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UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

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USNRC

'90 MAR -6 P4:12

Before Administrative Judges:  
Ivan W. Smith, Chairman  
Richard F. Cole  
Gustave A. Linenberger, Jr.

OFFICE OF SECRETARY  
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BRANCH

In the Matter of  
PHILADELPHIA ELECTRIC COMPANY  
(Limerick Generating Station,  
Unit 1)

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Docket No. 50-352-OLA  
[ASLBP No. 86-522-02-LA]  
(Check Valve)

March 6, 1986

MEMORANDUM AND ORDER ON LICENSEE'S MOTION  
TO DEFER ANSWERS TO PETITIONER'S CONTENTIONS

By motion dated February 25, 1986 the Licensee seeks leave to defer answering the contentions filed on February 15 by the Petitioner, R. L. Anthony.<sup>1</sup> The Staff supported the Licensee's motion in a response of March 4.

The Board recognizes that, as Licensee puts it, it might be pointless to answer contentions if the Board rules that Mr. Anthony's petition should be denied. We also agree with Licensee that it might be non-availing to answer contentions until the time for supplementing petitions has expired. However, if the Board were to allow this proceeding to progress in the normal sequence with the normal timing,

<sup>1</sup> In our order of March 4, 1986 we suspended temporarily the opportunity and need for filing pleadings, including the need to answer Mr. Anthony's pleadings.

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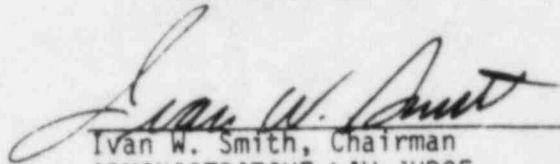
the parties might still be wrestling with prehearing matters well into the time period in issue. Even with the best efforts of the Board and the parties it may be very difficult to resolve this proceeding before the scheduled outage on May 26, 1986.

The responses of Licensee and the Staff to the intervention petition have raised novel questions of timeliness, standing, and the meaning of the term "aspects" of the intervention rule, 10 CFR § 2.714. Both the Staff and Licensee agree that, once the Board rules on the intervention petition, any delay in answering proposed contentions would be minimal. To assure that any such delay is minimal, the Board directs both the Licensee and the NRC Staff to be prepared to have in the hands of the Board its responses to Mr. Anthony's February 15 contentions no later than 12:00 Noon, Monday, March 17, 1986. The Board anticipates that it will rule on Mr. Anthony's intervention petition during the week of March 10. If the petition is not granted, counsel for the Licensee and the Staff will be informed promptly that answers to the contentions will not be required.

This arrangement does not resolve Licensee's concern that Mr. Anthony might supplement his petition with yet another set of contentions or file an amended petition as provided under the intervention rule. If the Board grants Mr. Anthony's petition, we shall provide for a prehearing conference and address the regulatory authority for amending and supplementing petitions. We see no injury to Licensee in any event because, if Mr. Anthony should file supplements or amendments to his petitions, the other parties will be afforded

reasonable opportunities to address his later filings. Any resulting delay will not harm Licensee's position in the proceeding.

FOR THE ATOMIC SAFETY AND  
LICENSING BOARD

  
Ivan W. Smith, Chairman  
ADMINISTRATIVE LAW JUDGE

Bethesda, Maryland

March 6, 1986