

DOCKETED
USNRC

UNITED STATES OF AMERICA '84 MAR 20 A10:58
NUCLEAR REGULATORY COMMISSION

Before the Atomic Safety and Licensing Board

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

APPLICANT'S ANSWER TO LIMERICK ECOLOGY
ACTION'S "SUPPLEMENTAL INFORMATION ON LEA
OFF-SITE EMERGENCY PLANNING CONTENTIONS"

Preliminary Statement

At the prehearing conference held on March 5 - 8 1984, the presiding Atomic Safety and Licensing Board ("Licensing Board" or "Board") identified several contentions as to which intervenor Limerick Ecology Action ("LEA") would be permitted to furnish additional allegations in support of its contentions. The Board required LEA to serve its supplemental allegations upon the Board and interested parties for receipt on March 13, 1984. Parties wishing to respond were directed to serve answers in hand by March 20, 1984 (Tr. 7987).

None of the allegations raised by LEA in its supplemental pleading overcomes the legal objections to the various contentions raised by Applicant and, in some cases, the NRC Staff and the Commonwealth of Pennsylvania, in their respective answers and oral argument. In large measure, LEA's supplemental pleading merely reiterates its position

B403210092 B40319
PDR ADOCK 05000352
G PDR

DS03

or repeats its previously stated contention in haec verba. Accordingly, Applicant continues to oppose the admission of the contentions addressed by LEA in its pleading.

Argument

Each of the particular contentions addressed by LEA is discussed below seriatim.^{1/}

LEA-13 (VIII-33): LEA has expanded its contention regarding day-care centers by listing a number of particular facilities which it believes should be specifically addressed in the various municipal plans. Nonetheless, LEA has provided no legal basis by which the municipal plans must, as a general rule, include evacuation procedures for private day-care centers.

As discussed more fully in Applicant's initial answer to the contentions, the municipal plans simply follow the valid distinction drawn by the Commonwealth between persons in "hospitals, nursing homes, and other public institutions" which require specialized plans, and members of the public at large for whom adequate planning has been made under the generally applicable procedures for notification and protective responses.^{2/} Thus, nothing in the NRC's regulations or

^{1/} For convenience, Applicant discusses the contentions in the order in which they were discussed by LEA in its supplemental pleading.

^{2/} See Applicant's Answer to Offsite Emergency Planning Contentions at 29 (February 13, 1984), which discusses Commonwealth Disaster Operations Plan, Annex E at E-31.

NUREG-0654 requires specialized planning, including evacuation procedures, for private facilities such as day-care centers. If any or all of the children attending such facilities require transportation out of the plume exposure EPZ in the event of an emergency, such transportation will be pre-arranged on the basis of public needs surveys undertaken by the Risk Counties for this very reason, just as this is being done to identify every other segment of the population requiring special assistance.^{3/}

In addition to day-care centers, LEA has expanded this contention to include summer camps for children. Here again, no showing has been made that the generally applicable notification procedures and protective response for the public at large would be inadequate for these facilities. Any special transportation needs will be identified during the public needs survey.

LEA-20 (VIII-41): In its supplemental pleading, LEA states that three townships have not designated a municipal Emergency Operations Center ("EOC"). LEA has failed to indicate, however, that potential EOC sites have been

^{3/} It is noted that both Camp Hill schools for the mentally retarded identified in the initial contention will receive notification from their respective municipal emergency management agencies, as indicated in the implementing procedures previously served upon LEA. Each Camp Hill school has responded to the public needs survey such that transportation and other emergency assistance can be provided.

identified, although not yet formally adopted. It is anticipated that the EOC for these townships will be designated within the next several weeks. Additionally, as stated in Applicant's initial answer to this contention, municipalities have the option of sharing a combined EOC with an adjacent municipality if unforeseen problems with potential sites should occur.^{4/}

LEA-28 (VIII-53): This contention relates to arrangements by which the Pennsylvania National Guard will provide tow wreckers and gasoline along evacuation routes. LEA states that it has discussed its concerns with the Pennsylvania Emergency Management Agency ("PEMA"), which has assured LEA that adequate provisions are in place for mobilization of the Guard in the event of an emergency. In essence, the concerns asserted by LEA relate to mobilization time and provisions for snow removal. Its speculation that the Guard will not be timely mobilized is particularly problematical and no proper basis for any admitted contention.

Neither of these concerns raises any litigable issue. Inasmuch as PEMA will be promptly notified by Applicant upon the declaration of any emergency action level at the

^{4/} Applicant's Answer to Offsite Emergency Planning Contentions at 39 (February 13, 1984).

