103 Vernon Lane, Box 186
Moylan, PA 19065

David Wersan, Esquire
Asst. Consumer Advocate
Office of Consumer Advocate
1425 Strawberry Square
Harrisburg, PA 17120

Atomic Safety & Licensing Board Panel
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

Frank Romano
61 Forest Avenue
Ambler, PA 19002

Zori G. Ferkin, Esquire
Governor's Energy Council
P.O. Box 8010
1625 N. Front St.
Harrisburg, PA 17105

Mr. Thomas Gorusky, Director
Bureau of Radiation Protection
Dept. of Environmental Resources
Fulton Bank Building, 5th Fl.
Third and Locust Streets
Harrisburg, PA 17120

Spence W. Perry, Esquire
Associate General Counsel
FEPA, Room 840
500 CT Street, SW
Washington, D.C. 20472

James Wiggins
Sr. Resident Inspector
U.S. Nuclear Regulatory Commission
P.O. Box 47
Saratoga, PA 19464

Timothy R.S. Campbell, Director
Dept. of Emergency Services
14 East Biddle Street
West Chester, PA 19380

Director,
Penna. Emergency Management Agency
Basement, Transportation & Safety Bldg.
Harrisburg, PA 17120

Troy B. Conner, Jr., Esquire
Conner & Wetterhahn
1747 Penna. Ave. NW suite 1050
Washington, D.C. 20006

Jay M. Gutierrez, Esquire
U.S. Nuclear Regulatory Commission
Region 1
631 Park Avenue
King of Prussia, PA 19406

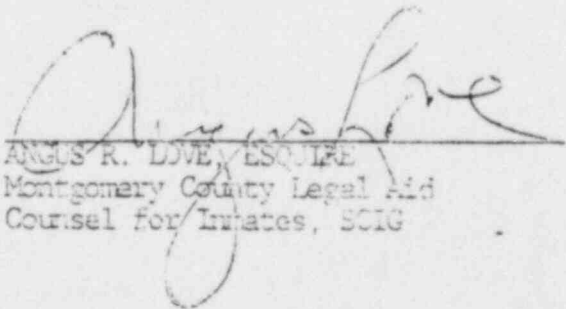
Phyllis Zitzer
Limerick Ecology Action
P.O. Box 761
762 Queen Street
Pottstown, PA 19464

Charles W. Elliott, Esquire
Counsel for Limerick Ecology Action
325 N. 10th Street
Easton, PA 18042

Eugene J. Bra dley, Esquire
Counsel for Philadelphia Electric
2301 Market Street
Philadelphia, PA 19101

Edward G. Bauer, Jr.
V.P. and General Counsel
Philadelphia Electric Co.
2301 Market Street
Philadelphia, PA 19101

Steven P. Hershey, Esq.
Community Legal Services, Inc.
5219 Chestnut Street
Philadelphia, PA 19139


ANGUS R. LOVE, ESQUIRE
Montgomery County Legal Aid
Counsel for Inmates, SCIG

STATE OF MARYLAND

:

COUNTY OF MONTGOMERY

:

Affidavit of V. S. Boyer

V. S. Boyer, being first duly sworn, states as follows:

1. My name is V. S. Boyer. I am Senior Vice President, Nuclear Power of Philadelphia Electric Company, ("the Company"), owner and operator of the Limerick Generating Station. I have been deeply involved with the construction, licensing, and operation of the Limerick Generating Station and oversee the efforts of the Company in the area of Emergency Planning for our nuclear generating stations. I am aware of the status of and responsibility for emergency planning efforts for the Limerick Generating Station on the part of the Commonwealth of Pennsylvania, the Federal Emergency Management Agency, local governments and the Nuclear Regulatory Commission.
2. Annex 1 to Appendix E of the Bureau of Correction's Emergency Plan - the Radiological Emergency Response Plan for the State Correctional Institution of Graterford ("Graterford Plan") has been prepared by the Bureau of Correction of the Commonwealth of Pennsylvania. Although the Company has provided assistance to many entities with radiological emergency planning responsibilities, neither the Pennsylvania

Emergency Management Agency nor Bureau of Corrections requested the assistance of Philadelphia Electric Company in the development of the Graterford Plan. The Company is, however, providing certain equipment required for the implementation of the plan and requested by the Commonwealth.

