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USNRC

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

'87 FEB -5 P2:31

ATOMIC SAFETY AND LICENSING APPEAL BOARD

Administrative Judges:

OFFICE OF SECRETARY
DOCKETING & SERVICE
BRANCH

Christine N. Kohl, Chairman
Gary J. Edles
Howard A. Wilber

February 4, 1987

SERVED FEB 05 1987

In the Matter of)

PHILADELPHIA ELECTRIC COMPANY)

(Limerick Generating Station,
Units 1 and 2))

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

ORDER

For the third time in a year in this proceeding, our appellate review has been hampered by the absence of exhibits tendered in connection with the hearing on a particular issue or issues. See ALAB-836, 23 NRC 479, 485 n.3 (1986); Appeal Board Order of June 3, 1986 (unpublished) at 3. The Appeal Panel docketing section has received none of the apparently seven exhibits offered and received into evidence at the hearing held on September 22, 1986, on the remanded issue of manpower mobilization at the State Correctional Institution at Graterford.¹ The Commission's

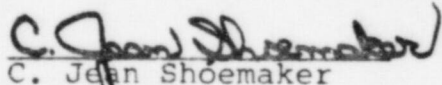
¹ The transcript for this date, at Tr. 21,381, lists a total of seven exhibits. The Licensing Board's supplement to its fourth partial initial decision, LBP-86-38, 24 NRC (November 10, 1986), failed to include the customary list of such exhibits.

Office of the Secretary -- the official custodian of the record -- has informed us that it, too, has not received any of these exhibits. See 10 C.F.R. § 2.702.

We are at loss to understand why this problem has continued, particularly after informal, internal efforts were undertaken to prevent its recurrence. In any event, irrespective of where the "glitch" in the system actually lies (e.g., the court reporter, the parties, the Licensing Board), it is necessarily the Licensing Board's implicit, if not explicit, responsibility in the first instance for overseeing the development and preservation of the record. See, e.g., 10 C.F.R. § 2.743(f). Accordingly, we direct the Licensing Board to take whatever steps are necessary to provide us and the Commission's Secretary each with a clean, official copy of all exhibits tendered in connection with that part of this proceeding addressed in its November 10, 1986, supplement to the fourth partial initial decision. The exhibits are to be in our hands by close of business February 11, 1987. If meeting that deadline is not possible, we are to be so advised immediately.

It is so ORDERED.

FOR THE APPEAL BOARD


C. Jean Shoemaker
Secretary to the
Appeal Board