

FROM THE OFFICE OF
JAMES M. QUIGLEY, M.C. (D-PA)

FOR IMMEDIATE RELEASE 8/22/60

Rep. James M. Quigley (D-PA) received the following letter from the U.S. Atomic Energy Commission today in response to his questioning of Commission future policy on the granting of construction permits for nuclear power plants:

Dear Mr. Quigley:

I have been requested to reply to your letter dated August 15, 1960, concerning the decision of a majority of a three-judge division of the United States Court of Appeals for the District of Columbia circuit in I.U.E. et al. v. PRDC and AEC, No. 15,271 issued June 10, 1960.

After consultation between AEC and the Department of Justice and upon the Solicitor General's authorization, the Government filed a petition for rehearing by the entire bench of the court on June 24, 1960, and a similar petition was filed the following day by PRDC. On July 25, 1960, the Court of Appeals denied these petitions (Judges Miller and Bastian voting for granting rehearing and Judges Burger and Washington not participating). Upon motion of PRDC, supported by AEC and not objected to by I.U.E., the Court of Appeals granted a stay of the mandate of the decision until August 15, 1960. On that date, PRDC filed a petition for certiorari with the United States Supreme Court, and, under the rules of the Court of Appeals, such filing further stays the Court mandate until final disposition of the case in the Supreme Court. The Government, through the Solicitor General, expects to file its own petition for certiorari with the Supreme Court.

In answer to your two questions we state as follows:

(1) In view of the stay of the mandate of Court of Appeals and of our conclusion that the decision of the Court of Appeals is erroneous as a matter of law, the Commission does not regard the decision as yet legally applicable to either the PRDC project or the Commission's regulatory program. For your information, I enclose copies of the Government's Brief in the Court of Appeals and its Petition for Rehearing En Banc. In particular, you will be interested in pages 15-45 of the Brief and pages 2, 4-20 of the Petition.

(2) Section 2.705 of the Commission's Rules of Practice provides for intervention on any proceeding. Section 2.731 of these Rules provides for limited appearance of persons not parties. A copy of our Rules of Practice is attached.

In view of your interest in this case, I have asked Courts Oulahan, Deputy General Counsel, Code 119, Ext. 4081, to make himself available to discuss the legal and regulatory issues raised by your letter. He has worked with the Department of Justice in preparing the appeal and will be glad to talk with you at your convenience.

s/ Neil D. Naiden
Acting General Counsel

A meeting between a representative of the AEC and Congressman Quigley is scheduled for Tuesday, August 23.

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