3. The schedule for the power ascension phase of operation of Unit 1 of the Limerick Generating Station is such that the plant will be ready to proceed to power levels greater than allowed under our existing license by March 1, 1985.
4. Delays in the issuance of approval for proceeding to full power will result in a delay in the commercial operation of the unit. Such delays will increase the costs of Limerick Unit 1 by \$28 million per month. This cost figure is made up of \$23 million per month AFUDC and \$5 million per month operational, security and maintenance costs. In addition, the fuel costs of the Company's customers will be increased by \$15 million a month for each month of delay.
5. Any delays in the authorization for full power for Unit 1 may also impact on the restart of construction of Unit 2. The Pennsylvania Public Utility Commission is presently holding hearings on whether construction at Unit 2 should be continued, but in compliance with a

prior order issued by the PUC construction of No. 2 unit has been suspended until No. 1 is placed in commercial operation.

P. K. Eover

Senior Vice President

Subscribed and sworn to before me
this 7th day of February, 1985.

Karen M. Thompson

Notary Public

Karen M. Thompson

My commission expires: July 1, 1986

BEFORE THE
UNITED STATES NUCLEAR REGULATORY COMMISSION

In the Matter of :
: PHILADELPHIA ELECTRIC COMPANY : Docket Nos. 50-352
(Limerick Generating Station :
Unit 1) :

AFFIDAVIT OF V. S. BOYER

V. S. BOYER, being first duly sworn, states as follows:

1. My name is V. S. Boyer, I am Senior Vice President, Nuclear Power of Philadelphia Electric Company ("the Applicant"), owner and operator of the Limerick Generating Station.

2. My affidavit of February 7, 1985 in support of Applicant's Motion for Exemption from the Requirements of 10 C.F.R. Section 50.47(a) and (b) provided, inter alia, certain information relating to Limerick Unit 1 operating schedules and costs of delay in achieving commercial operation.

3. As a result of Applicant's current evaluations of the status of Limerick Unit 1 and costs of delay it is necessary to update certain of the information provided in my February 7, 1985 affidavit.

4. The schedule for the power ascension phase of operation of Unit 1 of the Limerick Generating Station is such that the plant will be ready to proceed to power levels greater than allowed under our existing license by the end of March, 1985.

5. Delays in the issuance of approval for proceeding to full power will result in a delay in the commercial operation of the unit. Such delays will increase the costs of Limerick Unit 1 by \$34 million per month. This cost figure is made up of \$24 million per month AFUDC and \$10 million per month operational, security and maintenance costs. In addition, the fuel costs of the Company's customers will be increased by \$15 million a month for each month of delay.

6. The remainder of my February 7, 1985 affidavit is unchanged.

V. S. Boyer

V. S. Boyer

Subscribed and sworn to
before me this 14th day
of March, 1985.

Patricia D. Scholl
Notary Public

PATRICIA D. SCHOLL
Notary Public, Pennsylvania, Annapolis, Md.
My Commission Expires February 10, 1988

PHILADELPHIA ELECTRIC COMPANY

2301 MARKET STREET

P.O. BOX 8699

PHILADELPHIA, PA. 19101

(215) 841-4000

EDWARD G. SAUER, JR.
VICE PRESIDENT
AND GENERAL COUNSEL

EUGENE J. BRADLEY
ASSOCIATE GENERAL COUNSEL

DONALD BLANKEN
RUDOLPH A. CHILLEM
E. C. KIRK HALL

T. H. MAHER CORNELL

PAUL AUERBACH
ASSISTANT GENERAL COUNSEL

EDWARD J. CULLEN, JR.

THOMAS H. MILLER, JR.

IRENE A. MCKENNA
ASSISTANT COUNSEL

MAY 21 1985

March 15, 1985

Ms. Susan Weisman, Secretary
Delaware River Basin Commission
P. O. Box 7360
West Trenton, New Jersey 08628

Dear Ms. Weisman:

Transmitted herewith for filing with the Commission is Philadelphia Electric Company's Application under Section 3.8 of the Compact for approval of the temporary substitution, during 1985, of in-stream monitoring of dissolved oxygen levels in place of the 59°F temperature constraint on withdrawals for Limerick Generating Station Unit No. 1 incorporated in Docket Decision 69-210CP (Final) November 5, 1975, and as necessary release of varying amounts of water, not exceeding 32.5 cfs, from water supply storage during 1985.

