

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



SERVED JUL 15 1983

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

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

July 14, 1983

MEMORANDUM AND ORDER CONCERNING
DEL-AWARE'S JUNE 16, 1983 LETTER TO THE BOARD

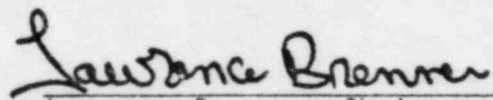
On June 16, 1983, counsel for Del-Aware served a letter on the parties to this proceeding "in lieu of a new proposed, new contention and new bases and arguments..." Letter, at 2. Because Del-Aware has not supplied a specific contention, it is not at all clear what Del-Aware wishes to litigate. Del-Aware states that its interest is "not limited to the environmental impacts of the diversion but dealing, as well, with the effects of continuing to pursue this option, on the welfare of the Applicant, its financial viability, and the impact on its customers, within the terms of Part 50 of the Commission's regulations, as well as Part 51." Letter, at 2.

This proposed contention (if it may properly be called that) is denied. Not only is it vague, it seems to address matters beyond the jurisdiction of this Board. Jurisdiction over the environmental impacts of the supplementary cooling water system has passed to the Appeal Board. See Metropolitan Edison Co. (Three Mile Island, Unit 1), ALAB-699, 16 NRC ____, ____, slip op. at 5 (October 27, 1982). Del-Aware's failure to address jurisdiction is particularly egregious in light of the recent consideration of jurisdiction over Del-Aware's issues in this case. Philadelphia Electric Co. (Limerick, Units 1 and 2), ALAB-726, 17 NRC ____, ____ n.3, slip op. at 3 n.3 (May 2, 1983). The Commission has directed adjudicatory boards not to consider the issue of financial qualifications of utilities seeking operating licenses. See 10 C.F.R. 2.104(c)(4); Elimination of Review of Financial Qualifications of Electrical Utilities in Licensing Hearings for Nuclear Power Plants, 47 Fed. Reg. 13,750 (March 31, 1982). In addition, Del-Aware has failed to address the factors to be balanced in determining whether to reopen the record and/or admit an untimely contention. See 10 C.F.R. 2.714(a)(1); Pacific Gas and Electric Co. (Diablo Canyon, Units 1 and 2), CLI-81-5, 13 NRC 361, 364-65 (1981).

For all these reasons Del-Aware's request for a new contention is denied.

IT IS SO ORDERED.

FOR THE ATOMIC SAFETY
AND LICENSING BOARD

A handwritten signature in cursive script that reads "Lawrence Brenner". The signature is written in dark ink and is positioned above a horizontal line.

Lawrence Brenner, Chairman
ADMINISTRATIVE JUDGE

Bethesda, Maryland
July 14, 1983