

LAW OFFICES
CONNER & MOORE
1747 PENNSYLVANIA AVENUE, N. W.
WASHINGTON, D. C. 20006

TROY B. CONNER, JR.
ARCH A. MOORE, JR.*
MARK J. WETTERHAHN
ROBERT M. RADER
*NOT ADMITTED IN D. C.

November 9, 1981

(202) 833.3500

CABLE ADDRESS: ATOMLAW

Mr. William J. Dircks
Executive Director for
Operations
U.S. Nuclear Regulatory
Commission
Washington, D.C. 20555

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

Dear Mr. Dircks:

By letter dated March 17, 1981, Eugene J. Bradley, Associate General Counsel of the Philadelphia Electric Company, transmitted to Harold R. Denton, Office of Nuclear Reactor Regulation, copies of the Operating License application in the captioned proceeding. Transmitted along with, but not part of, the application, was a two volume Probabilistic Risk Assessment ("PRA") for the Limerick Station. It is noted that Charles W. Elliott, who is counsel for Limerick Ecology Action, petitioner to intervene, requested, in a letter to the Commission dated October 27, 1981, that the information be placed in the Public Document Room or, in the alternative, produced pursuant to the Freedom of Information Act.

Under separate cover, "certain detailed fault trees" which were prepared as part of the PRA were transmitted with a request that they be withheld from public disclosure in accordance with 10 C.F.R. §2.790(d) for security reasons. On October 22, 1981, the Commission published its final rule regarding protection of unclassified safeguards information which, inter alia, held that, in general, fault trees developed during the course of a probabilistic risk assessment would not be protected under the rule.

Its actions on October 22, 1981 constitute a de facto denial of our §2.790 request that the information be withheld as security information. Accordingly, pursuant to 10

8111270177 811124
PDR ADDCK 05000352
G PDR

Mr. William J. Dircks
November 9, 1981
Page 2

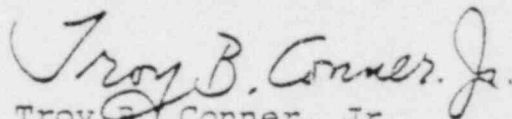
C.F.R. §2.790(c), all of the copies of the fault trees provided previously should be returned to the Company immediately.

It is noted that given the Commission's past practice of retaining a copy of a returned document pursuant to §2.790, that such retention would be inappropriate, and indeed illegal, given the fact that the Commission has ruled that it must produce such information, which happens to be in its files, pursuant to a Freedom of Information Act request. (See letters from Leonard Bickwit, Jr., General Counsel, NRC to George L. Edgar, Esq., Morgan, Lewis & Bockius dated November 5, 1980 regarding Return of the General Electric Reed Report).

If you will call me when all of the copies in the Commission's possession have been assembled, we will arrange to have them picked up immediately.

We note that the information properly should also be withheld as "Company confidential" proprietary information of the General Electric Company.

Sincerely,


Troy B. Conner, Jr.
Counsel for Philadelphia
Electric Company

cc: Charles W. Elliott, Esq.
Harold R. Denton