

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

DOCKETED
USNRC

Before the Atomic Safety and Licensing Board

'82 DEC 29 AIO:26

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

OFFICE OF SECRETARY
DOCKETING & SERVICE
BRANCH

APPLICANT'S ANSWER TO MOTION TO
RECONSIDER BY FRIENDS OF THE EARTH

Preliminary Statement

On December 19, 1982, intervenor Friends of the Earth ("FOE") filed a motion to reconsider the Order of November 22, 1982 by the Atomic Safety and Licensing Board ("Licensing Board" or "Board") in this case, admitting and denying in part proposed FOE contentions on hazards from industrial activities near the Limerick site. Because the instant request for reconsideration is clearly late, it should be denied.

Argument

In its Special Prehearing Conference Order ("SPCO"), ^{1/} the Licensing Board denied FOE's proposed Contention V-3, relating to alleged hazards from industrial activities near Limerick, but permitted FOE to refile, within 30 days, contentions which "allege specific deficiencies which FOE believes exist in the FSAR analysis

^{1/} Limerick, LBP-82-43A, 15 NRC 1423 (June 1, 1982).

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of these matters." ^{2/} On July 7, 1982, FOE filed ten such proposed contentions. Applicant, and in some instances the Staff, opposed the proposed contentions, which the Board admitted and denied in part in an Order on November 22, 1982.

Due to the length of the June 1, 1982 SPCO, the Board extended to ten days, ^{3/} rather than the five days ordinarily allowed, ^{4/} the period in which FOE could seek reconsideration of the Order. Even assuming this extension applies as well to the November 22, 1982 Order on the rewritten contentions, the instant motion to reconsider by FOE is clearly untimely. No previous extension of time was sought by FOE, nor has FOE shown any extenuating circumstance justifying its lateness.

Moreover, the Licensing Board has previously denied a late filed motion to reconsider by FOE for this very reason. Thus, in denying the request by FOE to reconsider its denial of proposed Contention V-1, the Board stated in an Order dated September 2, 1982:

In addition, the filing by FOE is not timely. It appears that FOE is, in effect, asking the Board to reconsider its ruling in the SPCO. Requests for reconsideration were due within 10 days of service of the SPCO. SPCO at 159. (The Board had allowed five days more than were called for by NRC rules in

^{2/} Id. at 1514.

^{3/} Id. at 1521.

^{4/} 10 C.F.R. §2.751a(d).

light of the length of the SPCO). FOE's filing was served three weeks after that time. 5/

Despite this express admonition from the Licensing Board that any request for reconsideration must be timely filed, FOE has again sought reconsideration beyond the prescribed period. 6/

In addition, FOE is well aware that other intervenors have been similarly admonished. In denying a request by Del-Aware, Unlimited, Inc. for reconsideration in an Order dated September 3, 1982, the Licensing Board specifically stated:

We note preliminarily that motions for reconsideration of the SPCO were due within ten days of its service. This supplement was filed more than two months after the SPCO was filed. Therefore, it is untimely. 7/

Conclusion

For the reasons discussed more fully above, the most recently filed motion to reconsider by FOE should be denied.

Respectfully submitted,

Troy B. Conner, Jr. / RMR
Troy B. Conner, Jr.
Counsel for the Applicant

December 28, 1982

5/ Memorandum and Order at 4 (September 2, 1982).

6/ While there is no need to reach the merits of FOE's motion to reconsider, it is noted that the only support for the motion is contained in a publication which FOE admits is its own (See Proposed Contention 2).

7/ Memorandum and Order at 6 (September 3, 1982).

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CERTIFICATE OF SERVICE

I hereby certify that copies of "Applicant's Answer to Motion to Reconsider by Friends of the Earth," dated December 28, 1982 in the captioned matter, have been served upon the following by deposit in the United States mail this 28th day of December, 1982:

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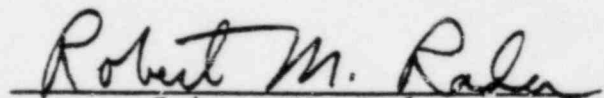
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