

1/17/73

BEFORE THE UNITED STATES  
ATOMIC ENERGY COMMISSION

In the Matter of )  
 )  
ROCHESTER GAS AND ELECTRIC ) Docket No. 50-244  
CORPORATION )  
(R. E. Ginna Nuclear Power )  
Plant, Unit 1) )

APPLICANT'S ANSWER TO PETITION  
FOR LEAVE TO INTERVENE BY  
MONROE COUNTY CONSERVATION COUNCIL, INC.

By letter dated January 5, 1973, Monroe County Conservation Council, Inc. ("Petitioner") transmitted to the Atomic Energy Commission ("the Commission") a petition for leave to intervene and request for hearing in the above-captioned proceeding. Rochester Gas & Electric Corporation ("Applicant") submits this Answer to the petition for leave to intervene in accordance with 10 C.F.R. § 2.714(c).

1. The petition and supporting affidavit are deficient in the following respects:
  - (a) The documents were not served upon Applicant or Applicant's counsel in accordance with 10 C.F.R. § 2.701(b) and were not accompanied by proof of

service, as required by 10 C.F.R. § 2.712(c).

(b) The petition for leave to intervene is under neither oath nor affirmation as is required by 10 C.F.R. § 2.714(a).

(c) The documents fail to set forth the nature of Petitioner's right under the Act to be made a party to the proceeding; the nature and extent of Petitioner's interests in the proceeding; and the manner in which those interests may be affected by the proposed Commission action, as required by 10 C.F.R. § 2.714(d). In addition, Petitioner's general assertions of interest fail to meet the test specified by the United States Supreme Court in Sierra Club v. Morton, 405 U.S. 727 (1972).

(d) The documents fail to set forth the contentions of Petitioner, or the bases for the contentions with the particularity required by 10 C.F.R. § 2.714(a). Petitioner has had ample opportunity

to specify contentions in the detail required by the Commission's Rules. A vast amount of technical material contained in the Technical Supplement to the Application and in the Environmental Report, has been publicly available since August, 1972 for this purpose.

2. To the extent that Petitioner's contentions can be gleaned from its pleadings, Applicant denies each and every such contention.

Specifically, with respect to paragraph 5 of the petition and 6 of the affidavit, it is Applicant's position that the radioactive discharges resulting from operation of the facility will comply with regulatory requirements and will not be injurious to the environment. Section 5.2 of Applicant's Environmental Report.

In regard to paragraph 6 of the petition and 5 of the affidavit, it is Applicant's position that Section 511 (c) (2) of the Federal Water Pollution Control Act Amendments of 1972 removes any authority which the Commission might otherwise have had to consider the impact of thermal discharges from the facility in connection with the conversion of this license. In any event, this contention lacks the required particularity. Applicant denies that the thermal

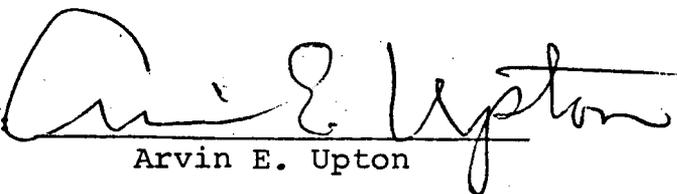
discharges from the facility are or will be injurious to the aquatic biota of Lake Ontario. Section 5.1.3 of Applicant's Environmental Report.

Also, the allegation contained in paragraph 3 of the affidavit concerning reprocessing of fuel is beyond the scope of this proceeding. Vermont Yankee Nuclear Power Corporation, Memorandum and Order, June 6, 1972 (ALAB-55).

WHEREFORE, Applicant respectfully requests that the petition be denied unless it is reformed to correct the deficiencies addressed in this Answer. Applicant would not object to the granting of a reasonable time for Petitioner to amend its petition for this purpose.

Respectfully submitted,

LeBoeuf, Lamb, Leiby & MacRae  
Attorneys for Rochester Gas  
and Electric Corporation

By   
Arvin E. Upton

Dated: January 17, 1973

Service of further papers in this proceeding may be made upon:

Arvin E. Upton, Esq.  
1821 Jefferson Place, N.W.  
Washington, D. C. 20036

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CERTIFICATE OF SERVICE

I hereby certify that I have served a document entitled "Applicant's Answer to Petition for Leave to Intervene by Monroe County Conservation Council, Inc." by mailing copies thereof first class, postage prepaid, to each of the following persons this 17th day of January, 1973.

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