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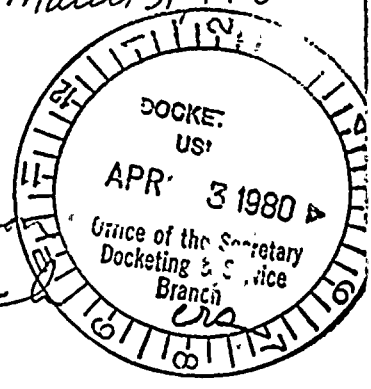
DOCKET NUMBER
PROD. & UTIL. FAC. 50-387, 388

March 31 1980

FLORENCE L. SHELLY
THOMPSON, PENNSYLVANIA 18465

Acknowledged by card: 4-3-80-ers

Samuel Chiles, Sec.
U.S. Nuclear Regulatory Commission
Att. Docketing & Service Branch
Washington D.C. 20555



Dear Mr. Chiles,

I am writing to request time to make a limited appearance statement at the licensing hearings for Pennsylvania Power and Light's Susquehanna Steam Electric Stations 1 and 2 under construction in Berwick, Pennsylvania. (Docket numbers 50-387 and 50-388) Please inform me when and where these hearings will take place and when I will be able to speak. I also would like to request that time be made available in the evenings and weekends.

Thank you,
Florence L. Shelly

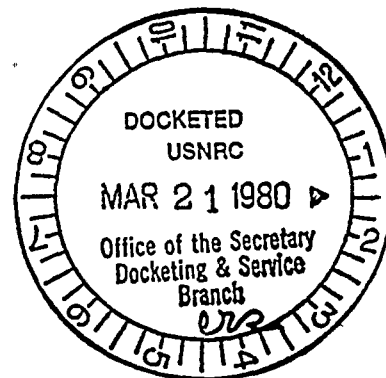
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UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D. C. 20555



March 20, 1980

3/20/80



Mr. William G. Warden IV
32 St. Anthony Street
Lewisburg, PA 17837

Dear Mr. Warden:

I am writing in response to your letter of February 14 to Commissioner Gilinsky regarding your concern about the treatment of the public participant, Environmental Coalition on Nuclear Power, and its director, Dr. Judith Johnsrud, in the NRC Susquehanna operating license proceeding. Under NRC regulations, Dr. Gilinsky cannot respond directly to your letter because the letter addresses an issue that is now being contested before the Atomic Safety and Licensing Board hearing the Susquehanna case. Since the case will come before the Commission for a decision, NRC regulations provide that a Commissioner cannot entertain the views of any person off-the-record on any issue pending in a proceeding. Your letter fits that category of communications. This prohibition, found in United States law, is intended to assure that adjudicators face and decide issues only on the record before them.

The process of public intervention flows from section 189 of the Atomic Energy Act of 1954, which provides that the Commission will hold hearings, under specified circumstances, in licensing proceedings, which are formal and on-the-record and closely resemble a civil proceeding in a court of law. This provision has been further defined by the Commission's rules to include certain important aspects: to intervene a person must demonstrate injury in fact and articulate at least one issue that is cognizable before a Licensing Board. When a person has demonstrated both of these aspects, he or she then becomes a "party" to the licensing proceeding. That, however, does not end the process by which a person's interests are defined. No person, including the applicant and the staff, may participate without specifying the details of his or her case before the Licensing Board. One method commonly used by parties to find out each others' cases is called "discovery"; many NRC rules on discovery are analogous to the rules used in the federal courts.

Discovery aids a party to find out an opposing party's case and eliminates the element of surprise. Discovery also aids the court or Board by winnowing out unsupportable or frivolous contentions without the need to resort to a Board hearing with its

March 20, 1980

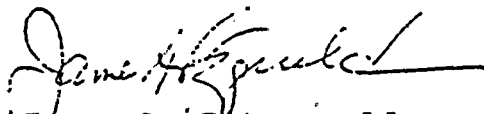
associated administrative costs to the taxpayers and the participants. The scope of discovery permitted is extremely broad and reflects a philosophy that each person is entitled to the disclosure of all relevant information. In NRC proceedings, where the ultimate determination sometimes turns on expert testimony or documents, it is useful for each party to learn as much about the opposing case as possible. Finally, since parties may not be willing to comply with discovery requests, the Board (like a court) may order compliance if, in its judgment, a party has been unresponsive. On the other hand, since discovery may also be abused by parties who have been burdensome or oppressive in discovery requests, a Board may enter a protective order to limit discovery, as required by ideas of fundamental fairness.

It is against this background that the current Susquehanna proceeding with Dr. Johnsrud must be viewed. She was permitted to intervene in the proceeding, advancing a number of contentions. Pursuant to the above-noted procedures, she was willing to set forth the details of the issues she disputes through the discovery process. The center of the dispute that you outline is that she says that the other parties are burdensome while the other side says she must be compelled to answer. This matter the Board will decide, based on the arguments before it. Until the Board finally resolves the matter, it would not be appropriate for us to comment on the propriety of the actions going on before the Board.

It is apparent from your letter that you have not had access to the orders that the Licensing Board has entered with respect to discovery. Copies are enclosed for your information. Finally, if ECNP is unsatisfied by the Board's disposition, eventually the matter may be brought to an NRC Appeal Board and before the Commission before it is finally resolved.

We hope that this discussion will aid your understanding of the process and appreciate your concerns in this regard.

Sincerely,



James A. Fitzgerald
Assistant General Counsel

Enclosures: Licensing Board
Orders

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

In the Matter of)
)
PENNSYLVANIA POWER AND LIGHT)
COMPANY)
)
(Susquehanna Steam Electric)
Station, Units 1 and 2))
)
)
)

Docket No. (s) 50-387
50-388

CERTIFICATE OF SERVICE

I hereby certify that I have this day served the foregoing document(s) upon each person designated on the official service list compiled by the Office of the Secretary of the Commission in this proceeding in accordance with the requirements of Section 2.712 of 10 CFR Part 2 - Rules of Practice, of the Nuclear Regulatory Commission's Rules and Regulations.

Dated at Washington, D.C. this
24th day of March 1970.

Peggy H. Downing
Office of the Secretary of the Commission

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

In the Matter of)
)
PENNSYLVANIA POWER AND LIGHT)
COMPANY, ET AL.)
)
(Susquehanna Steam Electric)
Station, Units 1 and 2))

Docket No.(s) 50-387
50-388

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