

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

OFFICE OF NUCLEAR REACTOR REGULATION
Harold R. Denton, Director

In the Matter of

PHILADELPHIA ELECTRIC COMPANY

(Limerick Generating Station,
Units 1 and 2)

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Docket Nos. 50-352
50-353

(10 CFR § 2.206)

DIRECTOR'S DECISION UNDER 10 CFR § 2.206

On October 1, 1985, Robert L. Anthony (Petitioner) filed a petition with the Nuclear Regulatory Commission (NRC) asking the NRC to take certain actions with respect to applications filed by the Philadelphia Electric Company (Licensee) with the Delaware River Basin Commission (DRBC) related to the operation of its Limerick Nuclear Generating Station, Unit 1 (the facility). Principally, Petitioner requested that the NRC stay DRBC consideration of the Licensee's applications and require that the applications be withdrawn until Licensee complies with certain environmental license conditions imposed by the NRC. The Commission has referred this matter to the Office of Nuclear Reactor Regulation for its consideration pursuant to 10 CFR § 2.206. For the reasons stated in this decision, the Petitioner's request is denied.

On September 20, 1985, the Licensee filed with the DRBC applications to modify current restraints established by the DRBC upon the Licensee regarding the withdrawal of water from the Schuylkill River associated with the operation of the Limerick facility. Petitioner seeks to have

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the NRC stay consideration by the DRBC of the Licensee's applications to the DRBC. The DRBC is a regional agency created by an intergovernmental compact and given federal ratification by a joint resolution of Congress. ^{1/} The NRC has no authority over the activities of the DRBC and consequently may not stay any of its activities nor cause any applications before the DRBC to be withdrawn. The NRC is thus not in a position to grant the relief sought by Petitioner regarding this aspect of its petition. ^{2/} See Wabash Valley Power Association (Marble Hill Nuclear Generating Station, Units 1 & 2), 14 NRC 925, 927 (1981).

Petitioner also has concerns regarding the Licensee's compliance with certain environmental license conditions appended to Facility Operating License No. NPF-27 which the NRC issued to the Licensee on October 26, 1984 to authorize operation of the Limerick facility. License No. NPF-27 was superseded by Facility Operating License No. NPF-39, which was issued on August 8, 1985 to permit full power operation of the facility. License No. NPF-39 includes the same environmental license conditions as were contained in License No. NPF-27. Petitioner appears to be concerned that the Licensee will receive authorizations from the DRBC regarding water usage which permit it to operate in a manner in violation of the environmental license conditions. Such a course of action by the Licensee is certainly a possibility, albeit

^{1/} See Philadelphia Electric Company (Limerick Nuclear Generating Station, Units 1 and 2), DD-82-13, 16 NRC 2115, 2117 n.3 (1982).

^{2/} Petitioner has recognized the need to file his concerns directly with the DRBC by submitting a written document to the DRBC on October 1, 1985.

highly speculative at this point in time. Petitioner alleges no present violations by the Licensee of any NRC requirements including the license conditions. I have recently addressed in a Director's Decision adherence by this Licensee to its environmental license conditions.^{3/} The issue in that matter was the potential use by the Licensee of alternate sources of supplemental cooling water for the Limerick facility and a concern on the part of that Petitioner that such alternate use would not receive NRC scrutiny. I noted there that the requirements placed upon the Licensee by the terms of its Environmental Protection Plan (EPP) to assure that activities undertaken by the Licensee affecting the environment would receive appropriate review. The language of that Decision is appropriate in this matter and bears repeating here:

The requirements of the EPP are triggered at the time of the Licensee proposed action. The Licensee must meet these requirements and take appropriate actions prior to taking the action itself. Compliance with these requirements in a timely manner so as to gain the relief of any changes sought is a matter for the Licensee's consideration. Consequently, to the extent that the Licensee wishes to operate the Limerick facility in a mode different from that presently represented in its license application, it must examine that proposed change in light of the terms of the license conditions set out above. It must make the appropriate determinations and, should the activity involve an unreviewed environmental question, the Licensee must obtain prior NRC approval. Should the activity involve a change in the EPP, a license amendment is required. These provisions of the license for the Limerick Unit 1 facility provide adequate assurance that any change contemplated by the Licensee having potential environmental implications will be appropriately dealt with. DD-85-8, 21 NRC at 1566.

^{3/} Philadelphia Electric Company (Limerick Nuclear Generating Station, Units 1 & 2), DD-85-8, 21 NRC 1561 (1985).

In summary, the NRC is without authority to stay DRBC considerations with respect to water quality matters placed before it by this Licensee. Furthermore, in the absence of any present violation of any regulation or license condition, I do not consider it appropriate to take any action in this matter. I do, however, fully expect the Licensee to adhere to all NRC requirements and license conditions, including those which specifically govern the types of changes which might be forthcoming from any consideration given by DRBC to the Licensee's current proposal regarding water use for its Limerick facility.

Accordingly, the Petitioner's request for action pursuant to 10 CFR § 2.206 is denied. As provided by 10 CFR § 2.206, a copy of this Decision will be filed with the Secretary for the Commission's review.

James P. Knight, Acting Director
Office of Nuclear Reactor Regulation

Dated at Bethesda, Maryland,
this day of 1985.

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RMartin:dh
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LB#2/DL* LB#2/DL*
EHylton WRButler
10/28/85 10/28/85

D/DL
HThompson
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AD/MCET/DE*
WJohnston
10/28/85

DD/NRR
DEisenhut
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OELD*
RHoeffling
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TNovak
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