

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

Helen F. Hoyt, Chairman
Richard F. Cole, Administrative Law Judge
Dr. Jerry Harbour, Administrative Law Judge

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In the Matter of: :

PHILADELPHIA ELECTRIC COMPANY:	Docket Nos.	50-352
(Limerick Generating Station		50-353
Units 1 and 2)	:	

CITY OF PHILADELPHIA'S
MOTION TO STRIKE

The City of Philadelphia hereby moves to strike certain portions of Philadelphia Electric Company's ("PECO" or "Utility Company") Testimony of V. S. Boyer, M. I. Goldman, G. D. Kaiser, E. R. Schmidt and R. Waller Relating To The City of Philadelphia Contentions City-18 and City-19, and states in support thereof as follows:

1. The precise portions of the Testimony of V. S. Boyer, M. I. Goldman, G. D. Kaiser, E. R. Schmidt and R. Waller Relating To The City of Philadelphia Contentions City-18- and City-19 (hereinafter referred to as Testimony of V. S. Boyer, et al.) are as follows:

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- a. Paragraph 8, p. 7, lines 1-6.
- b. Paragraph 12, p. 11, lines 18-26.
- c. Paragraph 12, p. 12, lines 1-12.
- d. Paragraph 13, p. 12.
- e. Paragraph 15, pp 13-15.
- f. Paragraph 16, p. 15.
- g. Paragraph 17, p. 16, lines 5 to end of paragraph.
- h. Paragraph 25, p. 25, lines 10-16.
- i. Paragraph 37, p. 37, lines 4-10.

2. In Testimony of V. S. Boyer, et al., paragraph 8, p. 7, lines 1-6, Mssrs. Kaiser and Schmidt states as follows:

In its previous written testimony (Ref 3) and in oral testimony, the Applicant, the Philadelphia Electric Company (PECO), demonstrated that the public risks arising from the consumption of drinking water... are very small.

The City of Philadelphia moves to strike this characterization of the previous testimony and hearings because such a conclusion is irrelevant and immaterial to emergency planning.

Emergency planning in the 50 miles ingestion pathway zone and in the 10 mile plume exposure pathway is not a function of, or relevant to, the plant owner's view of the level of risk to the public. Emergency planning is required for these

areas. In fact, implicit in the absolute requirement for emergency planning in the two zones is the contrary view by the regulators: the risk is of a sufficient degree to require emergency planning.

3. In the Testimony of V. S. Boyer, et al., at paragraph 12, p. 11 (lines 18-26) and p. 12 (lines 1-12), PECO further expounds on its view of the level of "risk" (probabilities times consequences) associated with an accident. In paragraph 13, p. 12, the plant owner describes its view of the expected latent cancer fatalities. Again, whether the calculated level of risk associated with the plant's siting is sufficient to warrant implementable emergency plans is not relevant. The requirement for emergency planning has been established by the Nuclear Regulatory Commission. No matter how many or few latent cancer fatalities PECO might calculate, the NRC rules requiring emergency planning for the ten mile and 50 mile zones still stand.

4. In paragraph 15 of Testimony of V. S. Boyer, et al., at 13-15, the utility company attempts to relitigate the Board's finding of environmental impact. While it may be useful to have some sense of the calculated probabilities associated with various potential accident consequences in approaching emergency planning, neither litigants nor the

Board here can be expected to respond to a constantly moving target. The Board has previously made findings of environmental impact. (Second Partial Initial Decision, August 29, 1984.) Relitigation of the probability and consequence results is untimely and not the subject of the instant proceeding: those issues have already been reviewed.

As to emergency planning related issues in that proceeding, the Board made it explicitly clear that any of its findings in the environmental impact area that were in the nature of emergency plans, were not intended to be conclusive:

We do not conclude that specific countermeasures would or could be implemented, nor what quantitative reductions in risk could be achieved.

(Second Partial Initial Decision, F-144 at 262, August 29, 1984.)

5. In paragraph 16, p. 15, Testimony of V. S. Boyer, et al., the utility sets forth post environmental impact hearing probabilities in a conclusory paragraph. Relitigation of the Board's Partial Initial Decision as to expected probabilities is not within the scope of the instant hearings.

6. In paragraph 17, p. 16, (lines 5-end of paragraph), the utility company again attempts to bring forth an environmental impact level that is inconsistent with the

Board's decision as to environmental impact. Similar references are found at p. 25, paragraph 25 (lines 10-16) and p. 37, paragraph 37 (lines 4-10).

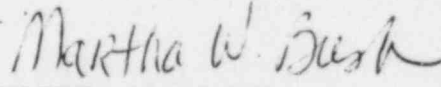
It is entirely inappropriate for the utility to relitigate environmental impact measurements that were the subject of prior hearings and decisions. Nor is the question of whether the public health and safety requires emergency planning the subject of litigation.

