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UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

ATOMIC SAFETY AND LICENSING BOARD

BEFORE ADMINISTRATIVE JUDGES:

Helen F. Hoyt, Chairperson  
Dr. Richard F. Cole  
Dr. Jerry Harbour

**SERVED MAY 24 1985**

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USNRC

**'85 MAY 24 P2:49**

In the Matter of

PHILADELPHIA ELECTRIC COMPANY

(Limerick Generating Station,  
Units 1 and 2)

Docket Nos.

OFFICE OF SECRETARY  
DOCKETING & SERVICE  
BRANCH  
50-352-01  
50-353-01

ASLBP No. 81-465-07 OL

May 24, 1985

BOARD'S ORDER IMPLEMENTING ITS GRANT OF  
APPLICANT'S MOTION FOR EXEMPTION FROM REQUIREMENT OF  
10 CFR § 50.47(a) AND (b) FOR A PERIOD OF TIME  
CONTENTIONS OF GRATERFORD INMATES ARE CONSIDERED BY THE BOARD--  
AUTHORIZATION FOR DIRECTOR OF NUCLEAR REACTOR REGULATION  
TO ISSUE FULL POWER LICENSE

On May 9, 1985 this Board granted Philadelphia Electric Company's (Applicant) Motion of February 7, 1985 seeking exemption from the requirements of 10 CFR § 50.47(a) and (b) as they relate to evacuation provisions of the emergency plan for the State Correctional Institution at Graterford. The Board's grant of an exemption was based solely on the provisions of 10 CFR § 50.47(c)(1).<sup>1</sup>

<sup>1</sup> See this Board's Order of May 9, 1985, page 4 in which we stated, "We need not look elsewhere in the regulations and indeed have not considered the use of 10 CFR § 50.12."

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After reaching its decision to grant the exemption, the Board did not issue an implementing order but requested parties to submit comments in view of the unusual posture of this case resulting from the Appeal Board's reinstatement of the Graterford inmates as a party with leave to file revised contentions. The Board has received the following comments:

1. NRC Staff Comments on the Licensing Board's May 9, 1985 Order Granting Applicant an Exemption dated May 20, 1985 (received by Board May 21, 1985).
2. Exceptions to the Board's Order granting the Applicant's Motion for Exemption from Requirement of 10 CFR 50.47(a) and (b) (Graterford Inmates Response dated May 17, 1985) (received by Board May 21, 1985).
3. Applicant's Response to Comments of Other Parties Concerning the Board's Order Dated May 9, 1985 dated May 22, 1985 (received by Board May 22, 1985).
4. Statement of Anthony/FOE In Opposition to Granting Applicant's Motion for Exemption from 10 CFR § 50.47(a) and (b) Re: Evacuation Plans for Inmates dated May 16, 1985 (received by Board May 20, 1985).

The Board has considered<sup>2</sup> all the responses listed above. Further, we note that the inmates' contentions were filed with this Board on May 14, 1985.

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The Board has received notification through the NRC Staff of FEMA Findings on Offsite Planning Preparedness at the Limerick  
(Footnote Continued)

This exemption issue has been extensively briefed by all the parties. In addition to the comments listed above, the Board has also considered all other pleadings filed by the parties including:

1. Applicant's Motion For Exemption From The Requirements of 10 CFR § 50.47(a) And (b) As They Relate To The Necessity Of Atomic Safety and Licensing Board Consideration Of Evacuation Provisions Of The Emergency Plans For The State Correctional Institution Of Graterford (February 7, 1985).

2. Graterford Inmates' Motion In Opposition To Applicant's Motion For Exemption From The Requirements of 10 CFR § 50.47(a) and (b) As They Relate To The Necessity Of Atomic Safety and Licensing Board Consideration Of Evacuation Provisions Of The Emergency Plans For The State Correctional Institution of Graterford (March 13, 1985).

3. Letter from Mr. Romano, Chairman, Air & Water Pollution Patrol, to the Licensing Board, dated March 15, 1985; Anthony/FOE Motion In Opposition to PECO's Motion For Exemption From 10 CFR § 50.47 Provisions for Emergency and Evacuation Planning For Graterford Prisoners And Staff (March 15, 1985).

