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UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

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BRANCH

Before the Atomic Safety and Licensing Board

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

REPORT TO THE LICENSING BOARD REGARDING
CONTENTIONS I-41, I-42 AND ONSITE EMERGENCY PLANNING

Pursuant to the Atomic Safety and Licensing Board's "Memorandum and Order Confirming Rulings Made at Hearing" (January 22, 1984) (slip op. at 3), this constitutes the report of the parties and participants involved in the contentions related to systems interaction, environmental qualification of electrical equipment and onsite emergency planning. Without having attempted to determine the schedule of the Licensing Board, the parties and participants have discussed a schedule for further actions. All dates discussed below are "receive" dates for the Board or affected parties, as appropriate.

Onsite Emergency Planning Contentions

Limerick Ecology Action ("LEA") advises that it does not expect to present any direct evidence, but will rely upon cross-examination. LEA's counsel, Charles Elliott, has advised in a conference call on February 13, 1984 that he

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had just returned to Easton and had not yet reviewed the contentions to determine which, if any, would be dropped in whole or in part. Based upon these assumptions and the Board's indication that it wished to hear these contentions in April, the parties agreed to the following schedule:

File testimony - Applicant and Staff	3/12/84
Motions to strike	3/19/84
Answers to motions to strike	3/26/84
Cross-examination plans	3/30/84
Hearings	4/2/84

Today, however, the Staff advised that it does not expect to be prepared to proceed on this schedule and suggested that the matter go over until completion of the hearings on the contentions discussed below, or approximately May 14. The Applicant suggests that the hearing go forward as proposed and that if the Staff cannot make that schedule, all other testimony be received and Staff's testimony be taken as soon thereafter as possible.

Environmental Qualification of Electrical Equipment
and Systems Interaction Contentions

LEA, the proponent of Contentions I-41 and I-42, has stated that it will not present any direct testimony but intends to cross-examine Applicant's and Staff's witnesses on these matters. The City of Philadelphia ("City") stated that it would inform the Board and parties by March 2, 1984

whether it would present witnesses on these matters and conduct cross-examination.^{1/}

Both LEA and the City stated they would attempt to narrow the focus for litigation of these two contentions by March 2, 1984, and stated they would inform the Board of their efforts. They stated they could not do this presently because of outstanding discovery requests. Applicant and Staff are of the view that, as presently phrased, the two contentions are unmanageably broad and, as a practical matter, cannot be litigated in their present form without significant expenditures of resources and hearing time. Further, Applicant and Staff believe that in their present form they are unlikely to lead to the development of a sound and meaningful record. Applicant and Staff would request the convening of a prehearing conference or other Board action for the purpose of narrowing these issues if satisfactory resolution cannot otherwise be achieved.

The following schedules for consideration of Contentions I-41 and I-42 are being submitted. The Staff's separate suggested schedule on Contention I-42 is appended:

^{1/} The Staff addresses this matter in a separate filing which is attached.

<u>Last Day for Action</u>	<u>I-42 2/</u>
Filing of testimony	3/19/84
Filing of motions to strike	3/26/84
Responses to motions to strike	4/3/84
Filing of cross- examination plans	4/6/84
Commencement of hearing	4/9/84

	<u>I-41</u>	
<u>Last Day for Action</u>	<u>Applicant's 3/ Schedule</u>	<u>Alternative 4/ Schedule</u>
Filing of Testimony	4/2/84	4/27/84
Filing of motions to strike	4/9/84	5/4/84
Responses to motions to strike	4/16/84	5/11/84
Filing of cross- examination plans	4/20/84	5/8/84
Commencement of hearing	4/23/84	5/21/84

2/ The City and LEA could litigate Contention I-42 on this schedule or on the one proposed by the Staff.

3/ Applicant believes this schedule is reasonable, particularly considering that only Applicant and Staff are likely to file direct testimony.

4/ LEA and the City do not believe that they can meet the schedule proposed by Applicant because of the ongoing litigation of the onsite emergency planning (LEA) and environmental qualification of electrical equipment contentions (LEA and the City), but could meet the alternative schedule.

LEA, the City and the NRC Staff agree with this report
except as noted herein.

Respectfully submitted,

CONNER & WETTERHAHN, P.C.

Troy B. Conner, Jr.
Troy B. Conner, Jr.

Mark J. Wetterhahn

Mark J. Wetterhahn
Counsel for the Applicant

February 14, 1984

NRC STAFF'S COMMENTS FOR REPORT TO LICENSING BOARD

Because the Staff's EQ audit will consume the entire week of March 12-16, 1984 and the witnesses that will be offered by the Staff will necessarily be involved in the audit, the Staff will not be able to litigate Contention I-42 earlier than on the following schedule:

March 26: Testimony
April 2: Motions to Strike
April 9: Responses to Motions to Strike
April 13: Cross-Examination Plans
April 16: Hearing on I-42

In addition, the Staff learned of the City of Philadelphia's intention to pursue LEA's Contentions I-41 (Systems Interaction) and I-42 (Environmental Qualification of Electrical Equipment) when it received Interrogatories on I-42 from the City addressed to the Applicant and the Staff dated February 3, 1984 and Interrogatories on I-41 from the City addressed to the Applicant dated February 6, 1984. The Board's Order of November 21, 1983 established February 6, 1984 as the last day for filing discovery requests. Therefore, the Staff, through no fault of its own, is in the anomalous position of having had discovery requests filed against it without having the opportunity to file discovery requests of its own. The City previously stated that it intended to initiate discovery and file contentions on emergency planning as far as it affects Philadelphia and the severe accident risk assessments (Tr. 6550-C). The City failed to state its intentions with regard to LEA's Contentions I-41 and I-42 and remained silent while the Board identified LEA, the Staff and the Applicant as the parties who were to

jointly propose a schedule for the filing of testimony and the evidentiary hearings on I-41, I-42 and the series VIII onsite emergency planning contentions (Tr. 6584). These actions led the Staff to believe that the City would not participate on I-41 and I-42. The Staff believes that if the City is to be allowed to file discovery requests on Contentions I-41 and I-42, the Staff should be given one week from the time of a Board order ruling on the issues raised in this report to file its discovery requests on those contentions addressed to the City. The Staff will file a motion requesting this relief.

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The Staff does not object to the Applicant's proposed schedule of April 2 for filing testimony, etc. for litigation of Contention I-41.

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CERTIFICATE OF SERVICE

I hereby certify that copies of "Report to the Licensing Board Regarding Contentions I-41, I-42 and Onsite Emergency Planning" dated February 14, 1984 in the captioned matter, have been served upon the following by deposit in the United States mail this 14th day of February, 1984:

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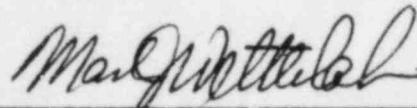
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A handwritten signature in cursive script, appearing to read "Mark J. Wetterhahn", written over a horizontal line.

Mark J. Wetterhahn