

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

ATOMIC SAFETY AND LICENSING BOARD

BEFORE ADMINISTRATIVE JUDGES:

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

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SECRETARY
OF THE
NRC & SERVICE
BRANCH

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In the Matter of

PHILADELPHIA ELECTRIC COMPANY

(Limerick Generating Station,
Units 1 and 2)

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

March 10, 1983

ORDER DENYING FOE MOTION TO RECONSIDER

On November 22, 1982, the Board ruled on the admission of ten contentions advanced by Friends of the Earth in the Delaware Valley (FOE) alleging that hazards from nearby industrial activities would affect safe operation of the proposed Limerick plant. We admitted two of the contentions as specified in the order, redesignated as Contentions V-3a and 3b, and rejected the other eight proposed contentions. The November order was an extension of rulings on the admissibility of contentions made in the Special Prehearing Conference Order (SPCO), LBP-82-43A, 15 NRC 1423 (June 1, 1982). In the SPCO we gave FOE the opportunity to supply the bases and specificity for its original rejected Contention V-3 on industrial hazards. Id. at 1513-14. In response, FOE filed the ten contentions ruled on in the November order.

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By motion dated December 19, 1982, FOE seeks reconsideration of the denial of five of the contentions (1, 2, 6, 8 and 9) in the November 22, 1982 order. FOE's motion is denied because it is late. As we have previously ruled, with respect to a prior motion to reconsider by FOE as well as to such motions by others, such motions must be timely filed. Memorandum and Order (Denying Request of FOE to Admit Contention V-1 Based on New Matter), LBP-82-71, 16 NRC ____ (slip op. at 4) (September 2, 1982); Memorandum and Order (Denying Del-Aware's Request for Reconsideration of DRBC Preclusion on Water Allocation Issues), LBP-82-72, 16 NRC ____ (slip op. at 5-6) (September 3, 1982). We noted that we would deem the time period of 10 C.F.R. § 2.751a applicable to requests for reconsideration of an order which is in the nature of a special prehearing conference order, even if not so titled. LBP-82-72, supra, at ____ (slip op. 5), n. 2. An order ruling on the admissibility of contentions, particularly as a follow-up to the June 1 SPCO, clearly is such an order.

To eliminate any lingering doubt, under our authority to regulate the proceeding (10 C.F.R. § 2.718), we order that unless otherwise specified in a particular order, the time periods in 10 C.F.R. § 2.751a(d) (or the same time periods in § 2.752(c)) for the filing of motions to reconsider are applicable to all orders issued by this Board. This does not include partial initial decisions or initial decisions on the merits. The more lenient ten day time period of 10 C.F.R. § 2.771 will be applied to initial decisions.

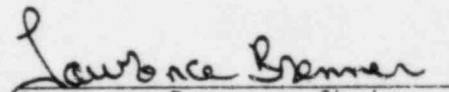
Accordingly, applying the five day time period (plus five days for regular mail pursuant to 10 C.F.R. § 2.710) to the November 23, 1982 date of service of the subject order, FOE's motion for reconsideration was due to be filed on December 3, 1982. Even assuming FOE mistakenly believed the ten day time period applied, its motion would have been untimely.

We recognize that FOE is not represented by counsel. Even allowing for this, our above cited prior rulings on timeliness of motions to reconsider were very clear. However, there is the possibility, albeit unjustified, that FOE's representative failed to perceive the direct applicability of our prior rulings on timeliness to its motion now before us. Therefore, out of an abundance of procedural fairness, we have re-examined our rulings in the November 22, 1982 order in light of FOE's motion to reconsider. We find no reason presented by FOE to depart from them. Those of FOE's contentions which were concerned with effects of industrial hazards on non-safety equipment (such as the switchyard) or on toxic fumes affecting general nuclear power plant employees as distinguished from control room operators, were properly rejected for the reasons set forth in the November 22, 1982 order. In addition, we have admitted contentions alleging deficiencies in the analysis of the worst case explosion and fire (from the ARCO pipeline). There is no basis to assume the occurrence of an independent explosion of explosives in the rock quarry, with lesser potential effect (rejected Contention 9), in combination with the occurrence of the worst case postulated ARCO pipeline explosion as urged on reconsideration.

For the reasons stated, FOE's motion to reconsider is denied.

IT IS SO ORDERED.

FOR THE ATOMIC SAFETY
AND LICENSING BOARD



Lawrence Brenner, Chairman
ADMINISTRATIVE JUDGE

Bethesda, Maryland
March 10, 1983