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(Footnote Continued)

Generating Station, dated May 21, 1985. The Board's conditions in the Third Partial Initial Decision on (1) traffic control issues FEMA found had been met in part on May 10, 1985 with review at State and Federal level continuing; and (2) FEMA had been satisfied on the Board's condition in reference to unmet municipal staffing needs. See Letter to the Licensing Board May 22, 1985 with FEMA Memorandum from Richard W. Krimm--FEMA to Edward J. Jordan-NRC/Subject: Finding on Offsite Planning and Preparedness at the Limerick Generating Station.

4. NRC Staff Response To Applicant's Motion Dated February 7, 1985 For Exemption From the Requirements of 10 CFR § 50.47(a) and (b) (March 18, 1985).

5. Commonwealth Of Pennsylvania Response To Applicant's Motion For Exemption From the Requirements of 10 CFR § 50.47(a) and (b) As They Relate To The Necessity Of Atomic Safety and Licensing Board Consideration Of Evacuation Provisions Of The Emergency Plans For The State Correctional Institution Of Graterford (March 18, 1985).

6. Supplemental Motion Of The Graterford Inmates in Opposition To The Applicant's Request For An Exemption Under 10 CFR § 50.12(a) and (b) (March 26, 1985).

7. Additional Statement In Opposition To PECO's Motion To Exempt Graterford Prison From Requirements of 10 CFR § 50.47 on Emergency Planning, by R. L. Anthony/FOE (March 27, 1985).

8. Applicant's Reply In Support Of Its Request For Exemption From The Requirements of 10 CFR § 50.47 (a) and (b) Relating To The Graterford Emergency Plan (April 1, 1985).

9. NRC Staff Additional Views On Applicant's Motion Dated February 7, 1985 For Exemption From The Requirements of 10 CFR § 50.47(a) and (b) (April 1, 1985).

The Commission recently observed that its "regulations specifically contemplated certain equitable exceptions, of a limited duration, from the requirements of 50.47(b)," and cited 50.47(c)(1) for this authority. Statement of Policy on Emergency Planning Standard 10 CFR 50.47(b)(12) May 16, 1985.



In our Order of May 9, 1985, the Board held that Applicant's request for an exemption from 10 CFR § 50.47(a) and (b) with respect to the evacuation provisions of the emergency plan for the State Correctional Institution at Graterford, met the criteria of § 50.47(c)(1), and we granted the exemption for the limited period of time necessary to receive and litigate any contentions that might be propounded by the Graterford inmates pursuant to the authorization granted by the Appeal Board in ALAB-806. That exemption, in our view, removed as an impediment to authorization of issuance by the Director of Nuclear Reactor Regulation of a full power license, the sole issue not resolved in our Third Partial Initial Decision. We allowed a period for comment before issuing such authorization solely because of the unusual posture of this case. The comments received reinforced our initial conclusion that the authorization should now be granted.

Further, we have concluded that the issuance of a full power license to the Applicant during the exemption will not be inimical to the common defense and security or to the health and safety of the public.

WHEREFORE, IT IS ORDERED, in accordance with the Atomic Energy Act of 1954, as amended, the Commission's regulations, and based on the findings and conclusions set forth in the Third Partial Initial Decision on Offsite Emergency Planning, the Board Order of May 9, 1985 and this Order, that the Director of Nuclear Reactor Regulation is authorized to issue a full power operating license for the Limerick Generating Station, Units 1 and 2, consistent with the Board's decisions in this

case and upon making requisite findings with respect to matters not embraced in the Third Partial Initial Decision on Offsite Emergency Planning.

FOR THE ATOMIC SAFETY AND  
LICENSING BOARD

A handwritten signature in dark ink, appearing to read "Helen F. Hoyt", is written over a horizontal line.

Helen F. Hoyt, Chairperson  
ADMINISTRATIVE JUDGE

Dated at Bethesda, Maryland ,  
this 24th day of May 1985.