

RAS 2512

THE CITIZENS AWARENESS NETWORK

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In the Matter of

Docket Nos. 50-333-LT
and 50-286-LT
(consolidated)

POWER AUTHORITY OF THE STATE OF
NEW YORK and ENTERGY NUCLEAR
FITZPATRICK LLC, ENTERGY NUCLEAR
INDIAN POINT 3 LLC, and ENTERGY
NUCLEAR OPERATIONS, INC.

OFFICE OF THE
ADJUDICATOR GENERAL

ASLBP No. 01-785-02-LT

(James A. FitzPatrick Nuclear Power Plant
and Indian Point Nuclear Generating Unit
No. 3)

December 11, 2000

**RESPONSE TO APPLICANTS' MOTION FOR SCHEDULE CHANGE,
ADDITIONAL MOTION FOR SCHEDULE CHANGE
AND
MOTION FOR CHANGE OF HEARING LOCATION
By
THE CITIZENS AWARENESS NETWORK, INC.**

The Memorandum and Order (Supplemental Filing Schedules and Procedures), dated December 5, 2000, provided a schedule of filing dates and a location for an oral hearing in the above referenced proceeding. The schedule requires filing of initial written statements of position and written direct testimony (together with supporting affidavits) on the on the two issues admitted in CLI-00-22, and schedules the February 2, 2001 hearing at the ASLBP hearing room, Two White Flint North, Rockville, Maryland. On December 7, the Applicants filed a Motion for Adjustment of Schedule, requesting that the filing date for responses to the NRC Staff's Safety Evaluation Reports (SER) on the License Transfer Applications be filed with written statements and written direct testimony on December 27, 2000 -- rather than January 16, 2001, as provided in the Memorandum and Order.

Response to Applicants' Motion

The Citizens Awareness Network, Inc., [CAN] is not opposed to the principal of Applicants' Motion, which allows participants in the proceeding the ability to submit responses to other parties' comments on the SER with their responses to written statements and rebuttal testimony. This proposal seems reasonable to CAN, particularly if it is true that all the active parties have received the Staff's SER. If, for some reason, there are parties that have not received the SER, then CAN believes Applicants' motion must, in all fairness, be rejected.

Template = SECY-041

SECY-02

CAN's Motion for Schedule Change

However, CAN cannot satisfy the existing schedule issued by the Presiding Officer. CAN and its *pro se* representatives scheduled previous commitments prior to receiving the November 27, 2000 Hearing Notice that make it impossible for CAN, its *pro se* representatives, and *pro bono* expert witnesses to review the relevant documents and prepare filings by the December 27, 2000, filing date. For the same reasons, CAN and its representatives cannot satisfy the January 2, 2000 filing date for a revised financial qualifications issue, utilizing redacted information provided by the Applicants under a protective agreement not yet filed. CAN has retained counsel and an expert for technical and legal consultation to its *pro se* representatives in preparing written statements. Counsel needs adequate time to review the relevant documents. CAN's *pro bono* expert witnesses have prior professional and personal commitments that preclude them from being able to review documents, including the as yet unreleased redacted financial information, prior to the holidays.

Pursuant to 10 CFR § 2.1325 (c), CAN hereby requests that the Presiding Officer grant an extension for filing of the revised issue, written statements and written direct testimony to allow CAN's *pro se* representatives and *pro bono* expert witnesses to review the relevant documents and prepare filings. CAN acknowledges that the proposed extension would affect the rest of the proposed schedule, by pushing back the rest of the dates by sixteen days, or approximately 12 business days. However, since the Applicants have already completed the Purchase and Sale of the facilities and taken action on the NRC Staff's preliminary order approving the license transfer, CAN cannot foresee that the proposed change would propose an undue burden on the other parties that outweighs CAN's needs. CAN requests that the filing date for written statements and written direct testimony be changed to January 12, 2001. CAN requests that the filing date for a revised financial qualifications issue also be changed from January 2, 2001, to January 5, 2001, for the above stated reasons. The modified schedule would become as follows:

January 5, 2001 (11:59pm) or 20 days following entry of a protective order, if later:
Submission by CAN and/or Cortlandt of revised financial qualifications issue, challenging the Entergy companies' cost and revenue projections based, at least in part, on information obtained by intervenors from proprietary data. (If the Presiding Officer accepts such an issue, he will establish schedules for filings on that issue.)

