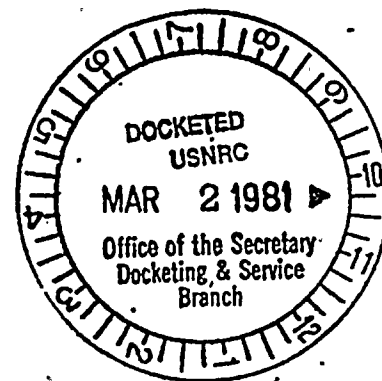


UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

ATOMIC SAFETY AND LICENSING BOARD

Before Administrative Judges:  
Charles Bechhoefer, Chairman  
Dr. Oscar H. Paris  
Glenn O. Bright



In the Matter of:

PENNSYLVANIA POWER & LIGHT COMPANY  
and  
ALLEGHENY ELECTRIC COOPERATIVE, INC.

(Susquehanna Steam Electric Station,  
Units 1 and 2)

2/27/81

SERVED

MAR. 2 1981

Docket Nos. 50-387 OL  
50-388 OL

February 27, 1981

MEMORANDUM AND ORDER  
(Directing CAND and ECNP to  
Respond to Interrogatories)

By our Memorandum and Order Establishing New Discovery Schedule for Safety Issues, dated November 12, 1980, we required that responses to first round discovery requests on safety issues be filed by January 16, 1981 (except with respect to one issue, emergency planning, where a later date was established). The discovery requests in question had originally been filed in May, 1979, but the filing of responses had been deferred by virtue of several orders of this Board. (One intervenor, Colleen Marsh, supplied her responses during the summer of 1979.)

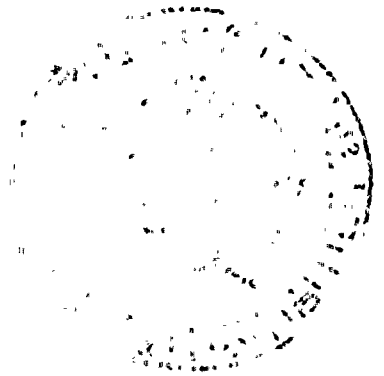
As a result of our November 12, 1980 Order, filings were received from the remaining intervenors--Susquehanna Environmental Advocates (SEA),

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Citizens Against Nuclear Dangers (CAND), and Environmental Coalition on Nuclear Power (ECNP). SEA provided substantive responses to all of the admitted safety contentions of which it is a sponsor; in doing so, it satisfied the requirements we earlier imposed for answering the interrogatories.<sup>1/</sup> CAND and ECNP, however, submitted responses (each dated January 15, 1981) which, in effect, declined to provide substantive answers to any of the interrogatories. (CAND indicated that it would respond to interrogatories on the emergency-planning contentions by the February 23, 1981 deadline we had established for such responses; thus far we have not received CAND's filing.)

As a result of CAND's and ECNP's failure to provide answers to interrogatories, the Staff on January 30, 1981 filed a motion for an order compelling CAND and ECNP to respond to the Staff's discovery requests on health and safety issues. The Applicants filed a response on February 12, 1981 supporting the Staff's request and, additionally, seeking the same relief with respect to their own interrogatories. Neither ECNP nor CAND has responded to the Staff's motion (or, thus far, to the Applicant's response).

Throughout this proceeding, we frequently have had occasion to point to the obligations of intervenors to respond to discovery requests concerning their contentions. CAND and ECNP have both been the object of comments of this type, arising from their failures on various occasions

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<sup>1/</sup> We express no opinion as to the completeness or responsiveness of the answers provided.

to respond properly to outstanding discovery requests. The litany of discovery disputes involving ECNP is amply described by the Appeal Board in ALAB-613, 12 NRC 317 (1980) and need not be reiterated by us here. And the discovery disputes involving CAND are similar in nature, although varying in detail. We now wish only to stress, as both we and the Appeal Board have emphasized previously, the importance of discovery in assisting a party to prepare its case properly.

CAND here states that it cannot respond to discovery without receipt of certain additional documents or information. We have stated many times, however, that a party is required to reveal only such information as it currently possesses concerning its contentions; if it has no such information, it can so state. Documents and other information received subsequently may change a party's answers, but the possibility they may do so is no excuse for not answering. As for ECNP, its excuse that it has other more pressing obligations has been previously rejected by us as well as the Appeal Board.

Suffice it to say that neither CAND nor ECNP have furnished adequate reasons for not providing answers to interrogatories of both the Staff and Applicants. We are here putting them on notice that, if they do not provide substantive answers to the Staff's and Applicants' interrogatories by the date specified herein, we propose to impose the following sanctions on their further participation with respect to the particular contentions involved. (If answers are not furnished, we invite comments on these proposals.)

In the first place, the failure to respond will be given weight by us in ruling upon summary disposition motions. Beyond that, we will not permit

those parties to present an affirmative case on those contentions without specific permission from us--which will be granted only if both the names of witnesses and the substance of their testimony, and identification of relevant documents, is furnished to us and the other parties sufficiently in advance of the date on which prepared testimony would otherwise be due so that the Applicants and Staff may take the witnesses' depositions and examine the documents in question. Finally, if they do not respond to discovery, CAND and ECNP will be required as a condition of engaging in cross-examination on the issues in question to furnish us and the parties a detailed outline of proposed cross-examination, including identification of documents to be relied on, no less than ten (10) days prior to the commencement of the evidentiary hearing session in which the particular issue is to be considered.

For the foregoing reasons, the Staff's motion is granted. It is, this 27th day of February, 1981,

ORDERED

That, CAND and ECNP respond to the Staff's and Applicants' outstanding interrogatories by no later than Friday, March 27, 1981.

FOR THE ATOMIC SAFETY AND  
LICENSING BOARD

*Charles Bechhoefer*  
Charles Bechhoefer, Chairman  
ADMINISTRATIVE JUDGE