

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

ATOMIC SAFETY AND LICENSING APPEAL BOARD

Administrative Judges:

Christine N. Kohl, Chairman  
Gary J. Edles  
Dr. Reginald L. Gotchy

DOCKETED  
USNRC

'84 AGO 10 P2:18

August 9, 1984

OFFICE OF SECRETARY  
DOCKETING & SERVICE  
BRANCH

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

Docket Nos. 50-352 0 L  
50-353 0 L

SERVED AUG 10 1984

ORDER

We received today, August 9, 1984, intervenor Del-Aware's Motion to Set Aside Based on New Evidence. The motion contains a certificate of service, signed by Del-Aware's counsel, asserting that he mailed this document to the parties, the Commission's Secretary, and us on July 31, 1984. The motion, however, was accompanied by a letter "signed" by counsel (per someone else), bearing the date August 6, 1984, and stating that "[t]he original was filed with the Secretary and copies served in accordance with the attached Certificate of Service." The envelope containing both the motion and letter bears a postmark date of August 6, 1984. The records of the Commission's Secretary show that this motion was received August 8, in an envelope postmarked August 3, and accompanied by a letter dated August 3.

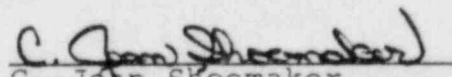
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Notwithstanding counsel's certificate of service, all other indications are that counsel did not, in fact, mail, and thus did not "file,"<sup>1</sup> Del-Aware's motion on July 31, 1984, the date he averred.<sup>2</sup> In this circumstance, we will treat the motion as filed on August 6, 1984, the date of counsel's own letter to us and the postmark on our copy of the motion. The time for filing replies will run from that date.

It is so ORDERED.

FOR THE APPEAL BOARD

  
C. Jean Shoemaker  
Secretary to the  
Appeal Board

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<sup>1</sup> See 10 C.F.R. § 2.701(c).

<sup>2</sup> Under the Commission's Rules of Practice, proof of service may be made by "certificate of counsel" or by "affidavit" of a non-attorney. 10 C.F.R. § 2.712(e). This requirement -- comparable to that of courts and other agencies -- is not to be taken lightly. An affidavit is a statement under oath. Black's Law Dictionary 54 (5th Ed. 1979). A certificate of counsel -- a member of the bar and officer of the court -- is comparable. See id. at 205. Largely because the timeliness of pleadings and the dates for responses thereto are determined by filing dates, we expect certificates of service to reflect accurately the actual date and method of service.