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## U.S. NUCLEAR REGULATORY COMMISSION..ATOMIC SAFETY &amp; LICENSING APPEAL BOARD

RE: PHILA:ELEC. CO. Limerick Gen. Sta. Units 1 &amp; 2

DOCKET # 50-352,353 /66

USNRC

September 24, 1984

APPEAL BY R. L. ANTHONY/FOE FROM ASLB ORDER OF 9/7/84 AND THE AFFIDAVITS ASLB  
 REQUIRED TO VALIDATE THE ORDER, FILED 9/21/84 ; and APPEAL FROM ASLB PARTIAL  
 INITIAL DECISION ON OUR CONTENTIONS V -3a and 3b.

DOCKETING & SERVICE  
 BRANCH

## BACKGROUND.

On 9/1/84 Anthony/FOE filed with NRC a Motion to Set Aside "Partial Initial Decision" on our Contentions V-3a and 3b. On 9/7/84 ASLB issued an order stating "our decision remains in effect". We conclude this means that ASLB did not set aside the decision as we petitioned and that we are now free to appeal the Partial Initial Decision.  
 APPEAL.

We appeal the Partial Initial Decision on Contentions V 3a and 3b to the Appeal Board and we assert again, as we did in our motion above, that ASLB erred in making a decision on our contentions after it had received Board Notification No. 84-142 from T.M. Novak, NRC Div. of Licensing, in regard to the reactor enclosure vent stack. This Notification brought new information on the structural integrity of the plant which had to be evaluated before any initial decision on our contentions could be completed. The notification was dated 8/20/84 ; ASLB's decision was issued on 8/29/84.

ASLB conditioned its order thus:

The NRC Staff's and Applicant's answers to FOE's motion to reopen shall update the information, by affidavits of appropriate officials with the knowledge of the facts, contained in the Board Notification.

The NRC Staff complied with this order on 9/21/84 and we received the Staff affidavits today. The Staff compliance will not be complete, we understand, until a "report documenting the findings" has been provided to the Board and Parties. ( Affidavit of Robert M. Galle page 4 # 10, 9/19/84).

## CONCLUSION.

We trust that the Appeal Board will agree that our "Motion to Set Aside" was not answered until we received affidavits from the Staff today. Our appeal is, therefore, filed in a timely manner since we intended with our 9/1/84 appeal to appeal the partial initial decision but were not free until ASLB's order and affidavits were completed.

Respectfully submitted,

cc ASLB Judges Brenner, Cole, Morris  
 NRC Staff, Docketing, M.J. Wetterhahn

Robert L. Anthony

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