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UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

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

Docket Nos. 50-352 -OL
50-353 -OL

MEMORANDUM AND ORDER
CLI-86- 06

Robert Anthony/Friends of the Earth ("FOE") filed a motion on November 12, 1985, requesting the Atomic Safety and Licensing Appeal Board to (a) reopen the record on two contentions which had been litigated in this proceeding and (b) stay operation of Limerick Unit 1. In ALAB-823, 22 NRC ___ (November 19, 1985), the Appeal Board determined that it lacked jurisdiction over the motion because it had already issued its appellate decision (ALAB-819, 22 NRC 691 (October 22, 1985)) on the merits of the two contentions. It then referred the motion to reopen the record to the Commission. For the reasons set forth in this Order, the Commission has denied the request to reopen the record and to stay operation of Limerick, Unit 1.

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Background

Anthony/FOE seek reopening of the record on two of their contentions that were litigated before the Licensing Board. Those contentions read as follows:

- V-3a. In developing its analysis of the worst case rupture of the ARCO pipeline (which carries gasoline throughout the site), the applicant (in its FSAR) provided no basis for excluding consideration of siphoning. Thus, the consequences of the worst case pipeline accident are understated.
- V-3b. In discussing deflagration of gas and petroleum due to pipeline rupture of the ARCO pipeline or of the Columbia Gas pipeline (which carries methane in a gaseous state near the site), no specific consideration has been given (in the FSAR) to the effect of radiant heat upon the diesel generators and associated diesel fuel storage facilities.

In litigating these issues the Licensing Board asked the parties to address considerations that went far beyond an analysis of siphoning and radiant heat effects resulting from a pipeline rupture and deflagration. The Licensing Board also inquired into, among other matters, the effect of a postulated blast shock wave on the natural draft cooling towers which resulted in a collapse of the towers. This scenario, as addressed by the Licensing Board, could result in the flooding of the Unit 1 Turbine Building and Control Structure via open doors in the Turbine Building. After thoroughly analyzing the issue, the Licensing Board concluded that "there would be no entrance for water into... [safety-related] structure[s] and no adverse impact on

the ability to safely shut down the reactor." LBP-84-31, 20 NRC 446, 491.

The Appeal Board in ALAB-819, 22 NRC 681, 730-741 affirmed the Licensing Board. The Appeal Board concluded that "nothing directly pertinent to Anthony/FOE's pipeline explosion scenario was or is 'unresolved' by the Licensing Board's decision." 22 NRC at 740.

Following issuance of ALAB-819, Philadelphia Electric Company ("PECO") filed a Licensee Event Report (LER 85-080) with the Commission on October 31, 1985. In that report PECO advised the Commission that it had recently discovered that because final site grading had not been completed in conformance with its Final Safety Analysis Report, the potential existed for the Control Structure to be flooded in the event of design basis rainfall or from a failure in the cooling tower basins. PECO advised the NRC that it had immediately initiated and completed actions to eliminate the safety concern--flood barriers were installed at critical building openings, curbs were added to control the flow of water in the buildings, and a new plant procedure was developed to assure that Unit 1 could be shut down safely, even if the redundant Control Structure Chilled Water System ("CSCWS") was disabled by flooding.

Motion to Reopen the Record

Anthony/FOE argue that the new information contained in the LER establishes that, if the cooling towers collapsed, water could enter the Control Structure and disable the chilled water pumps. They claim this disabling of the CSCWS could leave the control building with uncertain cooling facilities for the Main Control Room, Auxiliary Equipment Room, Emergency Switchgear Rooms and Battery Rooms. The loss of cooling could result in excessive heat that could prevent safe shutdown of the facility. Anthony/FOE argue that if the Licensing Board had known this, it would have reached a different, unspecified, conclusion regarding the potential for the loss of Control Structure cooling as a result of flooding from a collapse of the cooling towers.

The NRC staff and the licensee both filed pleadings opposing the Anthony request.

In determining whether a closed adjudicatory record should be reopened, the Commission applies three criteria: (1) is the motion timely; (2) does it address significant safety or environmental issues; (3) might a different result have been reached had the newly proffered material been considered initially. Metropolitan Edison

Company (Three Mile Island Nuclear Station, Unit 1), CLI-85-2, 21 NRC 282, 285 n.3.¹

There is no question here that the motion here is timely. Anthony/FOE filed their request promptly after receipt of the LER.

The other two criteria, however, have not been met. In its pleading in response to the Anthony/FOE motion to reopen the record, the NRC staff provided a detailed technical analysis of the consequences of a flood. The staff concluded that the corrective action taken by licensee is satisfactory, and that a worst-case event would not result in water intrusion in the Unit 2 turbine building or the Control Structure in quantities sufficient to cause significant flooding.²

¹Because the issue Anthony/FOE raises is unrelated to siphoning, or radiant heat resulting from a worst-case pipeline rupture, the issue they seek to reopen the record on does not fall within the scope of the two contentions that they filed with the Licensing Board. Accordingly, in seeking to reopen the record, they should have also addressed the criteria for determining whether late-filed contentions should be admitted. 10 C.F.R. § 2.714(a)(1). This failure offers an independent basis for denial of the motion to reopen.

²We also note the improbability of such an event. The pipeline rupture would have to take place during the few days of the year that have the most severe atmospheric temperatures. The rupture would have to lead to an explosion capable of destroying the cooling towers. The towers would have to fail in such a manner to cause failure of the water basins and result in a flood surge which then would have to enter the Turbine Building. The flood barriers and new procedures would have to fail.

The staff also determined that the CSCWS is not required to shut the plant down safely. Anthony/FOE offers no credible technical reason to dispute the staff's analysis. We therefore conclude, based as the staff's analysis, that petitioner has not raised any significant unresolved safety issue warranting reopening of the record.

Finally, the new information, even if it had been considered earlier, could not have led the Licensing Board to reach a different result. In light of the staff's analysis, not credibly disputed by petitioner, that flooding of the Control Structure would not prevent a safe shutdown of the facility, and that proper corrective actions has been taken, the Licensing Board could not have concluded that the scenarios postulated by petitioner warrant further corrective action. Accordingly, the motion to reopen the record is denied.

Stay Request

With respect to petitioners' claim that the new information warrants a stay of the Limerick operating license facility, petitioners in their motion did not address the criteria for a stay set forth in 10 C.F.R. § 2.788. In light of their failure to do so, summary denial of their request is appropriate. In any event, since the Commission has

determined that petitioners have not raised a significant safety issue, there is no basis for any stay.



For the Commission,

A handwritten signature in black ink, appearing to read "Samuel J. Chalk", written over a horizontal line.

Samuel J. Chalk
Secretary of the Commission

Dated at Washington, D.C.

this 20TH day of March, 1986.