

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

PHILA.ELEC CO. Limerick Gen.Sta. Units 1 & 2. Docket # 50-352,353 ^{OL}

Judges T.S.Moore, Chairman, Dr.R.L.Gotchy, H.A.Wilber . March 26, 1986

MOTION BY R.L.ANTHONY/FOE TO THE APPEAL BOARD TO DISMISS THE LICENSEE'S MOTION FOR DIRECTED CERTIFICATION ON LB'S ORDER RULING ON OUR INTERVENTION.

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OFFICE OF PETITION DOCKETING & SERVICE BRANCH

On 3/19/86 PECO filed a motion with the Board "for directed certification of the 'memorandum and order ruling on Robert L. Anthony's petition for leave to intervene'" We assert that LB's determination that we had met the threshold intervenor criteria was correctly arrived at and we ask the Board to confirm this by denying PECO's motion.

ARGUMENT. We consider here the six points raised by PECO in its petition above (p. 2 & 3). 1. The Board accepted that we were not notified of the Fed.Reg. notices of 12/26 and 30/85 until we received a copy from NRC on 1/29/86 and that we filed our petition immediately. The Board made a fair determination, as it is authorized to do under 10CFR 2.714 (d). 2. We did not fail to address the lateness criteria since our petition was not late; we filed on the day of our notification. The Board did not develop arguments on our behalf as PECO mistakenly avers. It carried out its obligation under Sec 2.714 (d):

..in ruling on a petition for leave to intervene, (to) consider the following things: (1) The nature of the petitioner's right... (2) The nature and extent of the petitioner's property, financial, or other interest in the proceeding. (3) The possible effect of any order which may be entered....on the petitioner's interest.

3. The Board did not decide that we "had greater rights in intervening than other individuals". The Board merely recognized the NRC requirement, restated by the previous Licensing Board, that all documents should be served on all parties, and that it was a fair expectation that we should be served the Fed.Reg. in these license amendments notices.

4. The Board did not violate any precedent but actually carried out its obligation by fairly determining that our petition was acceptable. The Board agreed with the Staff that our petition was legitimately filed in (ASLEP No. 86-522-02-LA, 3/13/86, p.7) :

We believe that the Staff has taken the more responsible position on this issue. It does not oppose the petition on the basis of timeliness. The Staff implies that Mr. Anthony was entitled to receive a copy of the Federal Register notice when it was published. Staff Response at 3 n.l.

5. The Board could have sensed that we could add to a sound record, correctly. 6. The essence of the issue here is that PECO was granted the amendments.

I certify copies by mail: NRC, Sec., Docketing ^{3/26/86} Respectfully submitted, By hand: L.B. Judges, Staff, Conner & Wetherhahn Robert L. Anthony ^{3/27/86} Box 186 Moylan, Pa. 19065

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