

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

Before the Atomic Safety and Licensing Board

5/18/77

In the Matter of )

TENNESSEE VALLEY AUTHORITY )

(Watts Bar Nuclear Plant, )  
Units 1 and 2) )

Docket Nos. 50-390  
50-391

APPLICANT'S RESPONSE TO PETITIONER'S  
MOTION TO PRODUCE DOCUMENTS

Petitioner Jeannine Honicker has filed a motion in this proceeding entitled "Petitioner-Intervenor Would Show to the Board: (May 15, 1977)" which in substance would have Applicant produce certain documents.

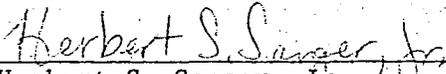
Petitioner misinterprets her status in this proceeding. She has filed a petition to intervene, but she has not been admitted to the proceeding as a party by the Board. See 10 C.F.R. § 2.714(g) (1977).

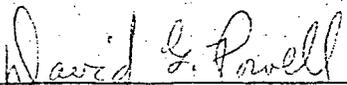
Under 10 C.F.R. § 2.741(a) (1977) "[a]ny party may serve" a request to produce documents for discovery purposes. See also 10 C.F.R. § 2.740(a) (1977) (parties may obtain discovery). Discovery privileges have not been extended to nonparties. Moreover, under § 2.740(b)(1) discovery may only relate "to those matters in controversy which have been identified by . . . the presiding officer in the prehearing order entered at the conclusion of" a § 2.751(a) special prehearing conference.

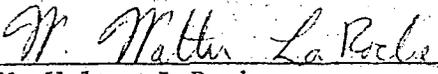
Because Petitioner is not a party she may not obtain discovery through her request to produce documents since the rules strictly limit discovery privileges to parties. Cf. Public Serv. Elec. & Gas Co. (Hope Creek Generating Station Units 1 and 2) ALAB-251, 8 AEC 993, 994 (1974) (where the regulations indicate "any party" may appeal, a nonparty is denied right to appeal).

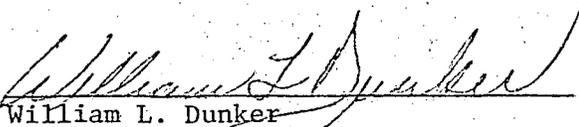
Accordingly, the motion should be denied.

Respectfully submitted,

  
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Herbert S. Sanger, Jr.  
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\_\_\_\_\_  
William L. Dunker

Attorneys for Applicant

Knoxville, Tennessee  
May 18, 1977

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NUCLEAR REGULATORY COMMISSION

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CERTIFICATE OF SERVICE

I hereby certify that I have served the original and 20 conformed copies of the following document on the Nuclear Regulatory Commission by depositing them in the United States mail, postage prepaid and addressed to Secretary, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Chief, Docketing and Service Section:

Applicant's Response to Petitioner's Motion to  
Produce Documents

and that I have served a copy of the above document upon the persons listed below by depositing it in the United States mail, postage prepaid and addressed:

Marshall E. Miller, Esq., Chairman  
Atomic Safety and Licensing Board  
U.S. Nuclear Regulatory Commission  
Washington, D.C. 20555

Dr. Richard F. Cole  
Atomic Safety and Licensing Board Panel  
U.S. Nuclear Regulatory Commission  
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Atomic Safety and Licensing Board Panel  
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Atomic Safety and Licensing Appeal  
Board  
U.S. Nuclear Regulatory Commission  
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Ms. Jeannine Honicker  
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This 18th day of May 1977.

  
\_\_\_\_\_  
W. Walter LaRoche  
Attorney for Applicant  
Tennessee Valley Authority