

RELATED CORRESPONDENCE

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UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

'81 DEC 16 11:25

Before the Atomic Safety and Licensing Board

OFFICE OF SECRETARY
REGULATORY & SERVICE
BRANCH

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

APPLICANT'S RESPONSE TO ADDITIONAL AFFIDAVITS
FILED BY NATIONAL LAWYERS GUILD, PHILADELPHIA CHAPTER

On December 3, 1981, petitioner National Lawyers Guild, Philadelphia Chapter ("Guild"), served copies of 12 additional affidavits from inmates of the State Correctional Institution at Graterford. ^{1/} As discussed below, Applicant, Philadelphia Electric Company, opposes consideration of these lately filed affidavits. In any event, the new affidavits do not cure the failure of the Guild to establish standing for the reasons previously discussed by Applicant in its answer to the Guild petition.

Argument

In its Memorandum and Order, dated October 14, 1981, the Atomic Safety and Licensing Board ("Licensing Board" or "Board") directed the Guild to furnish affidavits of Graterford prisoners setting forth their interests and how those interests

1/ These documents were received by counsel for Applicant on December 7, 1981.

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may be affected by the results of this proceeding. ^{2/} The deadline for the submission was October 26, 1981. The additional affidavits now filed by the Guild are therefore more than a month late, contrary to the instruction from the Board requiring strict compliance with all deadlines. Applicant opposes this unauthorized filing for the same reasons stated in its answer to the amendment of the petition to intervene filed by Consumers Education and Protective Association, ^{3/} and to avoid unnecessary redundancy, incorporates the arguments and authorities cited therein as equally dispositive here.

Moreover, we believe it is fundamental that the Licensing Board is empowered to set such mandatory deadlines so as to adjust the schedule for filing under 10 C.F.R. §2.714(b). This is manifest from the recent guidance given Licensing Boards by the Commission in its Statement of Policy on Conduct of Licensing Proceedings, ^{4/} in which the Commission stated its expectation that Licensing Boards "set and adhere to reasonable schedules for proceedings" in "adjusting

2/ Memorandum and Order Setting Schedule for Submission of Contentions and Other Preliminary Information at 8 (October 14, 1981).

3/ Applicant's Answer to Amendment of CEPA's Petition to Intervene (November 30, 1981).

4/ Statement of Policy on Conduct of Licensing Proceedings, CLI-81-8, 13 NRC 452 (1981).

times fixed by the Board or prescribed by Part 2." ^{4/} The Commission's instructions encouraging Licensing Boards to use all fair means to expedite hearings would be frustrated if Part 2 time requirements must be inflexibly applied.

Conclusion

Accordingly, the additional affidavits filed by the Guild should not be considered by the Board in its consideration of petitioner's standing. Even if considered, the affidavits are simply repetitious of affidavits previously filed and do not, for the reasons previously stated by Applicant in opposing petition, support the Guild's claim for standing and its right to intervene in this proceeding.

Respectfully submitted,

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December 15, 1981

^{4/} Id. at 454.

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CERTIFICATE OF SERVICE

I hereby certify that copies of "Applicant's Response to Additional Affidavits Filed by National Lawyers Guild, Philadelphia Chapter," dated December 15, 1981, in the captioned matter, have been served upon the following by deposit in the United States mail this 15th day of December, 1981:

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Washington, D.C. 20555

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Appeal Panel
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Washington, D.C. 20555

Judge Richard F. Cole
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Washington, D.C. 20555

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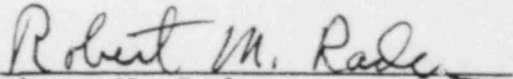
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