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'84 MAY 29 P12:17

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

OFFICE OF SECRETARY
DOCKETING & SERVICE
STATION

Before the Atomic Safety and Licensing Board

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

LEA REPLY TO "APPLICANT'S MOTION FOR AN
EXPEDITED PARTIAL INITIAL DECISION
AND ISSUANCE OF A LOW-POWER LICENSE
FOR FUEL LOADING AND LOW POWER TESTING"

SUMMARY

LEA opposes Applicant's Motion, as (1) The relief requested for an expedited partial initial decision is unauthorized by 10 C.F.R. §50.57(c), and (2) The relief sought is premature and no basis exists for the findings necessary to support such relief.

ARGUMENT

10 C.F.R. §50.57(c) provides in full that:

(c) An applicant may, in a case where a hearing is held in connection with a pending proceeding under this section make a motion in writing, pur-

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suant to this paragraph (c), for an operating license authorizing low-power testing (operation at not more than 1 percent of full power for the purpose of testing the facility), and further operations short of full power operation. Action on such a motion by the presiding officer shall be taken with due regard to the rights of the parties to the proceedings, including the right of any party to be heard to the extent that his contentions are relevant to the activity to be authorized. Prior to taking any action on such a motion which any party opposes, the presiding officer shall make findings on the matters specified in paragraph (a) of this section as to which there is a controversy, in the form of an initial decision with respect to the contested activity sought to be authorized. The Director of Nuclear Reactor Regulation will make findings on all other matters specified in paragraph (a) of this section. If no party opposes the motion, the presiding officer will issue an order pursuant to §2.730(e) of this chapter, authorizing the Director of Nuclear Reactor Regulation to make appropriate findings on the matters specified in paragraph (a) of this section and to issue a license for the requested operation.

Thus, for such relief to be granted, the Board must find, inter alia, that:

(a) Pursuant to §50.56, an operating license may be issued by the Commission, up to the full term authorized by §50.51, upon finding that:

(1) Construction of the facility has been substantially completed, in conformity

with the construction permit and the application as amended, the provisions of the Act, and the rules and regulations of the Commission; and

(2) The facility will operate in conformity with the application as amended, the provisions of the Act, and the rules and regulations of the Commission; and

(3) There is reasonable assurance (i) that the activities authorized by the operating license can be conducted without endangering the health and safety of the public, and (ii) that such activities will be conducted in compliance with the regulations in this chapter; and

(5) The applicable provisions of Part 140 of this chapter have been satisfied; and

(6) The issuance of the license will not be inimical to the common defense and security or to the health and safety of the public.

At this date, these findings cannot be made because of the issues yet outstanding in this proceeding, and because licensing documents docketed in this proceeding demonstrate that Applicant is not prepared for fuel load, nor is likely to be, by the date stated in Applicant's Motion (i.e., September 15, 1984).

Indeed, no matters other than the adjudicated contentions of intervenor Del-Aware, Inc. (an adjudication presently on appeal) have been finally resolved in this proceeding.

The numerous areas in which Applicant has not demonstrated preparedness for fuel loading is well-documented in Region I's reports of inspections of the facility.

For example, the letter of Region I dated May 4, 1984, transmitting Inspection Report No. 50-352/84-05 states:

The inspections of the Radiation Protection Program found that the majority of the program, needed to support fuel load and power operation, had not been established.

Region I has also found that no acceptance criteria, either qualitative or quantitative, existed for safety related system walkdowns by System Startup Engineers (SSEs). (See Region I Inspection Report No. 50-352 84-33, p. 4). If no acceptance criteria existed, upon what basis have safety related systems been turned over?

The report further states that SSEs will be "retrained and requalified", and that upon completion of that program, "efforts will be made to identify and correct the impact of possible prior inadequate SSE walkdowns on system safety." (Report, p.4)

Plainly, the findings required by 10 C.F.R. §50.57(a) must await the disposition of this matter.

