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December 14, 1979

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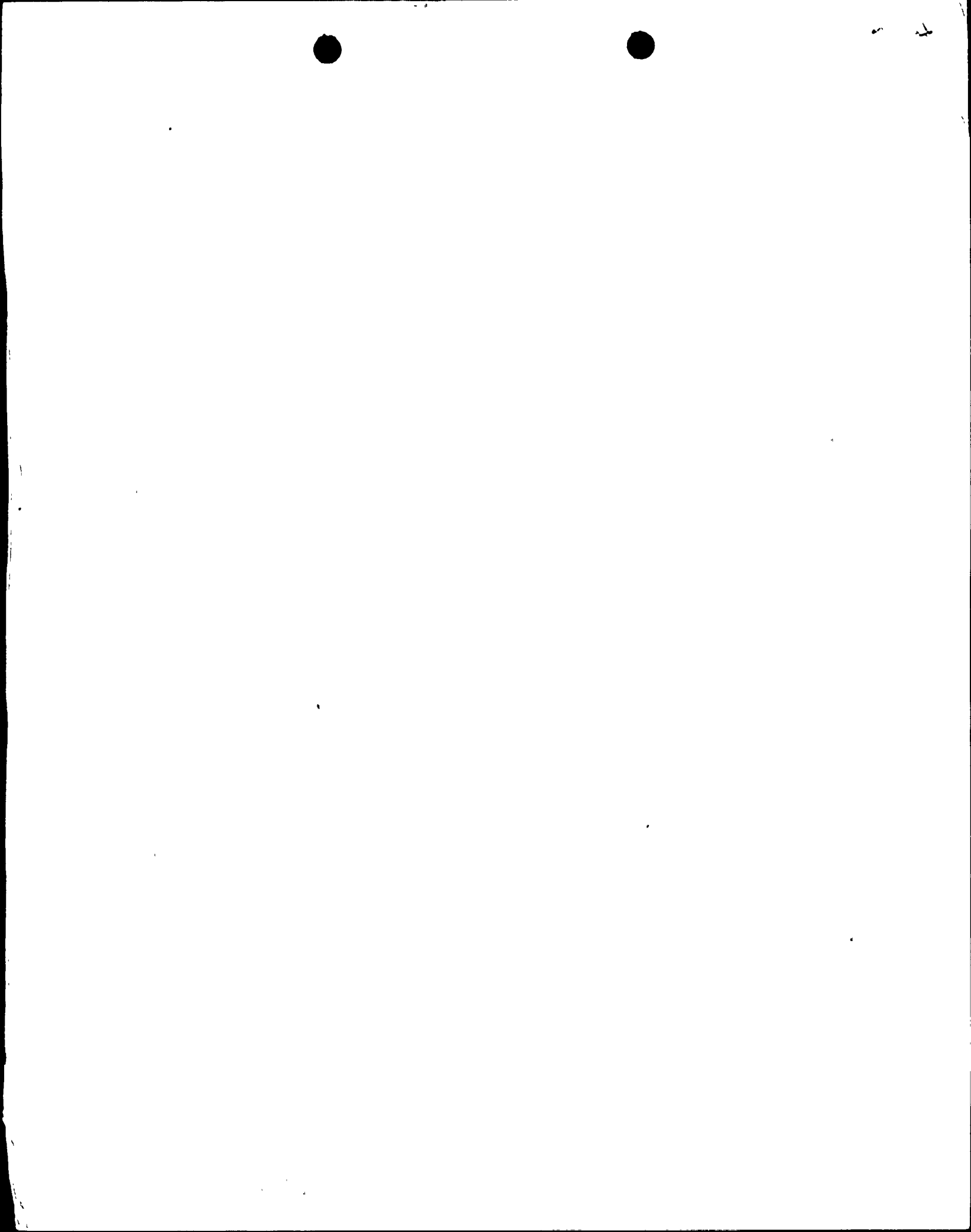
Dr. Oscar H. Paris
Atomic Safety and Licensing Board Panel
U. S. Nuclear Regulatory Commission
Washington, D. C. 20555

Re: Pennsylvania Power & Light Company
and Allegheny Electric Cooperative, Inc.
Docket Nos. 50-387 and 50-388

Gentlemen:

We are in receipt of the Board's "Order Denying Requests of ECNP" dated December 6, 1979. While we agree with the Order's denial of the relief demanded by Environmental Coalition on Nuclear Power ("ECNP"), we wish to express our disappointment at the further extension to January 18, 1980 which the Order grants ECNP to respond to the Applicants' discovery requests. We believe that the continuing extension of the first phase of discovery creates a significant risk that hearing schedules will be delayed, thus prejudicing the expeditious completion of this proceeding.

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Our disappointment can best be understood in light of the history of the discovery phase of this proceeding. The Board's March 6, 1979 Special Prehearing Conference Order established May 25, 1979 as the deadline for filing first round discovery requests; answers to such requests were due on June 29, 1979. The Order also provided for filing supplementary discovery requests and responses thereto within 30 days of service of those first round responses, and for further discovery on environmental and safety questions once the DES, FES and SER were issued.

