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UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION
ATOMIC SAFETY AND LICENSING BOARD

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Before Administrative Judges

Morton B. Margulies, Chairman
Jerry Harbour
Frederick J. Shon

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In the Matter of)	Docket Nos. 50-352-OL-2
)	50-353-OL-2
PHILADELPHIA ELECTRIC COMPANY)	(Design Alternatives)
)	
(Limerick Generating Station,)	ASLBP No. 89-589-04-OL-R2
Units 1 and 2))	
)	August 15, 1989

MEMORANDUM AND ORDER
(Request For Expedited Answer)

On August 11, 1989, Licensee, Philadelphia Electric Company (PECO) filed a motion to set a schedule for discovery and hearing and requested an expedited answer to the motion by the Nuclear Regulatory Commission Staff (Staff) and Limerick Ecology Action (LEA). PECO requested that the Staff and LEA be ordered to respond to the motion, by in hand delivery, no later than August 16, 1989. These parties have not responded to the motion.

This Memorandum and Order solely relates to Licensee's request for an expedited answer and not to the merits of the motion to set a schedule. In this Memorandum and Order, we deny PECO's request for an expedited answer.

49 C.F.R. §2.730(c) gives a party ten days to file an answer to a written motion and in the case of Staff, 15 days. An

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additional two days is added to the response period, where, as here, the motion was served by express mail. 49 C.F.R. §2.710. 49 C.F.R. §2.711 provides that a presiding officer may for good cause shorten the prescribed time. Having reviewed Licensee's request for an expedited answer, the Board finds a lack of good cause to do so and denies the request.

PECO would have had the parties file an answer by August 16, 1989, within five days (three work days) after serving the motion. This period overlaps an extension of time given by the Commission to LEA to respond to questions designed to elicit information on the relative environmental impacts of allowing the Limerick Generating Station, Unit 2, to operate at full power pending completion of ongoing consideration of Severe Accident Mitigation Design Alternatives. The extension to August 14, 1989 was given in response to a request from LEA asserting that it did not have the resources to make the analysis within the time allotted. Commission Memorandum and Order (August 7, 1989).

It is only by August 16, 1989 that the Staff is expected to issue its evaluations of the six mitigation alternatives that underlie this entire litigation. Staff Response to Commission Questions at 2 (August 2, 1989). Assuming the Staff issues the evaluation as scheduled, Licensee's request for a response to the motion on August 16, 1989, leaves no time for LEA to respond in any meaningful way for setting a schedule for discovery and hearing.

The Board notes that Staff, who has the burden of going forward, did not assent in any way to PECO's request for the filing of an expedited answer.

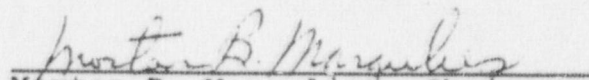
We are mindful of the Commission's Order of May 5, 1989 that underlies this proceeding. In it the Commission stated that the proceeding shall be "expedited to the extent consistent with fairness to the parties." The requested action is not supported by good cause nor is it fair to the parties. We, therefore, deny the request.

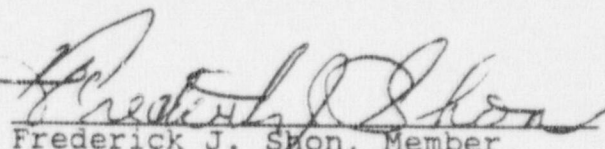
Considering the good working relationship the parties have previously evidenced in this proceeding, the Board suggests that they should attempt to work out a mutual satisfactory discovery and hearing schedule prior to the time the answers to the motion are due.

Judge Jerry Harbour was necessarily unavailable when the motion was considered.

It is so ORDERED.

THE ATOMIC SAFETY AND LICENSING BOARD


Morton B. Margulies, Chairman
ADMINISTRATIVE LAW JUDGE


Frederick J. Shon, Member
ADMINISTRATIVE JUDGE

August 15, 1989
Bethesda, Maryland

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

In the Matter of

PHILADELPHIA ELECTRIC COMPANY

(Limerick Generating Station,
Units 1 and 2)

Docket No.(s) 50-352/353-OL-2

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing LB M&O (EXPEDITED ANSWER REQ.) have been served upon the following persons by U.S. mail, first class, except as otherwise noted and in accordance with the requirements of 10 CFR Sec. 2.712.

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Dated at Rockville, Md. this
16 day of August 1989

Patty Henderson
Office of the Secretary of the Commission