January 12, 2001 (11:59pm)

1. Filing of written statements of position and written direct testimony (together with supporting affidavits) on the two issues admitted in CLI-00-22.

February 1, 2001 (11:59pm)

1. Submission of written responses to direct testimony, and rebuttal testimony (with supporting affidavits) on the two issues admitted by CLI-00-22.
2. Submission of proposed questions on written direct testimony on the two issues admitted in CLI-00-22.

February 12, 2001 (11:59pm)

1. Submission of proposed questions directed to written rebuttal testimony.

February 19, 2001 (9:30am)

1. Assuming parties have not unanimously sought a hearing consisting of written comments, an oral hearing would be scheduled.

March 12, 2001 (11:59pm)

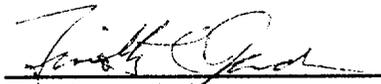
1. Filing by parties and governmental participants of post-hearing comments of position.

Motion for Change of Hearing Location

Pursuant to 10 CFR § 2.1325 (a), CAN also requests that the Presiding Officer change the hearing location to a location in Westchester County, NY. Since the matters at issue in this proceeding relate directly to the health and safety of workers at the reactors and residents of New York State, and parts of the proceeding which do not involve confidential information are to be open to the public, the hearing should be held in a location that enables the affected public to attend. CAN acknowledges the complexity of determining a feasible location, since it affects two separate communities. In light of that complexity, and in consideration of the fact that a number of the intervening parties are governmental and municipal entities near Indian Point 3, CAN believes that holding the hearing in Westchester County would be the best acceptable option. The change of location would also reduce the burden of travel on CAN (particularly members of its Westchester chapter), its *pro se* representatives, and other parties from New York State, including the Power Authority of the State of New York and the Entergy companies. CAN is willing to work with the Presiding Officer and the other parties to identify and reserve a suitable location, and to make the appropriate scheduling arrangements, if necessary.

For these reasons we respectfully request that the Presiding Officer modify the schedule set forth in the December 5, 2000, Memorandum and Order to provide CAN, its *pro se* representatives, and its expert witnesses adequate time to prepare written statements and written direct testimony; adequate time to prepare and submit a revised issue on financial qualifications and to change the location for the oral hearing to a location in Westchester County, NY.

For the Citizens Awareness Network,



Timothy L. Judson
Citizens Awareness Network

Dated at Syracuse, New York
this 11th day of December, 2000.

THE CITIZENS AWARENESS NETWORK

In the Matter of)
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 POWER AUTHORITY OF THE STATE OF)
 NEW YORK, ET AL.)
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 (James A. FitzPatrick Nuclear Power Plant)
 and Indian Point Nuclear Generating)
 Unit No. 3))

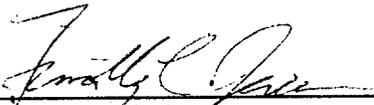
Docket Nos. 50-333-LT and
 50-286-LT

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing RESPONSE TO APPLICANTS' MOTION, ADDITIONAL MOTION FOR SCHEDULE CHANGE, and MOTION FOR CHANGE OF HEARING LOCATION have been served upon the persons listed below by electronic mail. Each recipient will also receive a paper copy of the Commission Memorandum and Order by U.S. mail.

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| Chief Administrative Judge G. Paul Bollwerk, III Atomic Safety and Licensing Board Panel Mail Stop - T-3 F23 U.S. Nuclear Regulatory Commission Washington, DC 20555-0001 (E-mail: gpb@nrc.gov) | Gerald C. Goldstein, Esquire Arthur T. Cambouris, Esquire David E. Blabey, Esquire The Power Authority of the State of New York 1633 Broadway New York, NY 10019 (E-mail: goldstein.q@nypa.gov) |
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 Timothy L. Judson
 Citizens Awareness Network

Dated at Syracuse, New York,
this 11th day of December 2000