

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

DOCKETED
USNRC

Before the Atomic Safety and Licensing Board

'85 MAY 22 P1:39

In the Matter of

Philadelphia Electric Company

(Limerick Generating Station,
Units 1 and 2)

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)
OFFICE OF SECRETARY
DOCKETING & SERVICE
BRANCH
)
)
Docket Nos. 50-352~~OL~~
50-353~~OL~~

APPLICANT'S RESPONSE TO
ROBERT L. ANTHONY/FOE UNAUTHORIZED REPLY

On May 14, 1985, Robert L. Anthony and Friends of the Earth in the Delaware Valley submitted a reply^{1/} to Applicant's answer to their April 30, 1985 petition to reopen the record.^{2/} This reply, which attempts to bolster the arguments in the original motion, is impermissible under the Commission's Rules of Practice. 10 C.F.R. §2.730. If the Atomic Safety and Licensing Board does consider this

1/ "Anthony/FOE Response To The Board's Order Of 5/8/85 In Reply To Our Petition Of 4/30/85 To Reopen The Record On PECO's No. 1. Effluent Release Report And Response To Applicant's Answer To Our Petition, 5/7/85." The pleading purports to be a response to the Licensing Board's Order of May 8, 1985. That Order set the date for responses by other parties to FOE's original motion, but did not permit a further filing by FOE.

2/ "Petition By Anthony/FOE To Reopen The Record On The Basis Of New Information In Phila. Elec. Co's Semi-Annual Effluent Release Report, Feb. 1985."

pleading, however, Applicant asks that this reply be considered.

The instant pleading adds nothing which supports the requested relief. While FOE states the name of a witness who allegedly would testify on its behalf, no statement of professional qualification or indication of his expertise relating to the specific subject matter of the proposed contention is given.^{3/} Moreover, to the extent any area of proposed testimony is discernible, it would clearly constitute an impermissible challenge under 10 C.F.R. §2.758 to the Commission's standards for protection against radiation contained in 10 C.F.R. Part 20 and the "as low as reasonably achievable" criterion contained in 10 C.F.R. Part 50 Appendix I.^{4/}

While FOE asserts that "it may appear that PECO will be required to make structural changes to accomplish the

^{3/} In Metropolitan Edison Company (Three Mile Island Nuclear Station, Unit No. 1), LBP-81-59, 14 NRC 1211, 1493 (1981), the Licensing Board characterized FOE's proposed witness as 3 showing "a lack of familiarity and/or depth of knowledge" in certain areas related to his testimony. See also Applicant's Answer to Petition by Anthony/Friends of the Earth to Reopen the Record Based on Information Relating to Offsite Effluent Releases (May 7, 1985) at 8.

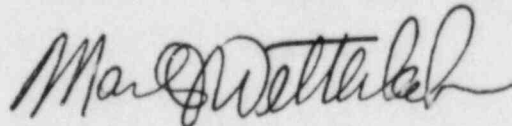
^{4/} Consolidated Edison Company of New York (Indian Point, Unit No. 2), LBP-83-5, 17 NRC 134, 139 (1983); Philadelphia Electric Company (Limerick Generating Station, Units 1 and 2), LBP-82-43A, 15 NRC 1423, 1501 (1982); Pacific Gas and Electric Company (Diablo Canyon Nuclear Power Plant, Units 1 and 2), ALAB-410, 5 NRC 1398, 1402 (1977).

limiting of radioactive effluent, or it could be possible that the plant cannot presently be operated within the NRC limit on effluent," absolutely no support is given for this conclusion. No specificity or basis has been added to the proposed contention. Moreover, the single sentence FOE devotes to each of the Commission's criteria for admission of late-filed contentions are merely conclusory and nonsubstantive.

In sum, FOE has still failed to meet either the standards for reopening a closed record or the separate criteria for admitting late contentions. Additionally, its motion remains utterly lacking in the requisite specificity and bases. The petition should therefore be denied.

Respectfully submitted,

CONNER & WETTERHAHN, P.C.

A handwritten signature in dark ink, appearing to read 'Mark J. Wetterhahn', written in a cursive style.

Mark J. Wetterhahn
Counsel for Philadelphia
Electric Company

May 22, 1985

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CERTIFICATE OF SERVICE

I hereby certify that copies of "Applicant's Answer to Proposed Revised Contentions of the Graterford Prisoners," "Applicant's Response to Comments of Other Parties Concerning the Board's Order dated May 9, 1985," and "Applicant's Response to Robert L. Anthony/FOE Unauthorized Reply" all dated May 22, 1985 in the captioned matter have been served upon the following by hand delivery or by deposit in the United States mail this 22nd day of May, 1985:

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