

JUDITH A. DORSEY

DOCKETED
USNRC

'83 SEP 30 A11:43

LAW OFFICES
1315 WALNUT ST., SUITE 1632
PHILADELPHIA, PA. 19107

215 735.7200

OFFICE OF SECRETARY
DOCKETING & SERVICE
September 28, 1983

Judge Lawrence Brenner
Atomic Safety and Licensing Board
U.S. Nuclear Regulatory Commission
Washington, DC 20555

Judge Peter A. Morris
Atomic Safety and Licensing Board
U.S. Nuclear Regulatory Commission
Washington, DC 20555

Judge Richard F. Cole
Atomic Safety and Licensing
Board
U.S. Nuclear Regulatory
Commission
Washington, DC 20555

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

Gentlemen,

Please find enclosed Limerick Ecology Action's respecification of contention I-41, previously denied without prejudice, and refiled now, pursuant to the Board's May 16, 1983 Memorandum and Order, slip op. at 8.

Sincerely,

Judith A. Dorsey
Judith A. Dorsey

D503

I-41.

Exacerbation of accidents

(a) The TMI accident showed how non-safety systems can interact with safety systems to cause or exacerbate an accident. A systems interaction analysis can reveal actions and consequences that could adversely affect the presumed redundancy and independence of safety systems.

The Applicant has not performed a systems interaction analysis at Limerick; such an analysis must be done in order to assure that necessary interactions, failure combinations and accident sequences have been considered, and that potential adverse systems interactions have been identified. Without such an analysis, there is no reasonable assurance that Limerick can operate before the ultimate resolution of this issue, Unresolved Safety Issue A-17, without undue risk to the health and safety of the public.

The NRC's program to resolve A-17 under the TMI Action Plan (NUREG-0660, Item II.C.3) is nowhere near complete, and the Staff's SER does not provide a plant-specific interim resolution of this matter. Therefore the Staff cannot meet the "justification for operation" requirement of the Appeal Board's decision in North Anna, ALAB-491, NRC 245 (1978).

BASIS:

NUREG-0606 (Aqua Book); TMI Action Plan, NUREG-0660, Item II.C.3; The Recently issued SER states; at page C-9:

The Applicant has not described a comprehensive program that separately evaluates all structures, systems and components important to safety for the three categories of adverse systems interactions, which are (1) spatially

coupled, (2) functionally coupled, and (3) humanly coupled. However, there is assurance that Limerick can be operated without endangering the health and safety of the public. The plant has been evaluated against current licensing requirements that are founded on the principle of defense-in-depth. Adherence to this principle results in requirements such as physical separation and independence of redundant safety systems as well as protection against hazards such as high-energy line ruptures, missiles, high winds, flooding, seismic events, fires, human errors, and sabotage. These design provisions are subject to review against the Standard Review Plan (SRP) (NUREG-0800), which requires interdisciplinary reviews of safety-grade equipment and addresses different types of potential systems interactions. Also, the quality assurance program that is followed during the design, construction, and operational phases for each plant contributes to the prevention of introducing adverse systems interactions. Thus, the current licensing requirements and procedures provide an adequate degree of plant safety.

LEA does not believe that this boilerplate language, which could be used for any plant, satisfies the requirements of North Anna.

(b) Unresolved Safety Issue A-47, is in fact a subset of systems interaction. A systems interaction analysis at Limerick will reveal most of the effects of control system failures.

Catawba Balancing Test For Late-filed Contentions

In its July 26, 1983 Second Special Prehearing Conference Order, the Board directed Limerick Ecology Action (LEA) to address the factors set forth in the Catawba decisions,¹ which factors the Board will then balance in determining whether or not so-called "late-filed" contentions are admissible. The five factors of 10 CFR §2.714(a)(1) are as follows:

- (i) good cause, if any, for failure to file on time;
- (ii) the availability of other means whereby the petitioner's interest will be protected;
- (iii) the extent to which the petitioner's participation may reasonably be expected to assist in development of a sound record;
- (iv) the extent to which the petitioner's interest will be represented by existing parties;
- (v) the extent to which the petitioner's participation will broaden the issues or delay the proceeding.

The three-part test overlayed by the Appeal Board in Catawba (and affirmed by the Commission as appropriate in an admissibility determination) is that the contention:

- (a) is wholly dependent upon the content of a particular

1. Duke Power Co. (Catawba Nuclear Station, Units 1 and 2), ALAB-687, 16 NRC 460, 469-70 (1982); Duke Power Co. (Catawba Nuclear Station, Units 1 and 2), CLI-83-19, 18 NRC _____, _____, slip op. at 5-6 (July 1, 1983).

document;

- (b) could therefore not be advanced with any degree of specificity (if at all) in advance of the public availability of the document; and
- (c) is tendered with the requisite degree of promptness once the document comes into existence and is accessible for public examination.

LEA is submitting its respecified contention I-41, and addresses the five 2.714(a)(1) factors as overlaid by the three-part test.

