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UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

SERVED AUG -1 1985

ATOMIC SAFETY AND LICENSING APPEAL PANEL

Alan S. Rosenthal, Chairman

July 31, 1985

USNRC

In the Matter of )

'85 AUG -1 A11:03

BOSTON EDISON COMPANY )

Docket No. 50-293 OLA

(Pilgrim Nuclear Power Station) )

OFFICE OF SECRETARY  
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ORDER

In a July 19, 1985 order (unpublished), the Licensing Board dismissed (i.e., denied) the request for hearing and petition for leave to intervene filed by John F. Doherty in this operating license amendment proceeding. The order concluded with the representation that it was subject to appeal in accordance with the provisions of 10 CFR 2.762. In apparent reliance on that representation, on July 27 Mr. Doherty filed a notice of appeal which invoked Section 2.762.<sup>1</sup>

The Licensing Board's reference to Section 2.762 was in error. That section has no application to appeals from the denial of petitions for leave to intervene and/or requests

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<sup>1</sup> In actuality, relying upon an earlier version of 10 CFR 2.762, Mr. Doherty filed an "exception" to the July 19 order. He obviously was not aware that the section was amended, effective December 19, 1983, to substitute, in instances where the section is applicable, the filing of a notice of appeal for the submission of exceptions. See 48 Fed. Reg. 52,282, 52,285 (1983).

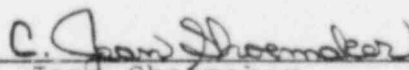
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for hearing. Rather, such appeals are explicitly governed by the provisions of 10 CFR 2.714a. In light of those provisions, Mr. Doherty was required to file a supporting brief along with the notice of appeal.<sup>2</sup>

Because he was misled by the Licensing Board's inadvertent error in its description of his appellate rights, Mr. Doherty must now be given an additional period of time within which to file the brief in support of his appeal from the July 19 order. That brief is to be filed and served on or before August 14, 1985.

It is so ORDERED.

FOR THE APPEAL PANEL CHAIRMAN

  
C. Jean Shoemaker  
Secretary to the Appeal Panel

This action was taken by the Appeal Panel Chairman under the authority of 10 CFR 2.787(b).

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<sup>2</sup> In the instance of appeals properly taken under the provisions of Section 2.762, the supporting brief must be filed within 30 days (40 days if the NRC staff is the appellant) after the filing of the notice of appeal.