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UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

DOCKETED  
USNRC

ATOMIC SAFETY AND LICENSING APPEAL BOARD

84 OCT -9 A11:48

In the Matter of  
Philadelphia Electric Company  
(Limerick Generating Station,  
Units I and II)

Docket No. 50-352-OL  
50-353-OL

PETITION FOR RECONSIDERATION

Del-AWARE Unlimited, by its counsel, hereby petitions for reconsideration of certain aspects of ALAB 785.

These are directed at certain legal conclusions of the Board, especially those related to discharges into the East Branch Perkiomen Creek, and alternatives.

EAST BRANCH PERKIOMEN

As submitted to the Licensing Board, in October, 1981, Del-AWARE formulated its contention NoV-16 to the Licensing Board as follows:

The discharge of the water into the Perkiomen, and into the Schuylkill will cause toxic pollution and thus substantially and adversely affect fishing and drinking water supplies. The discharge into the Perkiomen will also cause destabilization, flooding and otherwise adversely affect the Perkiomen.

In addition, Del-AWARE stated the basis of its contention as follows:

Basis: EPA water quality surveys show the Delaware River to be extremely toxic. There is no such showing as to Perkiomen or Schuylkill water. Applicant and DRBC have wholly failed to review this. EPA has made no determination, and DER's water quality determination in connection with the NWRA intake does not address Applicant's discharges and is under appeal in the

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Pennsylvania Environmental Hearing Board.

In its June 1, 1982 Order, the Board found the contention and basis inadequate. (Slip Opinion, pp 98-99)

Long afterward, in the Spring of 1984, Del-AWARE obtained a copy of a PECO 1972 memo indicating that the Company had clearly opted to cause erosion in the East Branch in order to obviate the biological concerns which NRC scientists had expressed with regard to channelization, (the intent up until then).

A copy of this memorandum was furnished to the Licensing Board and to this Board. (Motion of July 5, 1984, refiled August 6, 1984)

In its appeal to this Board, Del-AWARE assigned as error a refusal of the Licensing Board to admit the contention.

The opinion of this Board at ALAB 785 was ambiguous as to whether it referred to this issue. At one point, page 26, it refers to the Contention V16 as related to impact on "receiving streams". This refers to the East Branch Perkiomen; in the context of the contention as formulated by Del-AWARE, there is no other interpretation. In addition, the ALAB 785 authorizes Del-AWARE to reformulate its contentions originally advanced as V16; it does not distinguish between the Del-AWARE formulation and subsequent revisions.

Nevertheless, Del-AWARE is concerned that, because of the reference to "salinity" repeatedly in ALAB 785, which is not a problem in the East Branch Perkiomen, the parties and Licensing Board may construe the Board's remand as limited to salinity in

the Delaware River, and not to include the "receiving streams" as originally proposed by Del-AWARE in contention V-16.

In addition to this uncertainty, ALAB 785 does not reflect any disposition of the motion regarding the East Branch Perkiomen, and indeed does not mention the East Branch Perkiomen by name as a water quality contention. Del-AWARE therefore respectfully requests that the Appeal Board clarify and reconsider its decision so as to make it clear that Contention V-16 should have been admitted, and to allow hearings thereon, or to permit a reformulated contention.

#### ALTERNATIVES

The Appeal Board, in ALAB 785, has fallen victim to a misuse of statistics, and has therefore found that there is no factual basis for the consideration of alternatives by the Licensing Board. (ALAB 785, at 58-60) The fallacy relates to the assertion by applicant and others supporting the project that with one unit rather than two, Limerick would still require water sources other than the Schuylkill (under existing restrictions) almost as many days of each year as with two units. So far, the statement is true.

The fallacy is the assertion that that fact has anything to do with the feasibility of Schuylkill River alternatives. The feasibility of Schuylkill River alternatives, in fact, is not determined by the relative number of days that water is required; it is controlled principally by the amount of water required in a year. One unit at Limerick would use approximately 20 mgd; two units would use approximately 40 mgd; therefore, with one unit at Limerick, half as much supplemental cooling water is needed as

with two units. Since reservoirs, including but not limited to Blue Marsh Reservoir, are available, the number of days of demand and the demand each day are of little importance.

If this fallacy is corrected, it becomes clear that, contrary to the conclusions of the Licensing Board and to this Board's ALAB 785, the difference between two units and one unit, in terms of need for supplemental cooling water, represents a dramatic (50%) differential.

It was based on this fact that appellant Del-AWARE sought to show the Licensing Board that Blue Marsh Reservoir, together with other Schuylkill River Sources, would clearly provide an adequate alternative for one unit at Limerick, but not clearly for two units. This alternative had not been considered in the FES at either the construction or licensing stage. The reason was that the Commonwealth of Pennsylvania and DRBC had informally indicated to PECO in 1969 and 1970 that they would not allocate all of water supply storage in the reservoir to one large industrial user. (See E§ DRBC E15 p.4, (1973) Of course, in so stating, they were assuming two units at Limerick. (Similarly, Mr. Hansler's testimony purported to present only his views, and is not conclusive), nor does he comment on the likelihood of changes in the current restrictions.

By definition, it follows, that with one unit at Limerick, only half of the water supply storage would be involved. Moreover, as Del-AWARE showed in its previous submissions, the water supply storage at Blue Marsh has been significantly modified, such that there is now 25% more storage.

Thus, the dramatic differential in water requirements



in one unit versus two units makes it possible, both physically and within policies of water resource agencies, to consider the Blue Marsh as a full or partial alternative for one unit at Limerick.

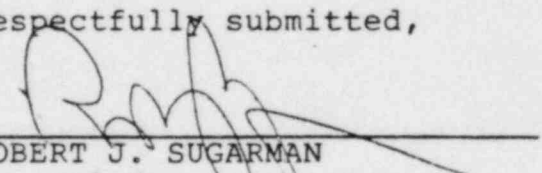
In these circumstances, the Licensing Board should have admitted a contention based on the increasing probability that only one unit at Limerick will be constructed. At least, pursuant to NEPA, the probability of Limerick being only one unit is sufficient to require identification and consideration of such an alternative.

These facts, combined with the support of Fish and Wildlife Service for the use of Blue Marsh, thus demonstrating the feasibility of its use in relation to the effect on other interests, requires its consideration.

#### CONCLUSION

Based on the foregoing, intervenor Del-AWARE Unlimited respectfully requests that this Board reconsider ALAB 785 in the respects indicated, and issue a modified opinion accordingly.

Respectfully submitted,



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UNITED STATES OF AMERICA NUCLEAR REGULATORY COMMISSION  
ATOMIC SAFETY AND LICENSING APPEAL BOARD <sup>DOCKETED</sup>  
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In the Matter of :  
Philadelphia Electric Company : Docket No. 50-352-01  
50-393-01 A11:48  
(Limerick Generating Station, :  
Units I and II) : OFFICE OF SECRETARY  
DOCKETING & SERVICE  
BRANCH

CERTIFICATE OF SERVICE

I hereby certify that I have served a copy of the foregoing Petition for Reconsideration by mailing a copy of the same to the following persons this 5th day of October, 1984.

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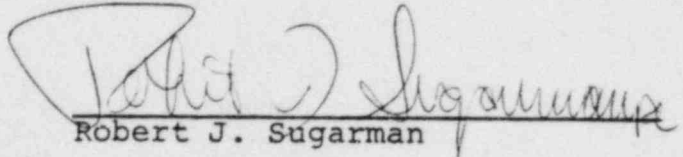
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