

U.S. NUCLEAR REGULATORY COMMISSION

RE: PHILA. ELEC. CO. Limerick Gen. Sta. Units 1 & 2 DOCKET NO. 50-352,353  
PETITION TO THE COMMISSION FROM ANTHONY/FOE FOR IMMEDIATE SUSPENSION OF LICENSE  
NPF-39 ISSUED TO PECO, FOR VIOLATIONS OF APPENDIX B (NPF-39), UNDER 10 CFR Sec. 50.100.  
Mar. 5, 1986

On 1/17/86 Anthony/FOE appealed to the Director NRR to require PECO to comply with the requirements of License NPF-39, App. B, which were violated in PECO's application 12/16/85 to the Delaware River Basin Commission for changes in the comprehensive plan for withdrawal of water for Limerick cooling from the Schuylkill River. ( See T.B. Conner letter to S.J. Chilk, 1/24/86 enclosing the application, hereafter (Appl. 12/86). We received an answer, dated 2/26/86, from H.R. Denton stating that there was no need for the NRC to act on our petition and that he did not intend to issue "a formal Director's Decision". We now petition the Commission to suspend License NPF-39 under the provisions of 10CFR 50.100, especially the final clause:

A license... may be revoked, suspended, or modified.....for violation of, or failure to observe, any of the terms and provisions of the act, regulations, license, permit, or order of the Commission. (Emphasis added)

1. Mr. Denton states (2/26/86) "that the requirements of EPP (App. B.) are triggered at the time PECO would take any proposed actions", and " PECO has not taken any of the actions it has proposed to DRBC". He is mistaken; PECO has taken these actions as set forth in the application, Appl. 12/86, page 9:

From August 9, 1985 to November 30, 1985, there were 31 days of river availability gained due to the substitution of D.O. monitoring for the temperature criteria. ....

During much of the early testing period when flow and B.O. levels were low the transfer of allocations from Titus and Cromby allowed the plant to operate unrestricted.

The statements above from PECO provide the evidence of actions in violation of App. B by PECO during 1985, changing the withdrawal criteria from temperature to Dissolved Oxygen, flow limit, and reassignment of water allocations from other plants. These changes have extensive environmental impact and are forbidden in App. B, especially Para. 3.1, which concerns operations " significantly affect(ing) the environment" and involving "an unreviewed environmental question". Para. 5.3 requires an assessment of impact of changes and states that "changes in the EPP shall not commence prior to NRC approval... in the form of a license amendment."

PECO violated the terms of the license by the changes in water withdrawals from the Schuylkill in 1985 and has filed its intention to continue these violations in 1986. License NPF-39 must be suspended until App. B requirements are fulfilled and hearings have been completed on the environmental affects of changes, and the required license amendment issued as an outcome of the hearings. Sec. 50.100 calls for suspension on the basis of past violations as well as continuing ones.

2. PECO's application (12/86) and continued operation of D.O. monitors currently violate the requirements of App. B, especially Para. 3.1 and 5.3 as set forth in

DS03

8603140079 860305  
PDR ADOCK 05000352  
PDR

our petitions; 4/29/85 to ALAB; 10/1/85 to the Commission; and 1/17/86 to Dir. NRR. The present application violates the conditions set forth in App.B 3.1 :

Before engaging in additional construction or operational activities which may significantly affect the environment, the licensee shall prepare and record an environmental evaluation of such activity .....  
When the evaluation indicates that such activity involves an unreviewed environmental question, the licensee shall provide a written evaluation of such activity and obtain prior NRC approval. When such activity involves a change in the EPP, such activity and change to the EPP may be implemented only in accordance with an appropriate license amendment as set forth in Section 5.3 of this EPP. (Emphasis added)

PECo violated the above by omitting an environmental evaluation and prior NRC approval before engaging in construction and operation. Evidence of current, ongoing construction and operation comes from the published notes from DRBC of its Meeting 1/22/86. (See Attachment 1. page 3 from the DRBC 1/22/86 notes) :

Mr. Boyer revised his application by requesting that DRBC approve withdrawals when average oxygen values in five of the six pools satisfy the 4.2 mg/l minimum instantaneous value and 5.1 mg/l minimum daily average value. He reported that all monitoring stations are in place and operating (added)

This statement proves that PECO has constructed and is operating the D.O. monitors in violation of para. 3.1, without an environmental evaluation or NRC approval of the change from temperature restriction, and PECO has implemented such a change by constructing and installing and operating the D.O. monitors. This construction and operation is in violation of para. 5.3 which also provides that the filing of PECO's application (12/86) "triggers" the environmental impact evaluation which PECO did not submit.