Limerick Generating Station,^{5/} there will be ample time for activation and mobilization of the Guard by the Governor in the event of an emergency requiring evacuation. As noted in Applicant's initial answer to this contention, adequate provision has been made for roadway clearance and fuel resources for evacuation routes, both within Annex E and the Risk County plans.^{6/} With regard to LEA's concern that Pennsylvania Department of Transportation ("PennDOT") and National Guard resources would be restricted to state roads, the Risk County plans state that these resources would be available on all main evacuation routes, which is one of the primary reasons for recommending designated evacuation routes to the general public.^{7/} Additionally, Annex E states as a responsibility of the Pennsylvania National Guard: "In coordination with the Pennsylvania Department of Transportation, establish emergency fuel distribution points and provide road clearance equipment for use along main evacuation routes."^{8/}

Likewise, PennDOT and Guard resources will be available for snow removal along main evacuation routes. Existing

^{5/} See Limerick Emergency Plan §6.1.

^{6/} Applicant's Answer to Offsite Emergency Planning Contentions at 54 (February 13, 1984).

^{7/} See Risk County RERP's, Annex K, Section III.

^{8/} See Annex E, Section VIII.A.17.h, page E-24 (emphasis added).

municipal snow removal capabilities are to be supplemented by PennDOT resources.^{9/} Apparently, LEA wishes to litigate the possibility of a major snowstorm during which evacuation would be difficult. Obviously, the responsible officials would take such extreme weather conditions into careful consideration in determining whether sheltering, as opposed to evacuation, were the appropriate protective response.

LEA-17 (VIII-37): In this contention, LEA alleges that certain municipal plans contain certain "errors and omissions." At the prehearing conference, the Chairman noted, correctly in Applicant's view, that the items raised in the tables prepared by LEA for this contention "are not very important, either individually or cumulatively" (Tr. 8069), and address a "level of detail which is not appropriate for litigation" (Tr. 8070). The Chairman directed LEA "to go through the kinds of things you are worried about. Look for the truly significant and see if they're duplicated or not in your other contentions" (Tr. 8071-72).

LEA has failed to comply with the Board's order. Although LEA has dropped some of its tables, the matters

^{9/} See Risk County RERP's, Annex K, Section III. In this section, "clearance of obstacles on main evacuation routes" is understood to include snow. This is confirmed by reference to Section VII.A.22.c, Annex E, page 29, which states that PennDOT will "[p]rovide for the clearance of obstacles (i.e., landslides, snow, wrecked or stalled vehicles) to traffic flow on main evacuation routes." (Emphasis added).

raised in the two remaining tables for West Vincent and Schuylkill Townships are still the kind of detail inappropriate for litigation and, to a large extent, simply reflect a lack of understanding of emergency planning concepts as applicable to Limerick. For example, the comment on the Schuylkill Township plan that "[t]he exclusion of schools is ill-advised"^{10/} does not even demonstrate a basic understanding that separate plans for school districts have been prepared.

Applicant therefore regards each of the items raised in the revised tables as seeking to litigate an open-ended contention on the adequacy of each plan's detail, even though the specific comments, some of which are wholly frivolous, do not individually or cumulatively raise any litigable issue. Because many of LEA's comments on the Schuylkill Township plan are inapplicable to the most recent plan draft and contain incorrect page and section references, one can only infer that LEA has not even reviewed it. Nonetheless, to be certain that the record is clear as to the lack of any merit for these comments, Applicant has attached as Appendix A a response to each item discussed by LEA.

^{10/} LEA Supplemental Information on LEA Off-Site Emergency Planning Contentions (March 13, 1984), commenting on page G-1 of the Schuylkill Township RERP.

LEA-3 (VIII-23) and LEA-4 (VIII-24): At the prehearing conference, the Chairman noted the lack of specificity in this proposed contention and gave LEA an opportunity to identify particular support items to be provided by Lehigh and Bucks Counties which would be the basis of litigable issues (Tr. 7674). The Chairman emphasized that the designated items should not include just anything having some connection to emergency planning. Rather, the Chairman stated that LEA must truly have a basis for believing that the absence of a particular item would be a "great deficiency" in planning (Tr. 7677).