LEA originally submitted contention I-41, related to Unresolved Safety Issues A-17 and A-47, with its other contentions in 1981, at the time contentions were due. At the May 9-11, 1983 Special Prehearing Conference, the Staff, Applicant and LEA agreed that respecification could not take place until the Staff's SER addressing the subject was issued. That document has now been issued and reviewed by LEA. LEA therefore has good cause for late filing its contention I-41. It could not have been advanced with any more specificity than when originally filed, until the SER became available. The contention is now being "tendered with the requisite degree of promptness," since it is being submitted according to the May 16, 1983 Board Order and Memorandum.

LEA has no other means to protect its interests related to this contention, in that no other regulatory or judicial body has jurisdiction to hear safety matters. Nor will LEA's interest be adequately protected by any party currently participating in this proceeding. Considering the political and other interests that influence their decision-making, participating

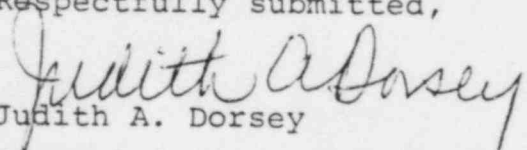
governmental entities cannot be expected to adequately represent LEA's interests. Only two other intervenors have the resources available to them to be represented by counsel, and the scope of their interests (for Del-AWARE, the matter of Point Pleasant, and for the Graterford prisoners, their own health and safety during an emergency at the Limerick facility) is very narrow.

LEA's participation in this matter can be expected to assist in developing a sound record, in that LEA has obtained expert assistance for pursuing many of its contentions, which, while not required for licensing proceedings, is an aid to the Board as well as to LEA.

Admission of LEA's contention I-41 will not broaden the issues or delay the proceeding, since this is not in fact a new contention, but was filed in a timely manner in 1981 when other contentions were filed.

For the reasons set forth, LEA believes it is appropriate for the Board to admit its respecified contention I-41.

Respectfully submitted,


Judith A. Dorsey

Counsel for Limerick Ecology Action

CERTIFICATE OF SERVICE

DOCKETED
USNRC

'83 SEP 30 A11:43

I hereby certify that copies of Limerick Ecology Action's
respecified Contention I-41 have been served upon the
following, by first-class mail, postage prepaid, on
September 28, 1983:

Lawrence Brenner, Chairman
Administrative Judge
U.S. Nuclear Regulatory
Commission
Washington, DC 20555

Dr. Richard F. Cole
Administrative Judge
U.S. Nuclear Regulatory
Commission
Washington, DC 20555

Dr. Peter A. Morris
Administrative Judge
U.S. Nuclear Regulatory
Commission
Washington, DC 20555

Ann P. Hodgdon, Esq.
Office of the Executive
Legal Director
U.S. Nuclear Regulatory
Commission
Washington, DC 20555

Troy B. Conner, Jr., Esq.
Conner and Wetterhahn
1747 Pennsylvania Ave., NW
Washington, DC 20006

Phila. Electric Company
ATTN: Edward G. Bauer, Jr.
VP and General Counsel
2301 Market St.
Phila., PA 19101

Atomic Safety and Licensing Board
Panel
U.S. Nuclear Regulatory Commission
Washington, DC 20555

Atomic Safety and Licensing
Appeal Panel
U.S. Nuclear Regulatory Commission
Washington, DC 20555

Docketing and Service Section
Office of the Secretary
U.S. Nuclear Regulatory Commission
Washington, DC 20555

Thomas Y. Au, Esq.
Commonwealth of PA
Department of Environmental Resources
505 Executive House
P.O. Box 2357
Harrisburg, PA 17120

David Wersan, Esq.
Assistant Consumer Advocate
Office of the Consumer Advocate
1425 Strawberry Square
Harrisburg, PA 17120

Director
PA Emergency Management Agency
Basement, Transportation and
Safety Building
Harrisburg, PA 17120

DOCKETED
USNRC

SEP 30 11:43

of Action's
ETING & SERVICE
BRANCH
the

n

Licensing Board
atory Commission
5

censing
ory Commission

Section
ry
ry Commission

ntal Resources

ate
dvocate

ency
nd

y, Director
ation Protection
Environmental

uilding, 5th fl.
ust Sts.
PA 17120

sh, Esq.
Solicitor
adelphia
ervices Building
& Blvd.
19107

ony
Lane, Box 186
19065

wis
ford Terrace
PA 19149

ine I. Ruttenberg
e Alliance
hestnut St.
, PA 19104

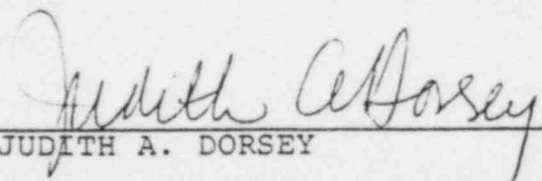
Romano
rest Ave.
, PA 19002

h H. White III
th Warner Ave.
Mawr, PA 19010

ert Sugerman, Esq.
arman and Denworth
te 510, North American Building
S. Broad St.
la., PA 19107

Spence W. Perry, Esq.
Associate General Counsel
FEMA
Room 840
500 C St., SW
Washington, DC 20472

Angus Love, Esq.
101 East Main St.
Norristown, PA 19401


JUDITH A. DORSEY