On May 25, 1979, the Applicants served their first round discovery requests to ECNP. The Applicants later voluntarily withdrew a number of discovery requests which appeared to overlap with those from the Staff.

On June 29, 1979, ECNP filed a motion for a protective order and refused to answer any of the Applicants' interrogatories on the ground that they were "extraordinarily burdensome, oppressive and utterly pointless." Applicants moved to compel discovery on July 16, 1979; on August 24, 1979 the Board issued a "Memorandum and Order on Discovery Motions" in which it rejected ECNP's blanket objections and ordered ECNP to respond to the Applicants' discovery requests or file specific objections to them within 14 days. Instead of responding to the discovery requests, ECNP filed on September 19, 1979, a lengthy filing in which it reiterated its generalized objections of oppressiveness and burdensomeness. On October 12, 1979 the Applicants moved to dismiss ECNP as a party and to dismiss from the proceeding those contentions raised solely by it. ECNP opposed the motion to dismiss by alleging, among other things, that it had "complied as much as humanly possible with the outrageous demands of both the Staff and the Applicant", notwithstanding the fact that ECNP had not then--nor to this date--answered a single interrogatory or produced a single document in response to the Applicants' discovery requests.

On October 30, 1979, the Board issued its "Memorandum and Order on Discovery Motions (II)", in which it underscored that "it is absolutely necessary that the intervenors respond in a timely fashion to the discovery obligations which still remain". Order at 11, emphasis in original. However, the Licensing Board declined to dismiss ECNP and its contentions,

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and instead extended the deadline for first round discovery responses to December 14, 1979. The Board also considerably limited ECNP's discovery obligations by suspending all discovery with respect to contentions to be heard at the health and safety hearing and by ruling that no party need answer interrogatories with respect to contentions which it was not sponsoring. Order at 19-20.

ECNP continued to disregard the Board's Orders. On November 19, 1979, it filed a response appropriately characterized by the Board as intemperate in which it announced its intention to "ignore" the Board's Orders and instead to "keep up with the other important proceedings ECNP is involved in." This latest filing by ECNP prompted the December 6, 1979 Order from the Board in which a further extension to January 18, 1980 was granted to respond to Applicants' discovery requests.

The recitation of this chronology shows that the latest extension of time is unwarranted. ECNP has now had almost seven months in which to respond to Applicants' discovery and has failed to do so. Moreover, it has stated that it will continue to disregard the Board's Orders and will not respond at all even to the limited amount of discovery that remains after the October 30, 1979 Order. Under these circumstances, it seems pointless to grant ECNP any more time to do what it has stated that it does not intend to do. No other intervenor had requested additional time.

On the other hand, the Applicants are being harmed by these discovery extensions. As the Board has acknowledged, (see, e.g., the August 24, 1979 Order at 12 and the October 30, 1979 Order at 5a) obtaining the answers to its discovery requests is essential to a party's, and especially an applicant's, ability to prepare its case. Even at this late date, Applicants have been unable to learn the basis for ECNP's contentions, what documents or witnesses ECNP may introduce at the hearing to support them, or what factual matters should be addressed to meet ECNP's concerns.

The fact that the Staff has announced a delay in the publication of the FES should not be the basis for an extension of discovery schedules. If, contrary to its stated intentions, ECNP files answers to the Applicants' discovery

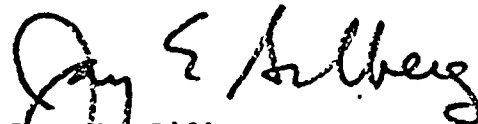
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requests, this first round of discovery may well need to be extended beyond January, 1980, since Applicants may need to seek further discovery and/or move again to compel if objections or incomplete or nonresponsive answers are filed by ECNP. While the delays in publication of the FES have caused postponement of the environmental hearing, the intervenors' failure to abide by the discovery orders may become a limiting factor that causes further hearing delays to Applicants' detriment. As ECNP itself has urged in moving to compel its discovery from the Staff, "time sorely needed for preparation of the [Applicants'] case is, in the meanwhile, rapidly slipping away, another clear frustration of the ultimate purpose of the Commission's hearing process." ECNP's September 24, 1979 Motion to Compel at 3.

Applicants are not seeking reconsideration of the Board's decision to extend the due date for discovery to January 18, 1980. Such a request would not serve a useful purpose, because by the time the other parties had responded to the motion and the Board ruled on it, the January 18, 1980 deadline would have been reached or exceeded. Nevertheless, Applicants wish to express their concern at the protracted nature of this first phase of discovery and at the harm they have suffered and are likely to suffer in the future on account of it.

Very truly yours,



Jay E. Silberg
Counsel for Applicants

cc: Service List Attached

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

Before the Atomic Safety and Licensing Board

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

SERVICE LIST

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