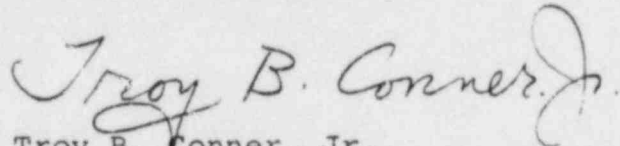
Here again, LEA has entirely failed to raise any litigable issue with respect to the many items it has identified. Instead, LEA has simply attached a copy of portions of the support plans with particular items circled or highlighted. No explanation whatsoever is given for LEA's desire to litigate these matters. In essence, LEA simply states the truism that if the various components of the plan are not implemented, the plan will not work. The contention is therefore wholly lacking in any basis or specificity, as required by 10 C.F.R. §2.714(b), in asserting that various elements of the support plans cannot be implemented. Applicant emphasizes that it has no reason to believe that these support plans will not be formally adopted by Bucks and Lehigh Counties. Accordingly, nothing to litigate in the Bucks and Lehigh Counties support plans has been shown.

Conclusion

For the reasons discussed more fully above and in Applicant's initial answer to LEA's offsite emergency planning contentions, LEA's proposed contentions should be denied. As LEA itself has stated, it has engaged in an ongoing dialogue with responsible officials of PEMA as well as county and municipal governments, all of whom have cooperated with LEA in discussing the details raised by these particular contentions. Based upon LEA's most recent submission, it would appear that this is the appropriate manner in which LEA should address and resolve such concerns.

Respectfully submitted,

CONNER & WETTERHAHN, P.C.



Troy B. Conner, Jr.
Mark J. Wetterhahn
Robert M. Rader

Counsel for the Applicant

March 19, 1984

APPENDIX A

RESPONSE TO LEA-17 REVIEW COMMENTS

I. West Vincent Township

LEA TABLE 9 REFERENCE

Page 9	The Police Chief was assigned duties in the field because of the limited manpower available. The responsibilities of the Police Services Officer in the EOC (for the purposes of the RERP) are limited and do not necessarily require technical expertise in law enforcement. Those tasks which require such expertise are field functions, i.e., area security, and can be accomplished by the EOC officers. The Coordinator can remain in contact with the County and pass on police unmet needs as they arise.
Page 9 (B-1)	There is no requirement that all EOC staff members be "immediately available." Additionally, there will be a back-up person assigned to that function. In any event, choice of personnel is a municipal decision.
Page 9(15)(k)	It is our understanding that Mr. Monteith no longer has the snow removal contract.
EP Map(15)(k)	Crawford's Towing will be removed from the next draft. The responsibility for dispatching towing services will be passed up to the County as they currently perform that function on a day-to-day basis. However, as presently written, a towing service along the main evacuation route is optimal and preferred. Traffic is two-way allowing prompt access to EPZ.
21(3)(G)	The time frame involved with an evacuation (many hours) would be sufficient to allow parents to return home and pick-up their children. Also, if such a situation was standard practice, these individuals should have been reported on the public survey of needs, which includes those without transportation.
15(k)	The criteria for determining protective actions take weather conditions into consideration. If conditions of heavy snow exist, conceivably the protective action would be sheltering, not evacuation. Existing snow removal capabilities will be supplemented with State (PennDot) resources located through each risk county.
P-1	The unmet needs system is designed to accommodate personnel who are unavailable. Also, the Pennsylvania State Police are providing the majority of traffic and access control personnel.

RESPONSE TO LEA-17 REVIEW COMMENTS - 2

West Vincent Township (continued)

Att. F Additional survey forms other than those mailed were made available to each municipality. Those not receiving a form can contact their local government. Additional names may be added to the plan at any time. This information will be updated annually.

F-1,14.e(6) It is understood that additional ambulance services will be necessary. This is being handled at the County level and will be outlined in county plans as that information is completed by the county.

II. Schuylkill Township

LEA TABLE 10
REFERENCE (Many of the intervenor comments are apparently based on previous plan drafts. Draft 4 plans address many of these comments. Page references are incorrect.)

Page i That is stated in Section I.F, Objectives.

Page iii Detailed information for plan maintenance is provided in Section II.J.

Page 1 - Purpose The specifics regarding the hazards of a radiological incident are covered in other documents and are not a necessary part of a response plan.

Page 1 - Scope There is no reason to assume that the criteria established in 0654, 10 CFR 50, and P.L. 1332 are inadequate and incomprehensible.

Page 3 These definitions are established in Annex E and NUREG 0654 and are consistent with State guidance in preparing municipal RERP's.

Page 4 Definition established by the State. Further information is provided in Section II, F.

