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Mr. Samuel J. Chilk
Secretary
U.S. Nuclear Regulatory
Commission
Washington, D.C. 20555

OFFICE OF SECRETARY
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BRANCH

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

Dear Mr. Chilk:

Philadelphia Electric Company, holder of a 5% operating license for the Limerick Generating Station, Unit 1, hereby requests that the Commission take immediate action under its procedures as described below in order to avoid unnecessary delay in the full power licensing of Unit 1. As the Commission is aware, all low-power testing has been completed for Unit 1. In the event the Company can complete the ascent to power program in the next six months, the plant will be available for commercial operations by the winter of 1985-86.

In its Third Partial Initial Decision On Offsite Emergency Planning, dated May 2, 1985, the Atomic Safety and Licensing Board decided all remaining issues, except for contentions relating to the State Correctional Institution at Graterford, necessary for issuance of a full-power license. Possible litigation of the Graterford issues was postponed for reasons beyond the Company's control, i.e., the development of a Graterford emergency plan and the reversal by the Appeal Board in ALAB-806 of the Licensing Board's denial of any legitimate contentions by the Graterford Prisoners.

By a subsequent Order, dated May 9, 1985, the Licensing Board granted Applicant's motion for an exemption from the requirements of 10 C.F.R. §50.47 for the period of time required to litigate any contentions relating to Graterford, which are due to be filed by May 15, 1985. Accordingly, the Licensing Board's three Partial Initial Decisions and its

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grant of the exemption provide the basis for the authorization of the issuance of a full-power license.

Although it stated that "any final impediment to the issuance of a full power license has been removed," the Licensing Board, nevertheless, afforded ten days for comments by any party opposing the issuance by the Board of an order authorizing the Director of Nuclear Reactor Regulation to issue a full-power license. This unprecedented action adds to the existing procedures for the submission of such comments to the Commission.

Under the Commission's regulations governing immediate effectiveness of an initial decision authorizing issuance of an operating license, 10 C.F.R. §2.764(f)(2)(ii), "the parties may file brief comments with the Commission pointing out matters which, in their view, pertain to the immediately effectiveness issue." Such comments "must be received within 10 days of the Board decision." The regulation also authorizes the Commission to "dispense with comments by so advising the parties."

In order to effectuate its announced policy of eliminating avoidable licensing delays wherever possible, fairness dictates that the Commission dispense with the ten-day comment period as provided in Section 2.764 on the basis that the same opportunity is being provided by the Board's action. Alternatively, the Commission should advise the parties immediately that any comments filed with the Licensing Board pursuant to its Order of May 9, 1985 will be considered by the Commission in connection with its immediate effectiveness determination with no additional comment period provided. Thus, assuming the Board authorizes the full power license, no further delays will be encountered.

To allow two ten-day comment periods for the same purpose would be, as the Appeal Board has stated, "to elevate form above substance." Wisconsin Electric Power Company (Point Beach Nuclear Plant, Unit 1), ALAB-696, 16 NRC 1245, 1256 (1982).

The Commission has long since been on record as seeking "to avoid or reduce [hearing] delays whenever measures are available that do not compromise the Commission's fundamental commitment to a fair and thorough hearing process." Statement of Policy on Conduct of Licensing Proceedings, CLI-81-8, 13 NRC 452, 453 (1981). In a letter dated March 12, 1981 to the Bevill Subcommittee on Energy and Water Development, the Commission stated that "expedited licensing

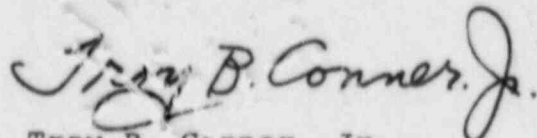
decisions are a high priority in this agency" (p. 1) and that it intends to achieve "[f]urther time savings" for NTOL plants "by increasing the efficiency of the hearing process and subsequent Commission and Appeals Board review" (p. 2). The Commission recently restated its intent that its "regulatory processes be efficient and cost effective . . . to eliminate unwarranted delay in reaching decisions consistent with not compromising safety." NUREG-0885, Policy and Planning Guidance at 12 (January 1984).

Three PID's encompass all contested issues for Limerick, except the Graterford contentions. Inasmuch as the Third Partial Initial Decision was issued on May 2, 1985, ample time has already been provided to formulate any comments to the Commission on the issues decided by these PID's as they relate to the immediate effectiveness determination.

Additionally, the Commission should expeditiously schedule a meeting, as early as May 24, 1985, but not later than the end of May, for its decision on immediate effectiveness under Section 2.76(f).

For the reasons discussed above, Applicant therefore requests that the Commission (1) dispense with its ten-day comment period or advise the parties immediately that any comments filed with the Licensing Board pursuant to its Order of May 9, 1985 will be considered by the Commission in connection with any immediate effectiveness determination with no additional comment period provided and (2) promptly schedule a meeting for its decision on immediate effectiveness.

Sincerely,



Troy B. Conner, Jr.
Counsel for the Applicant

TBC/dlf

cc: Chairman Nunzio J. Palladino
Commissioner Thomas M. Roberts
Commissioner James K. Asselstine
Commissioner Frederick M. Bernthal
Commissioner Landy W. Zech
Service List