

BEFORE THE
UNITED STATES OF AMERICA
ATOMIC ENERGY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING APPEAL BOARDS

In the Matter of

CONSOLIDATED EDISON COMPANY)	
OF NEW YORK (Indian Point,)	Docket No. 50-247
Unit No. 2))	
)	
WISCONSIN-ELECTRIC POWER COMPANY)	
WISCONSIN-MICHIGAN POWER COMPANY)	Docket No. 50-301
(Point Beach Nuclear Plant,)	
Unit 2))	

REQUEST FOR CONSOLIDATION
OF HEARING WITH RESPECT
TO FUEL DENSIFICATION

Pursuant to Section 2.716 and 2.785 of 10 CFR Part 2 the Citizens Committee for the Protection of the Environment and Sierra Club, Businessmen for the Public Interest and P.O.W.E.R. hereby request that a consolidated hearing be held in the two above-captioned proceedings with respect to the fuel densification problem under the following procedures:

- a. Requests for discovery shall be submitted jointly by the parties in each proceeding and responded to

jointly.^{1/}

- b. Pre-trial specification of issues by the parties shall be joint but each party shall specify those contentions, if any, which they feel are not joint.
- c. During the hearings the presentation of evidence and conduct of cross-examination shall be joint for all parties.
- d. The hearing on the fuel densification problem shall be conducted by both hearing boards. The Chairman for this consolidated hearing is to be selected by the Board's and the decisions with respect to the consolidated hearing are to be made by a pre-determined Consolidated Hearing Board selected by the Boards and consisting of no less than the Chairman and two technical members.

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References to joint participation refer to a single presentation by the Staff, by the Applicants and by the Intervenors who are parties to this motion. In Point Beach #2 informal discovery began by letter from Intervenor's counsel dated December 20, 1972. An identical request is being filed today in Indian Point #2.

- e. If at any time in the conduct of the consolidated hearing (including during discovery or other pre-trial procedures) the Consolidated Hearing Board determines that the issues and contentions unique to each plant predominate over the common issues and contentions it may order that the Consolidated Hearing be concluded and that further proceedings be conducted separately by each Hearing Board. In general the Consolidated Hearing Board should be guided by the standards used by the Federal Courts under Rule 42(a) of the Federal Rules of Civil Procedure.
- f. The Consolidated Hearing will be held in downtown Washington, D. C. and will be continuous hearing with four hearing days per week.
- g. All powers of the Hearing Boards with respect to the conduct of hearings shall be applicable to the Consolidated Hearing Board.
- h. There shall be consideration given to consolidation of other PWR operating licensing proceedings with this proceeding.
- i. If the date of March 1, 1973, set by the Appeals Board in Point Beach #2 is reasonable there, the Intervenors in Indian Point #2 are prepared to meet the same deadline.

The basis for granting this motion is that the November 14, 1972 Staff Report on Fuel Densification makes clear that this is a generic problem which is certainly common to all PWR's using pre-pressurized fuel. The two plants involved here use (or plan to use) pre-pressurized fuel. Both have been supplied by Westinghouse. The similarity in design between the two plants is made apparent in the FSAR for Point Beach #2, Paragraph 1.4, pp. 1.4-1 to 1.4-10 which includes a table of comparison between Indian Point #2, Point Beach #1 and 2, H.B. Robinson and Ginna. In addition, both the Staff Safety Evaluation for Indian Point #2 (pp. 14-17) and Point Beach #1 and 2 (pp. 10-13) treat these plants as having a nuclear design virtually identical to Ginna. The fact that Ginna was the genesis in this country of the fuel densification problem further underscores the wisdom having a consolidated hearing on that problem as it relates to these two plants. ^{2/}

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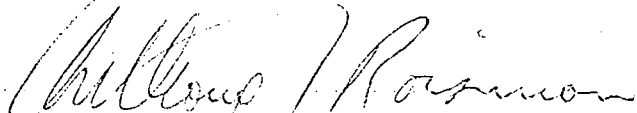
We understand that Petition to Intervene will be filed with respect to Ginna's request for a full term license. If action on the petitions is expeditions that proceeding can and should be consolidated with these with respect to the fuel densification issue.

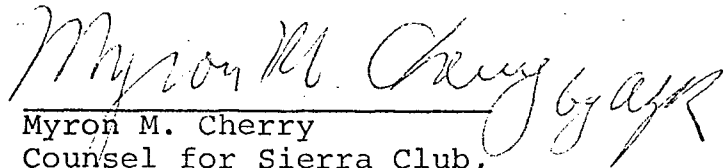
Because of the essential commonality of the fuel densification issues for both plants, most of the data underlying the fuel densification problem will be identical. The analyses and documents submitted by Applicants will be Westinghouse analyses which will undoubtedly utilize the same assumptions, codes, etc. for both plants. The Staff review and documentation will be by the same personnel. (See attachments to the Staff Motion for Reconsideration in Point Beach #2 filed before the ASLAB on December 26, 1972 in which the Staff treats the Point Beach analysis as a general Westinghouse analysis and seeks further support for the Westinghouse position.) The Intervenors will be using the same technical assistance and technical interrogator. If both hearings are operated separately there will simply be a useless rerun and a needless stress on the technical and financial resources of all parties.

We hope that all parties will support this request. If procedural problems appear to exist we would urge the Appeals Boards to arrange a conference call of all parties to see if the problems can be worked out. This request is submitted in the spirit of the Commission's new licensing procedures

which are intended to ensure fairness to all parties but to do so without undue delay or duplication of effort.

Respectfully submitted,


Anthony Z. Roisman
Counsel for Citizens Committee
for the Protection of the
Environment


Myron M. Cherry
Counsel for Sierra Club,
Businessmen for the Public Interest,
P.O.W.E.R.

Dated: January 8, 1973