

U.S. NUCLEAR REGULATORY COMMISSION ... ATOMIC SAFETY AND LICENSING BOARD

Re: PHILA. ELEC. CO. Limerick Generating Sta. Units 1 & 2 Docket #: 50-352,353

Jan. 29, 1985

STATEMENT BY R.L. ANTHONY/FOE Re HEARINGS ON EMERGENCY PLANNING AND MOTION TO LB TO RECONSIDER THE FINDINGS SCHEDULE AND MOTION TO RECALL WITNESSES ON WHOSE CROSS EXAMINATION WE WERE CUT OFF.

STATEMENT. On 1/25/85 our cross examination of FEMA witnesses was cut off at one half hour. In order for the record to be complete and for the Board to have adequate information on our contention on which to make a decision and on which we could base findings, we needed at least another hour. We informed the Board and were overruled. We asked to make a statement and this request was denied by the Board.

We now state that the record on our emergency planning contention is incomplete because of the arbitrary and unreasonable limitations put on our cross examination of witnesses by the Board. This constitutes capricious and prejudicial action on the part of the Board. The Board thereby denied us due process in this hearing and violated our rights to be heard on the threats to our health, safety and interests, guaranteed to citizens under NEPA and the Atomic Energy Act.

There is evidence to show that this prejudice to our rights imposed by the Board could have been motivated by pressure to speed up the hearing and to arrive at a favorable, early decision to enable PECs to operate Limerick as soon as low power testing is completed. We quote the Board's statement as evidence of pressure for a speed up (tr. 14,041, 16-22), " ..all of us are being pushed to get time. We have commitments as to when we have to write decisions. " Further indication of NRC pressure to speed up the license process comes from the transcript of the Commission's meeting 1/8/85. On page 29 Chairman Palladino, in a discussion of the Limerick schedule, says, " Maybe you could enlighten me as to why it takes so long and then, presumably, the Commission would have another 30 days for its effectiveness decision. " On page 30 (1) he comments further... -- " this says four months. I was counting at most three months. " These remarks hint at the pressure under which the Board has been operating, from the top down.

We claim that this pressure and the pressure that the Board created for itself resulted in curtailed cross examination time, dictated by the Board, and this deprived us of our rights as a citizen intervenor to question the witnesses and thereby build a complete record on our contention. This is a denial of due process and our rights to be heard under NEPA and AEA. We claim that the Board subverted the judicial process and caused prejudice against our case. We, therefore, now petition the Board to review its prejudiced rulings and make restitution to us as specified below.

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MOTION 1. We move that the Board recall witnesses whose cross examination was cut off in an unreasonable, arbitrary and prejudicial manner by the Board with the result that the record is incomplete and injustice was done to the intervenors' presentation of contentions. Specifically we move the Board to recall witnesses Klimm, Fewlass, Wagermann, Urbanik, PEMA and FEMA witnesses, and the witnesses from Montgomery County whom we did not examine at all, and to provide us time to adequately cross examine these witnesses.

MOTION 2. We move that the Board set aside the findings schedule which it set up and to re-schedule new findings dates following the the additional testimony of the recalled witnesses.

cc: NRC LB Judges, Counsel, Docketing Serv.
PECo, PEMA, FEMA, LEA, PHILA., others on
Serv. List.

Respectfully submitted,

Robert L. Anthony
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(1.) Excerpt from NRC January 8, 1985 Commission Meeting transcript, provided by the Secretary 1/25/85.

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1 period.

2 CHAIRMAN PALLADINO: Well, I guess I was thinking
3 30 days for the first step, 60 days -- this says four months.
4 I was counting at most three months.

5 MR. CHRISTENBURY: Well, in the normal course, two
6 months for findings and two months for a decision. But here
7 in terms of alerting the Commission to potential problems,
8 here there are a number of circumstances where the emergency
9 plans for the different counties and municipalities have not
10 been approved, adopted, by the counties yet.

11 FEMA, I understand, has not completed their review
12 until such time as the counties have adopted theirs. So,
13 the testimony that FEMA is going to be operating will be
14 somewhat dependent on that.

15 So, there are a number of potentials for delay in