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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

Dear Mr. Chilk:

This letter is in response to yet another document submitted to the Commission by Mr. Robert L. Anthony, entitled "Appeal by R.L. Anthony/FOE From Refusal of NRC Director of Reactor Regulation to Act on Our Petition of 12/23/84 to Serve a Show Cause Order, and Our Request for Reconsideration, 2/25/85; and for an Order from the Commission." Essentially, Mr. Anthony restates certain allegations which are currently pending disposition before the Director, Office of Nuclear Reactor Regulation, on Mr. Anthony's petition pursuant to 10 C.F.R. §2.206.

The NRC has acknowledged receipt of Mr. Anthony's petition, which he filed on December 23, 1984. See 50 Fed. Reg. 7152 (February 20, 1985). By letter dated February 13, 1985, the Director found that "[n]one of [the matters cited by Mr. Anthony in his request] requires immediate action sought by the petition regarding continued operation of the facility."

By letter dated February 25, 1985, Mr. Anthony supplemented his request for relief under Section 2.206. The NRC acknowledged receipt of this correspondence by letter dated March 26, 1985, in which the Director stated that "[f]or the same reasons stated in my letter of February 13, 1985 to you, however, I decline to take any immediate action on the basis of the information contained in your letter." The Applicant, Philadelphia Electric Company, has responded in full to Mr. Anthony's allegations in comments filed on February 6, 1985 and April 12, 1985. These comments, in

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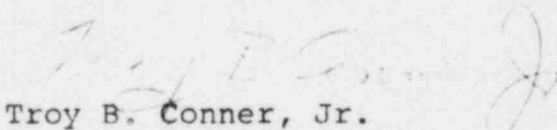
addition to the statements and findings of the Director, amply demonstrate that no relief under Section 2.206, including any immediately effective order, has been justified by Mr. Anthony.

By letter dated April 5, 1985, Mr. Anthony "appealed" the "refusal" of the Director to grant immediate relief under Section 2.206. This purported appeal is invalid. The Commission's regulations under 10 C.F.R. §2.206(c)(2) expressly state: "No petition or other request for Commission review of a Director's decision under this section will be entertained by the Commission."

Once the Director has fully acted upon Mr. Anthony's request, Commission review will be available. Under Section 2.206(c)(1), the Commission "may on its own motion review [a Director's] decision, in whole or in part, to determine if the Director has abused his discretion." The Commission has stated that it "reviews each of these decisions sua sponte to insure that the staff's decision is not an abuse of discretion." Washington Public Power Supply System (WPPSS Nuclear Project Nos. 1 & 2), CLI-82-29, 16 NRC 1221, 1229 (1982).

Accordingly, there is no basis in the regulations for the purported "appeal" by Mr. Anthony, nor is there any necessity for the Commission to review this matter at this time inasmuch as it will undertake a sua sponte review of the Director's decision when issued. In the WPPSS proceeding, the Commission stated its confidence in the Staff's performance of its functions under Section 2.206, noting: "Past practice clearly indicates that . . . the agency has 'faithfully discharged' its responsibility to give full consideration to petitions seeking relief under section 2.206." WPPSS, supra, CLI-82-29, 16 NRC at 1229. Mr. Anthony's "appeal" should therefore be dismissed.

Sincerely,

  
Troy B. Conner, Jr.  
Counsel for the Applicant

TBC/dlf  
cc: Service List