Page 6 - Objectives Opinion. Township has option to revise/amend as they desire.

Page 6-F.2 "Effective and workable" can be added if the Township so desires.

Page 6-F.4 Functional Implementing Procedures have been provided to the municipality separate from the plan as per state recommendations.

Page 6-F.5 The provision of F.5 will be covered through the public information brochures to be provided to the public throughout the plume EPZ.

Page 7-A Evacuation route maps and information provided clearly indicate that consideration has been given to surrounding municipalities. Multi-jurisdictional information appears in the county plan.

RESPONSE TO LEA-17 REVIEW COMMENTS - 3

Schuylkill Township (continued)

- Page 7-B.2.c Each municipality has been encouraged to develop alternative methods of notifying the public. Use of the telephone can be included where the municipalities feel this is a viable option.
- Page 7-B.2.f Traffic flow was analyzed by PennDot with resulting recommended routes and estimated flows presented in Attachment J of the municipal plans.
- Page 8-B.3.a Ref. Section 7504, P.L. 1332.
- Page 8-Fig. 2-2 There is no Figure 2-2; the appropriate section (Attachment B, Organizational Chart) of the next draft will reflect five supervisors and explain route alerting responsibilities. Further, this chart is to list names of individuals for each function, not list specific emergency services.
- Page 8-B.3.a(4) Section 7504(f) of P.L. 1332 specifies control of outside forces. The control of outside forces is with the jurisdiction supplying the force.
- Page 8-B.3.a(6) Those procedures which are currently in place for dispatching emergency services will be used for RERP implementation. Emergency forces involved know what they are.
- Page 9-B.3.b
(3)(a) That can be added in next draft if the municipality wishes.
- Page 9-B.3.b
(4)(a) This is a description of a job function and those with the expertise to fill the position will understand their responsibilities. No further information is necessary.
- Page 10-B.3.b
(5)(c) The supervisors determine which roadways are to be cleared. No one is prevented from using any road during the initial stages of an evacuation.
- Page 10a-B.3.b
(6) There is no need to show this kind of detail here. It will be covered in Attachment E.
- Page 10a-B.3.b
(7) This section was not intended to cover ambulance services; these services were covered in B.3.b(4).
- Page 10a-B.3.b
(8) There is no indication that the Coordinator is the "telephone operator." The Coordinator is to determine the resources necessary for reliable communications. If this includes an additional person to answer the phones, then it should be identified.

RESPONSE TO LEA-17 REVIEW COMMENTS - 4

Schuylkill Township (continued)

- Page 10b-B.4.c The plan was drafted with input from the Coordinator and supervisors. It is recognized that some positions must be filled.
- Page 11-B.4.3 Back-up personnel will be listed upon determination by the Township.
- Page 11-C.1 EOC telephone numbers will be listed in the Implementing Procedures when available. It is not appropriate to list phone numbers in this section of the plan.
- Page 11-C.3 The ARES operator will be determined by the County at the time of incident from a list on file in their EOC. The operator will have his own equipment.
- Page 12-D.2.b Detailed Route Alerting information will be included in the next draft. Currently awaiting siren information.
- Page 12-D.2.c List has been provided. The municipal EMA is the local emergency management agency, i.e., the EOC staff.
- Page 13-E.2.d Evacuation route information was provided by PennDot. This provides main route details only; it is understood that there are many other roads which may be used.
- Page 14-E.2.e Detailed information will be included in the Evacuation Time Estimate. This information will be referenced in county and municipal plans when available.
- Page 14-E.2.g The evacuation routes will not change, regardless of time of day. Time of day, weather, etc., will be factored into the upcoming Evacuation Time Estimate Study.
- Page 1J-I.2.e The Concept of Operations is designed to show actions only. Details on who is responsible are previously discussed (Ref. II,B,3(b)) and are in Implementing Procedures.
- Page 22-J.2.e At the time of Draft 4, it was anticipated that one fire company would cover the entire township; one additional one may be added to cover the section on the southwest side of Phoenixville.
- Page 22-J.2.f The plan indicates Phoenixville's West End ambulance which may provide support.
- Page E-1 A list of hearing impaired has been provided as a result of the public survey. The number of sectors will be revised upon completion of the siren design study.

RESPONSE TO LEA-17 REVIEW COMMENTS - 5

Schuylkill Township (continued)

Page F-1 Residents have been identified through the public survey and this information has been made available to municipal emergency personnel. Since it is confidential information it will be blacked out of circulating plans.

