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UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

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Before the Atomic Safety and Licensing Board

OFFICE OF SECRETARY
PLANNING & SERVICE
BRANCH

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

APPLICANT'S ANSWER TO SUPPLEMENTAL MOTION BY FRIENDS
OF THE EARTH FOR ADMISSION OF NEW, LATE CONTENTIONS
RELATED TO APPLICANT'S MOTION FOR AN EXPEDITED
PARTIAL INITIAL DECISION AND ISSUANCE
OF A LOW-POWER LICENSE

Preliminary Statement

In a motion filed May 18, 1984, intervenor Friends of the Earth ("FOE") sought the admission of ten new, late filed contentions in response to the motion by Applicant Philadelphia Electric Company ("Applicant") pursuant to 10 C.F.R. §50.57(c), which requested issuance of an expedited partial initial decision and an operating license authorizing Applicant to load fuel in the Limerick Generating Station ("Limerick"), Unit 1 reactor and to conduct low-power operations. Applicant filed its answer to the FOE motion for late contentions on June 1, 1984, asserting that FOE's proposed contentions are unrelated to Applicant's motion and otherwise inadmissible for failing to satisfy the Commission's requirements for late filed contentions and reopening the record.

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On May 30, 1984, FOE filed a "supplement" to its motion, seeking the admission of four new and different late filed contentions.^{1/} FOE's supplemental contentions are equally inadmissible and should likewise be denied for the reasons discussed in Applicant's original answer^{2/} and for the reasons further discussed below.

Argument

In its proposed Contention 11, FOE simply asserts that it will ultimately prevail on its previously rejected contention opposing Applicant's receipt and storage of new fuel onsite. Aside from the fact that this assertion is deficient on its face in failing to state any litigable matter, it is utterly insupportable. The Licensing Board dismissed FOE's contentions concerning Applicant's Part 70

1/ Additionally, FOE sought to supplement its previously submitted contentions by reference to the decision in Byron regarding quality assurance issues. Commonwealth Edison Company (Byron Nuclear Power Station, Units 1 and 2), Docket Nos. 50-454 OL and 50-455 OL, "Memorandum and Order" (May 7, 1984). Inasmuch as FOE makes absolutely no attempt to show why the Licensing Board's findings in Byron are applicable to Limerick, the case adds nothing to FOE's previously filed contentions.

2/ For the sake of brevity, Applicant hereby incorporates its previously filed Answer (June 1, 1984) to FOE's motion for the admission of ten late contentions with regard to its position that the request for a low-power license is predicated upon the existing record of the application and does not automatically give rise to the submission of additional contentions and request for hearings, and also with respect to the Commission's precedents for reopening the record and admitting late contentions.

license to receive and store unirradiated fuel onsite,^{3/} and the Appeal Board affirmed the dismissal, also lifting its temporary stay of a issuance of the Part 70 license.^{4/} The Commission denied the stay of the Appeal Board order, finding that FOE had failed to show, inter alia, that it is likely to prevail on the merits.^{5/}

In proposed Contention 12, FOE alleges error by the Licensing Board in certain evidentiary rulings during the hearing on its Contentions V-3(a) and (b). FOE's remedy is to appeal those rulings, not to seek to relitigate them before the Licensing Board by way of a new contention. The Licensing Board would, in any event, reach the same result inasmuch as its rulings constitute the law of the case.

FOE asserts in its proposed Contention 13 that Applicant's analysis of high energy line breaks ("HELB's") is inadequate because it "does not assess completely the risk because of the exclusion of lines which operate 2% or less above 200°F. and 275 psig."^{5/} FOE asserts that these lines

3/ Philadelphia Electric Company (Limerick Generating Station, Units 1 and 2), LBP-84-16, 19 NRC _____ (March 16, 1984).

4/ Philadelphia Electric Company (Limerick Generating Station, Units 1 and 2), ALAB-765, 19 NRC _____ (March 30, 1984).

5/ Philadelphia Electric Company (Limerick Generating Station, Units 1 and 2), Docket Nos. 50-352 and 50-353, "Order" (April 26, 1984).

6/ Supplement to R.L. Anthony/FOE Motion (May 30, 1984).

are "most subject to rupture because of the fluctuations in heat and pressure and they could trigger other breaks and bring the cumulative consequences above the FSAR Chap. 15 analysis."^{7/} This proposed contention is entirely devoid of any supporting basis which would give rise to a litigable issue. Licensing boards have routinely rejected similarly vague and unsupported safety contentions.^{8/} The proposed contention fails to allege any failure to meet applicable NRC safety requirements and does not assert any circumstances or scenario which would create a safety problem; it merely asserts ipso facto that a problem might exist.^{9/}

^{7/} Id.

^{8/} See, e.g., Public Service Company of New Hampshire (Seabrook Station, Units 1 and 2), LBP-82-76, 16 NRC 1029 (1982); Carolina Power & Light Company (Shearon Harris Nuclear Power Plant, Units 1 and 2), LBP-82-119A, 16 NRC 2069, 2088-90 (1982); Carolina Power and Light Company (H.B. Robinson Steam Electric Plant, Unit 2), Docket No. 50-261-OLA, "Memorandum and Order (Report on Special Prehearing Conference Held Pursuant to 10 C.F.R. 2.751a)" (April 12, 1983) (slip op. at 22-24).

^{9/} FOE also appears to assert that a HELB might "trigger other breaks" which were not considered in the referenced May 4, 1984 High Energy Line Break/Control Systems Failure Analysis Report. As noted in the introduction to that Report, its sole purpose was "to determine the effects of a [HELB] on any non-safety related control systems. . . ." The effects of a HELB on other systems are described in FSAR Section 3.6. Specifically, Section 3.6.1.2.1.2, dated April 1983, analyzed the effects of a HELB on the main steam system to which FOE appears to refer. Thus, this information has long been available and cannot support a late-filed contention.

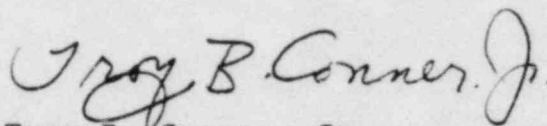
Finally, in its proposed Contention 14, FOE takes issue with Applicant's estimated dates for fuel loading and completion of construction. FOE's speculation that Applicant will "gloss over" safety requirements in order to meet those dates raises no litigable issue. Such allegations are also entirely vague and without any basis whatsoever.

Conclusion

For the reasons discussed more fully above, FOE's supplemental motion to admit an additional four late filed contentions should be denied.

Respectfully submitted,

CONNER & WETTERHAHN, P.C.



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Counsel for the Applicant

June 13, 1984

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NUCLEAR REGULATORY COMMISSION

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CERTIFICATE OF SERVICE

I hereby certify that copies of "Applicant's Answer to Supplemental Motion by Friends of the Earth for Admission of New, Late Contentions Related to Applicant's Motion for an Expedited Partial Initial Decision and Issuance of a Low-Power License" dated June 13, 1984 in the captioned matter have been served upon the following by deposit in the United States mail this 13th day of June, 1984:

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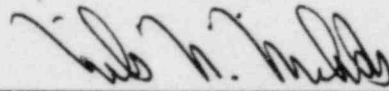
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