For all of the foregoing reasons, the City of Philadelphia moves to strike those portions of PECO's testimony enumerated in paragraph 1 for the reasons stated above.

Respectfully submitted,

BARBARA W. MATHER,
City Solicitor

KATHRYN S. LEWIS,
Chief Deputy City Solicitor


MARTHA W. BUSH,
Deputy City Solicitor

ATTORNEYS FOR THE CITY OF PHILADELPHIA

DATED November 14, 1984

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

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PHILADELPHIA ELECTRIC COMPANY : Docket Nos. 50-352
(Limerick Generating Station : 50-353
Units 1 and 2) :

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the City of Philadelphia's Motion to Strike in the above-captioned proceeding have been served on the following persons named on the attached Service list by federal express mail, or by causing the same to be deposited in envelopes addressed to said persons, first class, postage prepaid, and deposited with the United States Postal Service at Philadelphia, Pennsylvania 19107.

Respectfully submitted,

Martha W. Bush
MARTHA W. BUSH,
Deputy City Solicitor

DATED: NOV. 14, 1984

SERVICE LIST

NRC

Philadelphia Electric Company
(Limerick Generating Station
(Units 1 and 3)

Docket No. 50-352
50-353

Paul B. Cotter, Jr.
Chief Administrative Law Judge
Atomic Safety & Licensing Board
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

Jerry Harbour, Dr.
Administrative Law Judge
Atomic Safety & Licensing Board
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

Helen F. Hoyt, Chairman
Administrative Law Judge
Atomic Safety & Licensing Board
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

Honorable Richard F. Cole
Administrative Law Judge
Atomic Safety & Licensing Board
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

Docketing & Service Section
Office of the Secretary
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

Benjamin H. Vogler, Esquire (FE)
O.E.L.D.
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

Mark Wetterhahn, Esquire (FE)
Troy B. Conner, Jr., Esquire
Conner & Wetterhahn
1747 Pennsylvania Avenue, N.W.
Washington, D.C. 20006

Robert L. Anthony
103 Vernon Lane
Moyland, Pennsylvania 19065

Maureen Mulligan, Esquire
Limerick Ecology Action
Post Office Box 761
Pottstown, Penna. 19464

Zori G. Ferkin (FE)
Assistant Counsel
Governor's Energy Council
1625 N. Front Street
P.O. Box 8010
Harrisburg, Pennsylvania 17125

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

Mr. Gregory Minor
MHB Technical Associates
1723 Hamilton Avenue
San Jose, California 95125

Eugene J. Bradley
Philadelphia Electric Company
Associate General Counsel
2301 Market Street
Philadelphia, Penna. 19101

Edward G. Bauer, Jr.
Vice-President & General Counsel
Philadelphia Electric Company
2301 Market Street
Philadelphia, Penna. 19101

Mr. Vincent Boyer
Senior Vice President
Nuclear Operations
Philadelphia Electric Company
2301 Market Street
Philadelphia, Pa. 19101

Mr. J. T. Robb, N2-1
Philadelphia Electric Company
2301 Market Street
Philadelphia, Pa. 19101

Honorable Lawrence Coughlin
House of Representatives
Congress of the United States
Washington, D.C. 20515

Frank Hippert, Director
Pennsylvania Emergency
Management Agency B-151
Transportation & Safety Building
Harrisburg, Pennsylvania 17120

Roger B. Reynold, Jr., Esquire
324 Swede Street
Norristown, Pennsylvania 19401

Phyllis Zitzer
Limerick Ecology Action
P.O. Box 761
Pottstown, Pa. 19464
For FE: 762 Queen St.
Pottstown, Pa. 19464

Timothy R. S. Campbell
Department of Emergency Services
14 East Biddle Street
Wester Chester, Penna. 19380

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

Frederic M. Wentz
County Solicitor
County of Montgomery
Courthouse
Norristown, Penna. 19404

Angus Love, Esquire
101 East Main Street
Norristown, Penna. 19401

Mr. Joseph H. White, III
8 North Warner Avenue
Bryn Mawr, Penna. 19010

Robert L. Sugarman, Esquire
Sugarman, Denworth & Hellegers
16th Floor, Center Plaza
101 North Broad Street
Philadelphia, Penna. 19107

Charles W. Elliott, Esquire
1101 Building
Easton, Penna. 18042

Spence W. Perry, Esquire
Associate General Counsel
Federal Emergency Management Agency
Room 840
500 C. Street, N.W.
Washington, D.C. 20472

U.S.N.R.C. Region I
631 Park Avenue
King of Prussia, Penna. 19406

Thomas Gerusky, Director
Bureau of Radiation Protection
Department of Environmental
Resources
5th Floor, Fulton Bank Building
Third & Locust Streets
Harrisburg, Penna. 17120

Atomic Safety & Licensing
Appeal Panel
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555