

CF

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

Before the Atomic Safety and Licensing Board

In the Matter of)
)
PENNSYLVANIA POWER & LIGHT COMPANY)
 and)
ALLEGHENY ELECTRIC COOPERATIVE, INC.)
)
(Susquehanna Steam Electric Station,)
Units 1 and 2)

Docket Nos. 50-387
50-388



APPLICANTS' ANSWER TO
SUSQUEHANNA ENVIRONMENTAL ADVOCATES'
MOTION FOR PROTECTIVE ORDER

8/29/79

On August 20, 1979, Applicants received an undated Motion for Protective Order filed on behalf of Susquehanna Environmental Advocates ("SEA").* The motion asks the Licensing Board to:

1. Order Applicants to designate with particularity the documents which Applicants request SEA to produce;
2. Limit Applicants' request to SEA for production of documents to those not already in Applicants' possession; and
3. Limit Applicants' interrogatories to information which is relevant to SEA's contentions.

In accordance with the schedule specified in the March 6, 1979 Special Prehearing Conference Order, Applicants on May 25, 1979 submitted to SEA their First Request for Production of Documents and

*Robert W. Meek and John J. Robinson, who signed the motion as attorneys for SEA, have not previously appeared in this proceeding and have not yet filed the notice of appearance required by the Commission's rules, 10 CFR §2.713(a). The Motion also did not include the proof of service upon the parties required by 10 CFR §§2.701(b) and 2.712(e).

First Set of Interrogatories. The Special Prehearing Conference Order specified that responses to first round discovery requests were to be filed not later than June 29, 1979. In the absence of any response to these discovery requests, Applicants on July 10, 1979 filed a Motion to Compel Discovery against SEA. SEA did not respond to this motion.* SEA's motion for protective order is thus untimely by many weeks.

Apart from its untimeliness, the motion should be denied on its merits. SEA's first point is that Applicants' discovery requests did not "describe with particularity the documents [Applicant] wishes to inspect." Applicants' May 25, 1979 request for documents requested all documents identified in the answer to Applicants' May 25, 1979 interrogatories. The interrogatories asked a series of specific questions and a series of general questions, one which (General Interrogatory 1) sought the identification of those documents on which the answers to the specific interrogatories were based. SEA would have Applicants identify in advance the documents which SEA has in its possession. Applicants obviously do not have that information. It was to ascertain the documents which SEA had in its possession that Applicants filed its interrogatories. Applicants cannot describe with more particularity the identity of documents whose identify Applicants do not know.

*The Licensing Board's Memorandum and Order on Scheduling and Discovery Motions (August 24, 1979), p. 13, refers to requests for protective orders by SEA which were received by the Board on July 5, 1979. Applicants have never received these requests and, in fact, only learned of their existence as a result of the August 24 Memorandum and Order. It would thus appear that these documents were not properly served on Applicants.

The second point made by SEA in its Motion is that Applicants' request for documents should be limited to documents not already in the possession of Applicants or the NRC Staff. If SEA in responding to Applicants' interrogatories identifies a document which Applicants have in their possession or which is readily available to them, Applicants will not need that document to be produced. However, Applicants still are entitled to have SEA identify the documents as called for by Applicants' interrogatories so that Applicants will be fully apprised of the information on which SEA bases its claims or on which it may base its testimony and cross-examination.


The third point raised by SEA is that Applicants' interrogatories should be limited to information relevant to SEA's contentions. As stated in Applicants' First Set of Interrogatories, p. 1, since SEA is entitled to cross-examination on all contentions, not just those which it has sponsored (Special Prehearing Conference Order at 4), Applicants are entitled through the discovery process to obtain information which may be necessary to prepare to respond to that cross-examination.

For these reasons, Applicants respectfully submit that SEA's Motion for Protective Order should be denied.

Respectfully submitted,

SHAW, PITTMAN, POTTS & TROWBRIDGE

By



Jay E. Silberg
Alan R. Yuspeh

1800 M Street, N.W.
Washington, D.C. 20036
(202) 331-4100

Dated: August 29, 1979

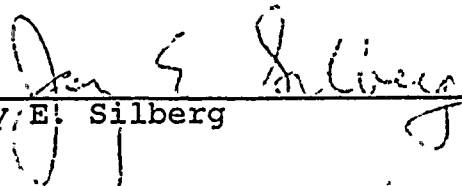
UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

Before the Atomic Safety and Licensing Board

In the Matter of)	
)	
PENNSYLVANIA POWER & LIGHT CO.)	Docket Nos. 50-387
and)	50-388
ALLEGHENY ELECTRIC COOPERATIVE, INC.)	
)	
(Susquehanna Steam Electric Station,)	
Units 1 and 2))	
)	

CERTIFICATE OF SERVICE

This is to certify that copies of the foregoing "Applicants' Answer to Susquehanna Environmental Advocates' Motion for Protective Order" were served by deposit in the U.S. Mail, First Class, postage prepaid this 29th day of August, 1979, to all those on the attached Service List.



Jay E. Silberg

Dated: August 29, 1979

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

Before the Atomic Safety and Licensing Board

In the Matter of)
)
PENNSYLVANIA POWER AND LIGHT COMPANY) Docket Nos. 50-387
and) 50-388
ALLEGHENY ELECTRIC COOPERATIVE, INC.)
(Susquehanna Steam Electric Station,)
Units 1 and 2))

SERVICE LIST

Secretary of the Commission
U. S. Nuclear Regulatory Commission
Washington, D. C. 20555

Charles Bechhoefer, Esquire
Chairman
Atomic Safety and Licensing
Board Panel
U. S. Nuclear Regulatory Commission
Washington, D. C. 20555

Mr. Glenn O. Bright
Atomic Safety and Licensing
Board Panel
U. S. Nuclear Regulatory Commission
Washington, D. C. 20555

Dr. Oscar H. Paris
Atomic Safety and Licensing
Board Panel
U. S. Nuclear Regulatory Commission
Washington, D. C. 20555

Atomic Safety and Licensing
Board Panel
U. S. Nuclear Regulatory Commission
Washington, D. C. 20555

James M. Cutchin, IV, Esquire
Office of the Executive Legal
Director
U. S. Nuclear Regulatory Commission
Washington, D. C. 20555

Atomic Safety and Licensing Appeal
Board Panel
U. S. Nuclear Regulatory Commission
Washington, D. C. 20555

Docketing and Service Section
Office of the Secretary
U. S. Nuclear Regulatory Commission
Washington, D. C. 20555

Dr. Judith H. Johnsrud
Co-Director
Environmental Coalition on
Nuclear Power
433 Orlando Avenue
State College, Pennsylvania 16801

Susquehanna Environmental Advocates
c/o Gerald Schultz, Esquire
500 South River Street
Wilkes-Barre, Pennsylvania 18702

Mrs. Irene Lemanowicz, Chairman
The Citizens Against Nuclear Danger
Post Office Box 377
R. D. 1
Berwick, Pennsylvania 18603

Ms. Colleen Marsh
558 A, R. D. #4
Mt. Top, Pennsylvania 18707

Mr. Thomas M. Gerusky, Director
Bureau of Radiation Protection
Department of Environmental Resources
Commonwealth of Pennsylvania
P. O. Box 2063
Harrisburg, Pennsylvania 17120