Page G-1 Same as above.

Page G-1 The planning for schools is the responsibility of the respective school districts which have their own plans. This is state policy. There is no direct municipal responsibility.

Page I-1 Names, addresses, and telephone numbers will be provided in the agency/EOC copies, but will be blacked out of circulating copies for security reasons.

Implementing
Procedures*

Item 16 The local elected officials make the decision to evacuate the EOC based upon information received through the County.

Page P-1 Location of fire police information is provided on page B-1-1 of Draft 4.

Page 14 TCP and ACP functions were provided in the definition section of the plan.

Page 15 There is no "Public Works Inventory" in Draft 4 IP's.

Page 16 Specific information regarding fire companies will be provided upon completion of the siren data.

* LEA section and page references both in the supplement and original contentions filing were unable to be identified or matched to draft 4 IP's information. We have surmised from the questions what was intended and provided a response on that basis.

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

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

CERTIFICATE OF SERVICE

I hereby certify that copies of "Applicant's Answer to Limerick Ecology Action's 'Supplemental Information on LEA Off-Site Emergency Planning Contentions,'" dated March 19, 1984 in the captioned matter have been served upon the following by deposit in the United States mail this 19th day of March, 1984:

- | | |
|------------------------------|-------------------------------|
| * Lawrence Brenner, Esq. (2) | Atomic Safety and Licensing |
| Atomic Safety and Licensing | Appeal Panel |
| Board | U.S. Nuclear Regulatory |
| U.S. Nuclear Regulatory | Commission |
| Commission | Washington, D.C. 20555 |
| Washington, D.C. 20555 | |
| | Docketing and Service Section |
| * Dr. Richard F. Cole | Office of the Secretary |
| Atomic Safety and | U.S. Nuclear Regulatory |
| Licensing Board | Commission |
| U.S. Nuclear Regulatory | Washington, D.C. 20555 |
| Commission | |
| Washington, D.C. 20555 | * Ann P. Hodgdon, Esq. |
| | Counsel for NRC Staff Office |
| * Dr. Peter A. Morris | of the Executive |
| Atomic Safety and | Legal Director |
| Licensing Board | U.S. Nuclear Regulatory |
| U.S. Nuclear Regulatory | Commission |
| Commission | Washington, D.C. 20555 |
| Washington, D.C. 20555 | |

* Hand Delivery on March 20, 1984

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

Philadelphia Electric Company
ATTN: Edward G. Bauer, Jr.
Vice President &
General Counsel
2301 Market Street
Philadelphia, PA 19101

Mr. Frank R. Romano
61 Forest Avenue
Ambler, Pennsylvania 19002

Mr. Robert L. Anthony
Friends of the Earth of
the Delaware Valley
106 Vernon Lane, Box 186
Moylan, Pennsylvania 19065

Mr. Marvin I. Lewis
6504 Bradford Terrace
Philadelphia, PA 19149

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

Charles W. Elliott, Esq.
Brose and Postwistilo
1101 Building 11th &
Northampton Streets
Easton, PA 18042

** Zori G. Ferkin, Esq.
Assistant Counsel
Commonwealth of Pennsylvania
Governor's Energy Council
1625 N. Front Street
Harrisburg, PA 17102

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

Angus Love, Esq.
107 East Main Street
Norristown, PA 19401

Mr. Joseph H. White, III
15 Ardmore Avenue
Ardmore, PA 19003

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

Director, Pennsylvania
Emergency Management Agency
Basement, Transportation
and Safety Building
Harrisburg, PA 17120

Martha W. Bush, Esq.
Kathryn S. Lewis, Esq.
City of Philadelphia
Municipal Services Bldg.
15th and JFK Blvd.
Philadelphia, PA 19107

Spence W. Perry, Esq.
Associate General Counsel
Federal Emergency
Management Agency
500 C Street, S.W., Rm. 840
Washington, DC 20472

Thomas Gerusky, Director
Bureau of Radiation
Protection
Department of Environmental
Resources
5th Floor, Fulton Bank Bldg.
Third and Locust Streets
Harrisburg, PA 17120

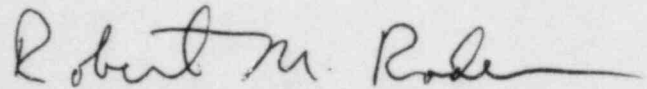
* Hand Delivery on March 20, 1984

** Federal Express

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

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

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

A handwritten signature in dark ink, reading "Robert M. Rader". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Robert M. Rader