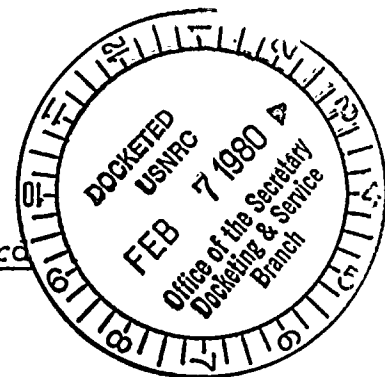


UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION



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' MOTION TO PROHIBIT SUSQUEHANNA
ENVIRONMENTAL ADVOCATES FROM PARTICIPATING
IN THE LITIGATION OF CONTENTION 1

On January 18, 1980, Susquehanna Environmental Advocates ("SEA") filed "Answers to First Round Applicants Interrogatories and Motion for Protective Order of Intervenor Susquehanna Environmental Advocates (SEA)". In this filing, SEA responds to Applicants' interrogatories on environmental contentions which it sponsored (Contentions 1, 3 and 4), as well as other environmental contentions (2, 14, 16, 17 and 18).* As to SEA's answers to interrogatories on contentions it sponsored, Applicants believe that SEA has made a good faith attempt to answer interrogatories on contentions 3 and 4.

*The Licensing Board's Memorandum and Order on Discovery Motions (II), LBP-79-31 (October 30, 1979), provided that intervenors need not answer interrogatories on contentions which they did not sponsor. Slip op. at 19. Therefore, even though Applicants believe that responses to some of the interrogatories on these contentions are inadequate (see, e.g. Motion for Protective Order Pursuant to 10 CFR 2.740(c) for Interrogatories on Contention 2, except 2.6), there is apparently no remedy available.

The same cannot, however, be said for interrogatories addressing contention 1. Those interrogatories basically sought to identify the bases for this contention, in the words of Discovery Memo I:

to become aware of the positions of each adversary party on the various issues in controversy, and the information available to adversary parties to support these positions

Memorandum and Order on Scheduling and Discovery Motions, (August 24, 1979) at 5-6. Rather than provide this information, SEA has filed a Motion for Protective Order asserting that the interrogatories are "oppressive, unduly burdensome, and constitute[] harassment of SEA". This is the very type of "blanket" objection* which the Licensing Board has previously stated is inadequate and has carefully and repeatedly explained the reasons why it is unacceptable. See, e.g., Discovery Memo I, at 9.

SEA could have stated that it has no information to provide in response to Applicants' interrogatories. Such a response, of course, would be adequate, as the Licensing Board has pointed out on several occasions. See Discovery Memo I, at 8. However, SEA's motion for protective order on interrogatories on Contention 1 does not state that SEA has no information in its possession on the subject. It seems highly unlikely that SEA would have no information on this subject matter; in the absence of any information, SEA would have had no reason to raise the

*SEA filed the identical motion as to the interrogatories on Contention 2.

contention in the first place. Given the Licensing Board's reminders that discovery responses need only be based on information in the party's possession, see Order Denying Requests of ECNP (December 6, 1979), p. 5, SEA should have provided that information to the Applicants.

SEA has had more than eight months to collect the information called for by the Contention 1 interrogatories from information in its possession. Having failed to do so, SEA has therefore violated the Licensing Board's orders by having "failed properly to respond" to these interrogatories. Applicants therefore believe that the sanctions called for in the Licensing Board's October 30, 1979, Memorandum and Order on Discovery Motions (II), p. 19, are called for.

If any intervenor fails properly to respond in a timely fashion to the discovery as outlined in paragraphs 2 and 3, it will not be permitted to present any direct testimony on that contention (no further order of this Board to this effect will be required).
(Emphasis omitted.)

SEA should therefore not be permitted to present direct testimony on Contention 1. Applicants further believe that additional sanctions are needed in view of SEA's lack of any attempt to respond to these interrogatories. Since intervenors typically try to make their cases by cross-examination, merely prohibiting SEA from introducing direct testimony amounts to little, if any, sanction. The additional step of barring SEA from conducting cross-examination on Contention 1 would therefore be appropriate, and yet less drastic than the alternative of dismissing them

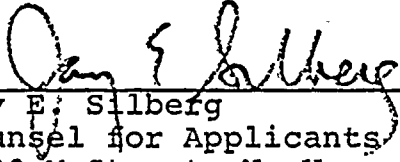
entirely from the proceeding for their default. (We believe that the dismissal option is not called for at this time since SEA did make a good faith attempt to answer interrogatories on Contentions 3 and 4.)

Applicants therefore respectfully request that SEA be prohibited from participating in the litigation of Contention 1 (including presentation of direct testimony and conducting cross-examination) on its own behalf or on behalf of others.

Respectfully submitted,

SHAW, PITTMAN, POTTS & TROWBRIDGE

By



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Dated: February 4, 1980

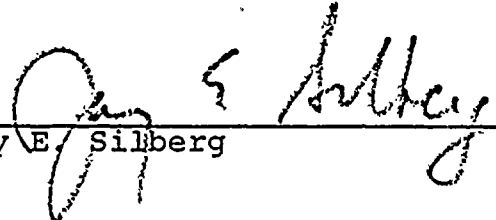
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(Susquehanna Steam Electric Station,)	
Units 1 and 2))	

CERTIFICATE OF SERVICE

This is to certify that copies of the foregoing "Applicants' Motion to Prohibit Susquehanna Environmental Advocates From Participating in the Litigation of Contention 1" were served by deposit in the U. S. Mail, First Class, postage prepaid, this 4th day of February, 1980, to all those on the attached Service List.



Jay E. Silberg

Dated: February 4, 1980

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NUCLEAR REGULATORY COMMISSION

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SERVICE LIST

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