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UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

OFFICE OF SECRETARY
DOCKETING & SERVICE
BRANCH

Before the Atomic Safety and Licensing Board

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

APPLICANT'S RESPONSE TO AWPP MOTION TO REQUIRE
FURTHER DEPOSITIONS REGARDING CONTENTION VI-1

By pleading dated March 19, 1984, intervenor Air and Water Pollution Patrol ("AWPP") moved the Atomic Safety and Licensing Board ("Licensing Board" or "Board") to require that another prehearing conference on Contention VI-1 be held.^{1/} Applicant, Philadelphia Electric Company, opposes the relief sought.

The Licensing Board, in response to various motions of AWPP regarding requests for extension of the discovery period and to compel discovery relating to Contention VI-1, permitted AWPP to take depositions of Philadelphia Electric Company personnel in order to allow followup questioning related to specific responses to interrogatories which AWPP

^{1/} The title of the pleading indicates that AWPP may be requesting in the alternative that the Board order that further unspecified depositions be permitted.

had moved to compel further responses.^{2/} The Board specifically permitted Applicant to choose the individuals to be deposed. The only limitation was that the individuals collectively were to have knowledge of the disputed interrogatories such that they could explain and, as necessary, supplement the written answers.^{3/}

On Wednesday, March 14, 1984, the day before the deposition was scheduled, AWPP's representative, Mr. Romano, telephoned counsel for the Applicant. Mr. Romano specifically requested that Mr. Vincent S. Boyer, Senior Vice President of Philadelphia Electric Company, be one of the deponents. At that time, counsel for Applicant cited Mr. Romano to the transcript of the prehearing conference which contained the Board's ruling that Applicant could decide who would be deposed and which explained the purpose of such depositions.^{4/} It was emphasized to Mr. Romano that Applicant considered the Board to have required a deposition of certain of its employees for a limited purpose but had not required any NRC employees to be deposed. Further, no

2/ Order Confirming Miscellaneous Oral Record Rulings (March 15, 1984) (slip op. at 4-5). The Licensing Board never concluded that any of the disputed responses were in fact deficient and had found that the samples that it had examined were responsive to the interrogatories asked (Tr. 8306).

3/ Tr. 8308-09.

4/ Id.

interrogatories had been posed to the NRC Staff. A legal representative of NRC Region I took a similar position at the deposition.

While not required to accede to this request, Applicant provided Mr. Boyer and Mr. David Clohecyc as deponents to respond to the disputed interrogatories. AWPP provided a court reporter; the deposition of the panel consumed approximately three hours.

Substantially the entire deposition was related to questioning by Mr. Romano on the Inspection Report 76-06-01. Applicant notes that the disputed interrogatories were not related directly to this matter, but that it did not object to Mr. Romano's inquiries.

The assertion that Mr. Clohecyc "continued to avoid answering questions by repeatedly asking that the question be reasked" and that "[h]e avoided answering directly . . .," is not supported by the record of the deposition. Mr. Romano has not pointed to any specific instance where answers were not fairly provided.^{5/} Applicant asserts that many of Mr. Romano's questions were compound and difficult to comprehend. In any event, Mr.

^{5/} The deposition has apparently not yet been transcribed.

Romano was able to reframe questions so that he could obtain whatever additional responses he deemed necessary.^{6/}

Mr. Romano appears to object to the substantive answers he received. He had every opportunity to follow up on these matters and these responses may be used during the hearing for any legitimate purpose. However, the fact that he is ultimately unsatisfied with the response does not require either an additional prehearing conference or that further depositions be held. There is absolutely no grounds for the assertion that the deponents provided were unable to respond to all questions asked, even though the scope of the deposition clearly went beyond clarification and followup on the disputed responses to the interrogatories.

AWPP has failed to support its requests for relief.

Respectfully submitted,

CONNER & WETTERHAHN, P.C.

Mark J. Wetterhahn / NNN

Mark J. Wetterhahn
Counsel for the Applicant

March 27, 1984

^{6/} The Board has also stated that it would not entertain a further motion to compel (Tr. 8310).

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CERTIFICATE OF SERVICE

I hereby certify that copies of "Transmittal of Quality Assurance Audits Regarding Colt Industries, Fairbanks Morse Engine Division, Diesel Generators for Limerick Generating Station" (without enclosures) and "Applicant's Response to AWPP Motion to Require Further Depositions Regarding Contention VI-1" both dated March 27, 1984 in the captioned matter have been served upon the following by deposit in the United States mail this 27th day of March, 1984:

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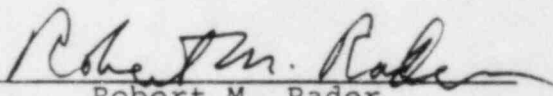
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