Requests for changes in the EPP shall include an assessment of the environmental impact of the proposed change and a supporting justification. (added)

This proves that the "trigger" is not limited to " the time PECO would take any proposed actions", as Mr. Denton asserts (2/26/86), but comes with the request for proposed change.

3. PECO's request (Appli. 12/86) indicates the intention of continuing the violations of the license granted by DRBC in response to 1985 applications ( See 12/86 title page.):

..substitution of in-stream monitoring of dissolved oxygen levels in place of the 59°F temperature constraint, similar to the substitution granted... (May 29, 1985); and by transfer of the existing consumptive use (Titus and Cromby stations).... of the Schuylkill River water for Limerick, said transfer originally granted... ( August 9, 1985).

4. Since PECO's construction and operation of D.O. monitors as well as its renewed request for similar changes in the DRBC compact to those of 1985 constitute direct violations of Licence NPF-39, the license must be suspended under 10 CFR 50.10

I certify service by mail on : NRC Sec., Gen. Counsel,  
Dir. NRR, Docketing, PECO, F. Romano, LEA

3/5/86 Robert L. Anthony

Respectfully submitted,  
Robert L. Anthony  
Box 186 Moylan, Pa. 19065

FROM DELAWARE RIVER BASIN COMMISSION  
MEETING OF JAN. 22, 1986 - MINUTES

SERIES 1986  
NUMBER 1

-3-

program this year to improve system reliability in the area. Mr. Yaeck noted that a countywide water plan is being developed with the purveyors and county planning commission. Work is also being done with the county's 73 political subdivisions to acquaint them with the impact of their land use decisions on water resources.

In order to allow use of the well on an emergency basis while addressing the concerns raised by the U. S. Fish and Wildlife Service, Mr. Kanuck moved to authorize the Executive Director to prepare an emergency permit to allow the operation of the well on a limited basis between now and the next Commission meeting with the understanding that Philadelphia Suburban will provide additional information concerning interconnections or alternate sources of water supply. Seconded by Mr. Weston, the motion was approved unanimously by roll call vote. Mr. Hansler expressed concern regarding emergency approval for a well to meet new growth in addition to existing needs when the impact on perennial streams is unknown. Approval conditions for future hook-ups and use will be carefully evaluated.

Mantua Township Municipal Utilities Authority (NJ), consolidation of a ground water allocation and ground water withdrawal project, (D-85-16 CP);

Blue Ridge Real Estate Company (Jack Frost Ski Area)(PA), sewage treatment plant modification and expansion, (D-85-81); and

Pocono Farms East Water Company (PA), a ground water withdrawal project, (D-85-86 CP). With no testimony offered, Docket Nos. D-85-16 CP, D-85-81 and D-85-86 CP were moved, seconded and approved.

Philadelphia Electric Company (PA), revisions to a surface water withdrawal project during 1986 involving substitution of DO for temperature constraints and a transfer of consumptive use allocations at existing operating generating stations to new use at Limerick Generating Station, (D-69-210 CP Final: Revision No. 5). Mr. Everett explained that the applicant's request for DO substitution for the 59°F limitation to determine the availability of Schuylkill River water differs from an earlier similar approval in its request for elimination of the DRBC-imposed requirement of 7.0 mg/l minimum DO from March 1 to June 15.

Ms. Weisman listed the following hearing record correspondents to date: Pennsylvania Fish Commission, Green Valleys Association, Trout Unlimited, Friends of the Earth, and Mary Ellen Noble.

Mr. Vincent S. Boyer, Senior Vice President, Nuclear Power, Philadelphia Electric Company, incorporated his testimony into the record, stating that the request is necessitated by the unavailability of the Point Pleasant Diversion Project in 1986 for supplemental cooling water. Providing plant operation and river oxygen, temperature and flow data, Mr. Boyer revised his application by requesting that DRBC approve withdrawals when average oxygen values in five of the six pools satisfy the 4.2 mg/l minimum instantaneous value and 5.1 mg/l minimum daily average value. He reported that all monitoring stations are in place and operating.

ATTACHMENT 1