

UNITED STATES COURT OF APPEALS
FOR THE FIRST CIRCUIT

CITIZENS AWARENESS NETWORK, INC.)	
<i>Petitioner,</i>)	
)	Docket No. 041145
v.)	
)	
UNITED STATES OF AMERICA,)	
and)	
UNITED STATES NUCLEAR)	
REGULATORY COMMISSION)	
)	
<i>Respondents.</i>)	

NATIONAL WHISTLEBLOWER CENTER'S MOTION TO INTERVENE

PURSUANT to Rule 15(d) of the Federal Rules of Appellate Procedure, petitioners National Whistleblower Center (NWC) and the Committee for Safety at Plant Zion move this honorable Court for leave to intervene in the above referenced matter.

This case concerns an appeal of a formal rule issued by the United States Nuclear Regulatory Commission (NRC) concerning the participatory rights of citizen intervenor groups and individuals in nuclear safety proceedings conducted under the Atomic Energy Act. The complex and lengthy final rule was published on January 14, 2004 in the *Federal Register*. See Nuclear Regulatory Commission, Final Rule, 69 *Federal Register* 2182 (January 14, 2004).

The NWC was a major participant in the agency rule making proceeding. As explained by the NRC, before the Commission filed its proposed rule, it conducted a public "hearing process workshop" on October 26-27, 1999. The workshop participants were carefully hand chosen by the NRC to represent various "stakeholders" including "industry, citizen groups, another Federal agency, academia, and the NRC's Atomic Safety and Licensing Board Panel."

See Federal Register at 2186. The NWC was one of the 18 groups that the NRC invited to participate.

This public "workshop," conducted over a two day period, was transcribed and utilized in drafting both the proposed rule and the final rule. See Federal Register 2187-2188. The NWC participated fully, as an invited member, in the October 26th "workshop" and sent comments to the October 27th "workshop."^{1/}

In addition to participating in the "workshop," after the proposed rule was published by the NRC, the NWC filed a timely and extensive seventy-five page public comment that raised many of the issues which will be addressed in this case. See Public Comments of the NWC and the Committee for Safety at Plant Zion. As the NRC correctly noted in the final rule, the NWC's comments were among only 22 substantive comments obtained by the Commission. Although 1,431 individuals and organizations filed comments, the NWC was one of only 8 "citizen groups" to file a substantive comment. See *Federal Register* at 2190.

The NWC has specific interests in this appeal. Since 1988, the NWC has worked extensively with employee whistleblowers throughout the United States at nuclear power facilities. These employees have raised numerous safety issues, many of which have been validated by the NRC. Many of these employees have testified in licensing proceedings, initiated safety related licensing proceedings, or attempted to initiate safety related licensing proceedings. Among the nuclear plants in which the NWC has represented employee whistleblowers are Palo

^{1/} The NRC directly referenced these transcripts in the final rule and placed them on the web. See Federal Register at 2188. The deliberations that took place during the workshop can be found on the NRC's website at [http://ruleforum.llnl.gov/cgi-bin/library?source=* &library=CAP_PRULE_lib&file=*.]

Verde, Vogtle, Calvert Cliffs, Nine Mile Point, Grand Gulf, Peach Bottom, South Texas, Comanche Peak, and Zion.

Additionally, as a tax exempt, public interest organization, the NWC has itself participated in NRC safety proceedings. It has filed safety petitions under 10 C.F.R. 2.206 and attempted to intervene in one of the first re-licensing proceedings in the United States, In the Matter of Baltimore Gas & Electric Co., et al., (Calvert Cliffs Unit 1 and Unit 2).

The members of the NWC (i.e. its Board of Directors) have a direct safety interest in atomic energy matters and have authorized the NWC to seek intervention status on their behalf. The members of the Board of Directors live throughout the United States and many of them reside and/or work within the 50 mile "zone of safety" of a nuclear power plant. Nine members of the Board of Directors are within 50 miles the following plants: Calvert Cliffs, Palo Verde, Beaver Valley, and Pilgrim. Furthermore, the NWC's own office is located within the safety zone of the Calvert Cliffs nuclear power plant. Therefore, its employees and property are directly affected by the NRC's changes. Many of the whistleblowers that the NWC represents also live within the safety zones of nuclear power plants. The fact that the NWC represents so many employees of the nuclear industry gives it a unique reason to be involved in this case.

The Committee for Safety at Plant Zion, a group of former nuclear power plant workers who live within 50 miles of that plant, cosigned the NWC rule comment opposing the changes to the NRC adjudicatory process. In the past, the Committee has attempted to initiate licensing proceedings related to Plant Zion, and has filed safety petitions directly with the NRC. The Committee also joins this petition to intervene and will jointly file any court papers with the National Whistleblower Center. The NWC and the Committee wants to ensure that the issues

CERTIFICATE OF SERVICE

I hereby certify that on February 12, 2004 a copy of the following Motion to Intervene was served by U.S. first class mail and email upon the following:

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