The record does not show that the Staff has completed its assessment of Applicant's readiness to move fuel to the refueling floor. See Region I Inspection Report No. 50-352/84-11, p.2.

Issues relating to possible inadequacy of Limerick's loop A and B core spray, based upon Applicant's Core Spray Pattern Testing, have not been resolved, See Region I Inspection Report No. 50-352/84-07, pp. 6-7.

Indeed, a review of the Region I Inspection Reports show numerous open items that require disposition; the above items are among the more significant, but are scarcely inclusive.

The Board is well aware of the areas which still await disposition by the Board. Those areas are, inter alia,

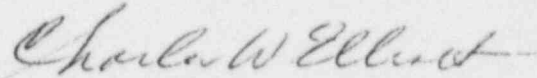
- (1) environmental qualification of electrical equipment;
- (2) on-site emergency planning;
- (3) the environmental impact of severe accidents.

The parties are still awaiting the Staff's "Risk Evaluation Report", which is a portion of the material to be relied upon by the Staff in determining whether there exist non-compliances with Commission regulations and design criteria.

The NRC Staff has estimated that Applicant cannot be ready for fuel load prior to April, 1985, and in January, had estimated that construction would be completed in June of 1985. See Board Notification 84-095 (Commission Briefing on Licensing Management), Transcript of April 24, 1984 Public Meeting, p. 38.

Thus, while Applicant would require that the Board "expedite" its partial initial decision, all indications are that Applicant itself will not be ready for a fuel load/low power license by September 15, 1984, despite its protestations to the contrary.

WHEREFORE, LEA requests that the Board deny Applicant's Motion until such time as it is possible to make the findings required by 10 C.F.R. §50.57.^{1/}



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Dated: May 21, 1984

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This document was prepared in the midst of LEA's counsel's preparation for hearings on its severe accident risk assessment contentions. Applicant's Motion was received by LEA on the same day as Staff and Applicant testimony on those contentions. LEA respectfully requests leave of the Board to supplement this filing, if LEA deems it necessary, with in 5 business days of the close of the hearings on LEA's severe accident risk assessment contentions.

SUMMARY OF OUTSTANDING ISSUES

1. Environmental Qualification of Electrical Equipment

There is a failure to comply with 10 C.F.R. §50.49. No application for justification for interim operation has been made, in that Applicant "expects" to complete qualification by fuel load (April 10, 1984). But no showing has been made that Applicant has provided all necessary equipment qualification review records to the NRC. On April 10, 1984, Applicant committed to supplying them in June, 1984. The NRC Staff witness Armando Masciantonio testified that the Staff's review is not complete, and has not issued an approval of the qualification program. He stated that Staff will issue a safety evaluation of the EQ program in "the next few months".

2. On-site Emergency Planning

Emergency classification initiation instrumentation still requires NRC Staff review, particularly regarding compliance with Regulatory Guide 1.97.

Applicant's dose assessment projections rely upon meteorological data found by the Staff to be questionable.

The NRC Staff's on-site emergency preparedness implementation appraisal is not scheduled until June 8, 1984; the report

of the appraisal is not expected until July 20, 1984 (Hearing Transcript, p. 10, 273).

Other matters raised in LEA's on-site emergency planning contentions remain unresolved.

3. Environmental Impact of Severe Accidents

This entire area remains unresolved. LEA believes that the Staff's FES is significantly flawed, and requires recirculation for NEPA purposes.

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CERTIFICATE OF SERVICE

I hereby certify that copies of "LEA Reply to Applicant's Motion for an Expedited Partial Initial Decision and Issuance of a Low-power License for Fuel Loading and Low Power Testing," in the captioned matter have been served upon the following by deposit in the United States mail this 25th day of May, 1984:

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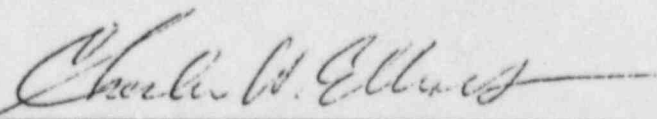
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