

THE CITIZENS AWARENESS NETWORK

DOCKETED
USNRC

In the Matter ofDocket Nos. 50-333-LT
and 50-286-LT
(consolidated)

TO DEC 28 P12:31

**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 SECRETARY
RULEMAKING AND
ADJUDICATIONS STAFF

ASLBP No. 01-785-02-LT

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

December 20, 2000

Dear Judge Bechhoefer,

The Citizens Awareness Network, Inc. ["CAN"] requests clarification of the procedures for responding to parties' motions and requests in the proceeding to review the FitzPatrick and Indian Point Unit 3 license transfer applications; in addition, CAN also requests clarification of the procedures for replying to those responses, and which parties are allowed to reply. On Monday, December 18, 2000, I contacted you via phone call to determine whether CAN had the right to respond to the New York Power Authority and the Entergy companies' ["the Applicants"] argument that one of the issues accepted by the Commission should be dismissed along with the withdrawal of the Town of Cortlandt and the Hendrick Hudson School District's ["Cortlandt"] Notice of Withdrawal.

You indicated that CAN did have the opportunity to respond, but that CAN should do so through a response to the Notice of Withdrawal, as well. According to the NRC's procedural rules, the deadline for such responses was 11:59pm, December 18, 2000. Additionally, you indicated that you were also seeking guidance from the Commission to determine whether, in fact, it was within your authority to dismiss an issue that the Commission had already accepted for hearing.

Albeit with some difficulty, CAN was able to comply with the extremely short response time that you allowed. But CAN believes that it should have been given more time to respond to the Applicant's response to the Notice of Withdrawal, because the Applicant requested action from the Presiding Officer that was not requested or even contemplated in the notice of withdrawal filed by the Town of Cortlandt and the Hendrick Hudson School District, namely the dismissal of Issue 1. CAN believes that the Applicant effectively made a motion without calling it a motion.

This situation is similar to CAN's Additional Motions for a Schedule Change and Change of Hearing Location, submitted December 11, 2000, in response to Applicants' Motion for Schedule Change. However, CAN's Motions were clearly submitted as such, which

allowed for procedural clarity and reduced the burden on other parties by providing a reasonable opportunity to respond.

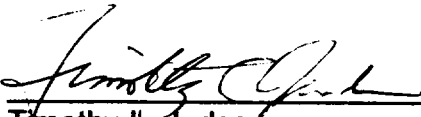
It seems to CAN that when a party raises a new issue or requests some action in the course of responding to a motion, it should be required to do so in a motion; or if it doesn't follow that course, the request should be treated as a new motion and the other parties should be allowed a reasonable amount of time to respond. Otherwise, the party requesting action may gain an unfair advantage in the proceeding.

Now, it appears that the Applicants have been extended an opportunity to reply to CAN's response (NYPA/Entergy Companies' Reply to "Citizens Awareness Network, Inc., Response ... to Subsequent Request by Applicants to Dismiss Issues #1 Accepted by Commission Order CLI-00-22," December 20, 2000), and that Your Honor has postponed issuing a decision on Cortlandt's Notice of Withdrawal.

CAN believes this process is unprescribed in the rules for Motions & Requests as promulgated under 10 CFR § 2.1325 (a), (b), and has only become more confusing. CAN requests clarification on the procedures for replying to parties' responses because it is not clear to CAN on what schedule Applicants were allowed to file Reply, nor why the Presiding Officer postponed issuing a decision on Cortlandt's Notice of Withdrawal.

Although we are satisfied with the response that we filed yesterday and do not request more time for that, we would like some clarification regarding our participatory rights in the future. Thank you for your consideration.

For the Citizens Awareness Network,


Timothy L. Judson
Citizens Awareness Network

Dated at Syracuse, New York
this 20th day of December, 2000.

THE CITIZENS AWARENESS NETWORK

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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 LETTER TO THE PRESIDING OFFICER REQUESTING CLARIFICATION have been served upon the persons listed below by electronic mail or US Postal 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.g@nypa.gov)
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 Timothy L. Judson
 Citizens Awareness Network

Dated at Syracuse, New York,
 this 20th day of December 2000