

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

Before the

Atomic Safety and Licensing Board

Administrative Judges:

Chairman James P. Gleason

Dr. Thomas S. Elleman

Thomas D. Murphy



In the Matter of

Docket No. 50-029-LA

YANKEE ATOMIC ELECTRIC COMPANY

ASLBP No. 98-736-01-LA

(Yankee Nuclear Power Station)

FRANKLIN REGIONAL PLANNING BOARD'S (FRPB'S) CONDITIONAL REPLY
AND SUPPORT FOR NEW ENGLAND COALITION ON NUCLEAR POLLUTION,
INC.'S (NECNP'S) OPPOSITION AND PROPOSED ORDER AND MOTION FOR
LEAVE TO REPLY TO YANKEE ATOMIC ELECTRIC COMPANY'S (YAEC'S)
"NEW EVIDENCE" FILING

Franklin Regional Planning Board (FRPB) hereby requests leave of the Panel in this case to make the following extremely brief reply to Yankee Atomic Electric Company's (YAEC's) "New Evidence" filing. FRPB makes this request because we contend that YAEC has attempted to deliberately distort the nature of our last filing with this Panel, that YAEC continues to make filings that do not comport with our understanding of the Nuclear Regulatory Commission's (NRC's) procedural rules, and that YAEC's requests for leave to reply, as argued in New England Coalition on Nuclear Pollution, Inc.'s (NECNP's) Opposition, are not based upon the need to provide this Panel with any new legal or factual information. Wherefore, FRPB asks the Panel for

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leave to make the following reply. FRPB also enters its support for NECNP's Opposition and (Proposed) Order, in part because it provides a sound argumentative basis for the problems described herein and poses a potential solution for the Panel.

CONDITIONAL REPLY

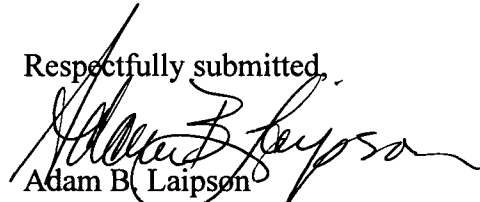
FRPB filed its opposition to YAEC's Motion to Strike as "Franklin Regional Planning Board's (FRPB's) Conditional Motion For Leave To Reply And Motion To Strike Yankee Atomic Electric Company's (YAEC's) Unauthorized Motion To Strike And Conditional Motion For Leave To Reply Thereto". At that time, FRPB believed that YAEC was continuing to mislead the Panel in this case into thinking that FRPB did not have either the authority to appear or the support of the Franklin Regional Council of Governments (FRCOG). Declaration of Adam Laipson, Exhibit 'A' attached hereto. YAEC has relied upon this characterization, along with the NRC's Staff's proffer of the letter from Bradford Councilman, FRCOG, to Panel Chairman James P. Gleason (Dated March 26, 1998), to induce this Panel to believe that FRPB had no right to be part of or ask for a hearing in this case. *Id.* YAEC also tries to use the false notion of "new evidence" (i.e., FRPB's providing the Panel with the Declaration of Jay DiPucchio, Executive Director of the FRCOG) to defeat FRPB's plain showing that it has had and continues to have the authority to ask for and participate fully in a hearing in this matter. *Id.* In other words, YAEC is quite correct that FRPB placed evidence before this Panel in its recently filed motion in opposition to YAEC's motion to strike. However, as pointed

out by NECNP, YAEC filed defective motions--motions lacking proper factual basis, general evidentiary support, and any proposed form of Order for this Panel. Thus, YAEC is right that FRPB presented evidence in the form of Mr. DiPucchio's declaration on the recent votes and form of the resolutions of the FRCOG. *Id.* YAEC is dead wrong that this is in any way "new evidence." Rather, as with all of the arguments YAEC keeps sticking into each one of its unauthorized replies and defective motions, it is merely *cumulative* evidence. *Id.* It is evidence which confirms that which is already known and is properly before this Panel: that the FRPB has a right to be here requesting a hearing, and a right to legally participate in such a hearing as the proper representative of some 70,000 citizens of Franklin County, Massachusetts. *Id.* In lieu of a proposed Order, we hereby support and adopt the proposed Order submitted by NECNP.

CONCLUSION

WHEREFORE, all of YAEC's motions should be denied, and this Panel should issue an Order of the type proposed by NECNP. It is further asked of this Panel that upon issuing said Order that the Panel make a determination of the standing issue as the record has adequate filings for this Panel to make its finding in this regard. Without such a determination, time would allow for continued, unneeded exchanges between the parties.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "Adam B. Laipson".

Adam B. Laipson

Chair, Franklin Regional Planning
Board

425 Main Street
Greenfield, MA 01301

May 11, 1998

**FRANKLIN REGIONAL
COUNCIL OF
GOVERNMENTS**

Executive Director • Jay DiPucchio

Director of Finance • Carolyn Olsen
Director of Planning and Development • Peggy Sloan

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EXHIBIT 'A'

**DECLARATION OF ADAM LAIPSON, CHAIRMAN, FRANKLIN REGIONAL
PLANNING BOARD**

I, Adam B. Laipson, declare as follows:

1. My name is Adam B. Laipson. I am the chairman of the Franklin Regional Planning Board (FRPB). Our address is: Franklin Regional Planning Board, 425 Main Street, Greenfield, MA 01301.
2. On May 2, 1998, we filed a motion opposing Yankee Atomic Electric Company's (YAEC's) motion to strike our reply in the above captioned case.
3. Based on our understanding of the Nuclear Regulatory Commission (NRC) rules, we attached to that filing the Declaration of Jay DiPucchio as evidence in support of our arguments. In his declaration, Mr. DiPucchio sets forth the status of the recent vote of the Franklin Regional Council of Governments' (FRCOG's) two other branches reaffirming FRPB's actions to date before the NRC and this Panel.
4. My understanding of the May 2, 1998, motion in opposition to YAEC's motion to strike was that it challenged YAEC's continued attempts to cast doubt upon my agency's right to appear before this Panel. It did so, in the attached declaration by providing more

of the same kind and type of evidence that was already before this Panel. The evidence was not new, merely cumulative. It was intended to show this panel that FRPB continues to be the proper and duly authorized agency to appear before this Panel that FRPB has represented itself to be in all of its filings to date.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on this 11th day of May, 1998


Adam B. Lajpson, Chairman
Franklin Regional Planning Board

CERTIFICATE OF SERVICE

I hereby certify that copies of the within documents have been served on the following by deposit in the United States mail, first class, or by fax as indicated by asterisks, or both, on this day, May 11, 1998:

| | |
|---|---|
| James P. Gleason, Chairman* Administrative Judge Atomic Safety and Licensing Board US Nuclear Regulatory Commission Washington, DC 20555 FAX: 301-415-5599 | Thomas D. Murphy* Atomic Safety and Licensing Board US Nuclear Regulatory Commission Washington, DC 20555 FAX: 301-415-5599 |
| Adjudicatory File (2)* Atomic Safety and Licensing Board US Nuclear Regulatory Commission Washington, DC 20555 FAX: 301-415-5599 | Dr. Thomas Elleman* Atomic Safety and Licensing Board US Nuclear Regulatory Commission Washington, DC 20555 FAX: 919-782-7975 |
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Adam B. Laipson

May 11, 1998

