

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION  
ATOMIC SAFETY AND LICENSING BOARD

DOCKETED  
USNRC

'83 SEP -6 A11 :25

BEFORE ADMINISTRATIVE JUDGES:

OFFICE OF SECRETARY  
DOCKETING & SERVICE  
BRANCH

Lawrence Brenner, Chairman  
Dr. Richard F. Cole  
Dr. Peter A. Morris

SERVED SEP 6 1983

In the Matter of  
PHILADELPHIA ELECTRIC COMPANY  
(Limerick Generating Station,  
Units 1 and 2)

Docket Nos. 50-352-OL  
50-353-OL

September 2, 1983

MEMORANDUM AND ORDER DENYING MOTION  
FOR ADDITIONAL TIME FOR  
CITY OF PHILADELPHIA TO SUBMIT CONTENTIONS

The Board has before it the Joint Motion of Applicant and the City of Philadelphia for an additional month for Philadelphia to submit contentions relating to Applicant's Severe Accident Risk Assessment (SARA). The motion is dated September 1, 1983, and apparently was delivered to the Board's offices after business hours that day. The motion is denied because it is late and because it fails to set forth good cause for the requested extension. In any event, the commendable desire of Applicant and Philadelphia to discuss possible issues relating to SARA and the environmental analysis of accidents can be accommodated by other means.

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As previously extended, contentions on the environmental analysis of accidents were due for receipt on September 1, 1983. Indeed, intervenor Limerick Ecology Action (LEA) filed its contentions on time. Accordingly, absent exigent circumstances not apparent here, the motion for extension of time at the latest should have been received by the Board the day before the due date, and preferably in advance of that. This rule has been emphasized by this Board in the past. See our unpublished "Memorandum and Order Denying Applicant's Request for Extension of Time" (January 29, 1982), citing Louisiana Power & Light Co. (Waterford, Unit 3), ALAB-117, 6 AEC 261 (1973), and 10 C.F.R. Part 2, Appendix A, § IX(d)(3). Indeed, in this very proceeding, Applicant's motion to strike Del-Aware's Appeal before the Appeal Board, just filed on August 31, 1983, relies on Waterford for the same proposition. Among other things, the late-filed request for extension results in the vice of potential disparate treatment for other parties, in this case LEA, which has filed its contentions on time.

In addition, Philadelphia has had extensive time in this proceeding to negotiate its potential issues and to determine whether to file contentions on the environmental analysis of accidents. It appears that the parties improperly have waited to the eleventh hour to even begin serious negotiations. However, the negotiation process could, indeed should, continue after the timely filing of contentions, particularly in the time-frame for Applicant's and Staff's responses to the contentions.

As will be discussed in another order, the Board presently intends to hold a prehearing conference in October, perhaps the week of October 17, 1983. Among other subjects of the conference, the Board will discuss with the parties the admissibility of the proposed contentions on the environmental impacts of accidents for which we believe further discussion would be useful. Accordingly, this is yet another reason why we are unwilling to depart from the schedule which requires responses to such contentions to be received from the Applicant and NRC Staff by September 20 and 30, 1983, respectively.

The City of Philadelphia, as an interested governmental participant, may decide to support the admission of and participate in any litigation of LEA's contentions. Indeed, we note from LEA's filing of August 31, 1983, that Philadelphia has been involved with some preliminary coordination with LEA on some of these contentions. Accordingly, the Applicant, NRC Staff, LEA and Philadelphia are directed to continue negotiations on LEA's proposed contentions. On the same date as Applicant's response to the contentions, September 20, 1983, the parties shall file a joint status report on the negotiations and any changes in the proposed contentions resulting therefrom. As part of that report, Philadelphia shall indicate whether it wishes to participate in the litigation within the scope of any of the proposed contentions, and if so whether it wishes to state its issues in terms different than LEA's contentions. We expect the parties to be able to keep such differences in language to a minimum as part of the

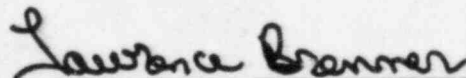
coordination inherent in the negotiation process and as part of the goal of the negotiations as stated in the joint motion before us -- to refine and focus any contentions that are not resolved.

If Philadelphia unexpectedly seeks to advance contentions which are not within the scope of being a refinement to LEA's contentions, it shall address the factors governing good cause for the late filing of contentions. In any event, all contentions shall be fully discussed among the parties so that the Applicant's responses to them and any changes in contentions may be filed on the same date of September 20, 1983.

Counsel for the Applicant, Limerick Ecology Action, City of Philadelphia and the NRC Staff were informed of this order on September 2, 1983.

IT IS SO ORDERED.

FOR THE ATOMIC SAFETY  
AND LICENSING BOARD



Lawrence Brenner, Chairman  
ADMINISTRATIVE JUDGE

Bethesda, Maryland  
September 2, 1983

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NUCLEAR REGULATORY COMMISSION

ATOMIC SAFETY AND LICENSING BOARD

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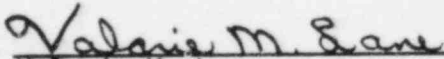
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COURTESY NOTIFICATION

As circumstances warrant from time to time, the Board will mail copies of its memoranda and orders directly to each party, petitioner or other interested participant. This is intended solely as a courtesy and convenience to those served to provide extra time. Official service will be separate from the courtesy notification and will continue to be made by the Office of the Secretary of the Commission. Unless otherwise stated, time periods will be computed from the official service.

I hereby certify that I have today mailed copies of the Board's "Memorandum and Order Denying Motion for Additional Time for City of Philadelphia" to the persons designated on the attached Courtesy Notification List.

  
Valarie M. Lane  
Secretary to Judge Brenner  
Atomic Safety and Licensing  
Board Panel

Bethesda, Maryland

Attachment

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