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U.S. NUCLEAR REGULATORY COMMISSION..ATOMIC SAFETY & LICENSING APPEAL BOARD

RE: PHILA;ELEC. CO. Limerick Gen. Sta. Units 1 & 2  
USNRC

DOCKET # 50-352,353 /66

September 24, 1984

APPEAL BY R. L. ANTHONY/FOE FROM ASLB ORDER OF 9/7/84 AND THE AFFIDAVITS ASLB  
REQUIRED TO VALIDATE THE ORDER, FILED 9/21/84 ; and APPEAL FROM ASLB PARTIAL  
INITIAL DECISION ON OUR CONTENTIONS V -3a and 3b.

DOCKETING & SERVICE  
BRANCH

BACKGROUND.

On 9/1/84 Anthony/FOE filed with NRC a Motion to Set Aside "Partial In-  
itial Decision" on our Contentions V-3a and 3b. On 9/7/84 ASLB issued an  
order stating "our decision remains in effect". We conclude this means that  
ASLB did not set aside the decision as we petitioned and that we are now free  
to appeal the Partial Initial Decision.  
APPEAL".

We appeal the Partial Initial Decision on Contentions V 3a and 3b to the  
Appeal Board and we assert again, as we did in our motion above, that ASLB err-  
ed in making a decision on our contentions after it had received Board Noti-  
fication No. 84-142 from T.M.Novak, NRC Div. of Licensing, in regard to the  
reactor enclosure vent stack. This Notification brought new information on  
the structural integrity of the plant which had to be evaluated before any  
initial decision on our contentions could be completed. The notification was  
dated 8/20/84 ; ASLB's decision was issued on 8/29/84.

ASLB conditioned its order thus:

The NRC Staff's and Applicant's answers to FOE's motion to reopen shall  
update the information, by affidavits of appropriate officials with the  
knowledge of the facts, contained in the Board Notification.

The NRC Staff complied with this order on 9/21/84 and we received the Staff  
affidavits today. The Staff compliance will not be complete, we understand,  
until a "report documenting the findings" has been provided to the Board and  
Parties. ( Affidavit of Robert M.Galle page 4 # 10, 9/19/84).

CONCLUSION.

We trust that the Appeal Board will agree that our "Motion to Set Aside"  
was not answered until we received affidavits from the Staff today. Our appeal  
is, therefore, filed in a timely manner since we intended with our 9/1/84 appeal  
to appeal  
the partial initial decision but were not free until ASLB's order and affidavits  
were completed.

Respectfully submitted,

cc ASLB Judges Brenner, Cole, Morris  
NRC Staff, Docketing, M.J. Wetterhahn

Robert L. Anthony

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