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LAW OFFICES

RELATED CORRESPONDENCE

CONNER & WETTERHAHN, P.C.

1747 PENNSYLVANIA AVENUE, N.W.  
WASHINGTON, D.C. 20006

TROY B. CONNER, JR.  
MARK J. WETTERHAHN  
ROBERT M. RADER  
INGRID M. OLSON  
ARCH A. MOORE, JR.  
ROBERT H. PURL  
OF COUNSEL  
\*NOT ADMITTED IN D.C.

August 2, 1984

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(202) 833-3500  
P2:00  
CABLE ADDRESS: ATOMLAW

OFFICE OF LEGAL COUNSEL  
DOCKETING & SERVICE  
BRANCH

Mr. Samuel J. Chilk  
Secretary  
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 6C

Dear Mr. Chilk:

This letter is on behalf of Applicant Philadelphia Electric Company in response to the letter to Chairman Palladino from Robert J. Sugarman, Esq., dated July 13, 1984. Mr. Sugarman stated that his letter supplements "our letter of May 23, 1984." Initially, we did not know whether Mr. Sugarman was referring to his letter to Miss Hodgdon of the Office of Executive Legal Director or to Mr. Denton, Office of Nuclear Reactor Regulation, both dated May 23, 1984. Later, when furnished a copy by the Staff, we realized that Mr. Sugarman was referring to a letter to the Commissioners. We had not received a copy from Mr. Sugarman.

In the same regard, Mr. Sugarman states at the outset that he is enclosing "correspondence directed to the Licensing Board and the Appeal Board," which was not attached to the copy of the letter mailed to us. Therefore, we have no idea what particular correspondence Mr. Sugarman has now furnished the Commission (or the Boards), or whether the Applicant has ever received it. It is difficult to understand why Mr. Sugarman persists in failing to serve the parties and their counsel with documents furnished to the Commission in view of the admonition by the Deputy General Counsel by letter dated July 5, 1984 to do so. The Deputy

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General Counsel reminded Mr. Sugarman at that time that the NRC Docketing and Service Branch had already advised him that the failure to serve all parties with such materials constitutes a prohibited ex parte communication.

Mr. Sugarman states that the NRC Staff "has had a secret contact with PECO" regarding supplemental cooling water for Limerick. It is claimed that this informal "contact" is "contrary to practice and regulations." As you are aware, the Commission's rules against ex parte communications under 10 C.F.R. §2.780 do not apply to contacts between the NRC Staff and an applicant. The Commission's boards have consistently ruled that the NRC Staff may confer off the record with any party to a proceeding. See, e.g., Public Service Company of Indiana, Inc. (Marble Hill Nuclear Generating Station, Units 1 and 2), ALAB-493, 8 NRC 253, 269 (1978); Northeast Nuclear Energy Company (Montague Nuclear Power Station, Units 1 and 2), LBP-75-19, 1 NRC 436, 437 (1975). Indeed, Section 2.102(a) of the Commission's Rules of Practice expressly states: "The staff may request any one party to the proceeding to confer with the staff informally."

Finally, Mr. Sugarman refers to a decision rendered by the Pennsylvania Environmental Hearing Board on June 18, 1984 regarding compliance with the Clean Water Act in the diversion of water from the Delaware River to the East Branch Perkiomen Creek. This is also the subject of a letter from Mr. Sugarman to Mr. Denton dated July 13 concerning his previous letter dated May 23, 1984. Mr. Denton responded to the May 23, 1984 letter, rejecting Mr. Sugarman's position. Mr. Sugarman's July 13, 1984 letter requests that both his recent and previous letters now be treated nunc pro tunc as a "proper application under Section 2.206." In our view, which we shall communicate to the Staff, this attempted procedure is not authorized by Part 2. A contrary interpretation would permit anyone making an allegation to the Staff to invoke the formidable processes of §2.206 in any instance in which the Staff found his allegations to be unwarranted.

Nonetheless, in view of Mr. Sugarman's pending petition for relief before the Director, we shall respond to the Director accordingly.

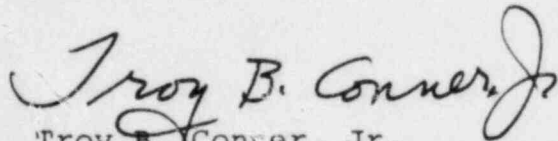
In any event, Applicant notes that Mr. Sugarman's stated "understanding" regarding the need to treat diverted water in order to comply with water quality standards is unsupported by any finding or ruling by any cognizable

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agency, including the Environmental Hearing Board. Rather, this conclusion is evidently based upon the opinion of certain engineers employed by Bucks County, which is presently in litigation against Applicant with regard to completion of the Point Pleasant project.

Accordingly, the matters raised by Mr. Sugarman are without merit and will, in any event, be addressed more formally by the Director in his decision pursuant to Section 2.206.

Sincerely,

A handwritten signature in cursive script that reads "Troy B. Conner, Jr." The signature is written in dark ink and is positioned above the typed name and title.

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

TBC/dlf  
cc: Service List