This filing consists of six copies of the following documents: a) completed DRBC application form, including Attachments 1 and 2 and Exhibits 1 through 8 thereto; b) completed DRBC Environmental Form; and c) completed Applicant's Statement - Project Review Fee Form.

Enclosed is Philadelphia Electric Company's check in the amount of \$100 to cover the Project Review Fee.

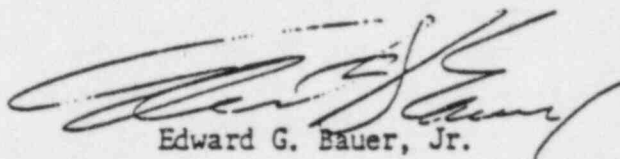
The affidavit of Vincent S. Boyer, Senior Vice President, Nuclear Power, Philadelphia Electric Company, which is part of Attachment 2 of the application, indicates that issuance of a full power license from the Nuclear Regulatory Commission for Limerick Unit No. 1 can be anticipated about May 1, 1985; that in order to proceed with the power ascension program after issuance of the license it is necessary to have in place a supplemental cooling water system; that delays in proceeding to full power will delay commercial operation of the unit, and that the cost of not operating the unit for lack of water is estimated to be \$49 million per month.

EXHIBIT "C"

Accordingly, the Company requests immediate action on its application, pursuant to Section 2-3.9(c) of the Commission's Rules of Practice and Procedure to protect the public interest and to avoid substantial and irreparable injury to the public and to the Company.

Communications regarding this application should be directed to the undersigned.

Very truly yours,

A handwritten signature in cursive script, appearing to read "Edward G. Bauer, Jr.", is written over a horizontal line.

Edward G. Bauer, Jr.

EGB, JR:pkc

Enclosures

DELAWARE RIVER BASIN COMMISSION

Type of Application: (Check one or more - see reverse side)

- (a) Addition to the Comprehensive Plan.....()
- (b) Change in a Comprehensive Plan Project.....()
- (c) Approval under Section 3.8 of the Compact..... (X)
- (d) Inclusion in "A-List" of the Water Resources Program..... ()

Pursuant to the Delaware River Basin Compact and the Rules of Practice and Procedure of the Delaware River Basin Commission, application is hereby made for review of the project described below:

<p>For Use of Commission</p> <p>Docket No. _____</p> <p>Date Received _____</p> <p>Action by Commission</p> <p>_____</p> <p>_____</p> <p>_____</p> <p>_____</p> <p>_____</p> <p>_____</p> <p>_____</p> <p>_____</p>

(A) Application From:
 Name Philadelphia Electric
Company
 Mailing Address 2301 Market Street,
Philadelphia, PA 19101
 Telephone (215) 841-4000
 Name of Counsel Edward G. Bauer, Jr.
and Eugene J. Bradley
 Name of Engineer V. S. Boyer

- (B) Type of Project: (Check)
- (1) Impoundment.....()
 - (2) Withdrawal of Water.....(X)
 - (3) Disposal of Wastes.....()
 - (4) Stream Encroachment.....()
 - (5) Well.....()
 - (6) Other.....()

(C) Description of Project:

For 1985, withdrawal of water from the Schuylkill River for consumptive use at Limerick Generating Station Unit No. 1 by temporary substitution of in-stream monitoring of dissolved oxygen levels in place of 59°F temperature constraint incorporated in Docket No. 69-210 CP (Final) (November 5, 1975); and as necessary, release of varying amounts of water not exceeding 32.5 cfs, from water supply storage as appropriate, the flow constraint contained in said docket to be inapplicable to any such releases.

Signature of Authorized Person Vincent L. Boyer
 Name V. S. Boyer
 Title Senior Vice President,
 Date 3/15/85 Nuclear Power

Delaware River Basin Commission

ENVIRONMENTAL FORM

Applicant Philadelphia Electric Company
Title of Project Interim Consumptive Water Supply
Location Limerick Generating Station

Date 3/15/85

DRBC Docket No. _____

1. List any significant environmental impacts, beneficial and adverse, caused by the proposed action.

The beneficial impact of the requested temporary substitution of instream monitoring of dissolved oxygen levels in place of the 59°F temperature constraint and the requested release of water from the Blue Marsh Reservoir or other basin water supply storages as a back-up supply will be to permit scheduled operation of Limerick, already evaluated by the DRBC. See, DRBC FEA for Neshaminy Water Supply System (August 1980); DRBC Level B Study; and AEC/NRC FES for Limerick (November 1973 and April 1984). There will be no adverse impacts from the temporary suspension of the 59°F temperature constraint. (See Paragraph : below). There will be no adverse impacts from the release of water from Blue Marsh Reservoir. See, COE E S for Blue Marsh (April 1971); the Supplement to the COE FES for Blue Marsh (June 1973); and the DRBC Level B Study (May 1981). See Attachment 1.

2. What mitigating measures will be used to reduce or alleviate the adverse environmental impacts?

There will be no adverse impacts from the temporary suspension of the 59°F temperature constraint. Degradation of water quality of the Schuylkill River below the Limerick Generating Station will be precluded by instream monitoring of dissolved oxygen levels and releases from water supply storage when DO levels fall below acceptable levels. There will be no adverse impacts from the requested releases of water from water supply storage. Thus, no mitigating measures need be undertaken.

3. Summarize the alternatives considered.

The alternatives considered were (1) no action, (2) release of water from the Ontelaunee Reservoir, and (3) release of water from Green Lane Reservoir. See Attachment 2.

4. List any known object ors to the proposed action.

None.

APPLICANT'S STATEMENT - PROJECT REVIEW FEE
(See Reverse Side For Additional Information)

1. Name and Address of Applicant Philadelphia Electric Company
2301 Market St., Philadelphia, PA 19101

2. Name of Project Limerick Generating Station
Interim Consumptive Water Supply Docket # _____

3. Type of Project
Check Applicable Item(s)
- ____ (a) impoundments
 - ____ (b) diversions of water into or out of the Delaware River Basin
 - (c) industrial water use and waste treatment facilities
 - ____ (d) electric generating and transmission facilities
 - ____ (e) petroleum product pipelines
 - ____ (f) stream encroachments; and
 - ____ (g) withdrawal of ground water

4. Project Cost Factors (Complete all lines using Zero where applicable)

Item	Estimated Cost
a. Design	\$ 0
b. Supervision of Construction	\$ 0
c. Legal Services	\$ 0
d. Contract Administration	\$ 0
e. Land	\$ 0
f. Materials	\$ 50,000
g. Construction and Fabrication	\$ 45,000
TOTAL ESTIMATED PROJECT COST	\$ 0

Footnotes/Remarks non-structural - temporary suspension of 59°F temperature constraint and release of varying amounts not exceeding 32.5 cfs of water supply storage from Blue Marsh Reservoir or other basin water supply storage, as appropriate, in 1985.

5. Filing Fee Schedule (Check applicable item(s))

(The filing fee is the greater of (a) or (b))

	Computation:
<input checked="" type="checkbox"/> (a) minimum fee: \$100. for any project; or	(a) \$ 100.
____ (b) alternative fee:	(b)
____ (1) 1/10 of 1% of estimated project cost up to \$1,000,000.	(1) \$ _____
____ (2) 1/50 of 1% of remaining cost above \$1,000,000; but not to exceed a maximum fee of \$50,000 as to any one project, exclusive of added environmental fees.	(2) \$ _____
	Total \$ 100.00

6. Filing Fee Required with Application

*Please enclose check in this amount with application. Check should be made payable to Delaware River Basin Commission.

NOTE: Should this project require an Environmental Impact Statement or an Environmental Assessment, you will be notified at a later date and an Applicant's Statement-Environmental Review Fee will be forwarded for completion and payment of applicable fee.

Vincent A. Boyer
Signature of Certifying Official

Date 3/15/85

Senior Vice President, Nuclear Power
Title

ACKNOWLEDGMENT BY DRBC OF FEE PAYMENT

Received Check No. _____, dated _____, Bank No. _____
In amount of _____

- COPIES: (1) Administrative Division Copy - white
(2) APPLICANT - Retain This Copy - pink
(3) Applicant - DRBC Receipted Copy - yellow
(4) Project Review Copy - blue

Signature