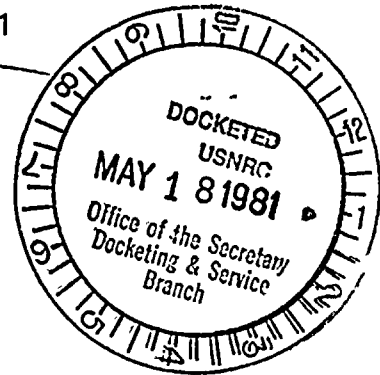


May 15, 1981

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



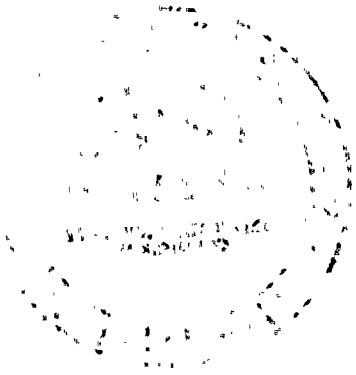
APPLICANTS' ANSWER TO "CITIZENS AGAINST
NUCLEAR DANGERS MOTION CONCERNING
INTERVENER PARTICIPATION, AND
MOTION TO RESOLVE BACKLOG OF MOTIONS"

On May 7, 1981, intervenor Citizens Against Nuclear Dangers ("CAND") filed a "Motion Concerning Intervener Participation and Motion to Resolve Backlog of Motions." The first part of CAND's filing generally opposes Applicants' April 14, 1981 motion to dismiss intervenor Environmental Coalition on Nuclear Power ("ECNP") from this proceeding for its willful failure to comply with the discovery orders of the Board. In addition to being untimely (see 10 CFR §2.730(c)) CAND's arguments and accusations, like those of ECNP in opposing the motion to dismiss, offer nothing new, have been rejected by the Appeal Board in ALAB-613, 12 NRC 317 (1980), and require no additional comment.

CAND's filing also includes a motion for the Board to rule on a list of purportedly "salient motions [by CAND] that are

G

DS03
50/1



still pending." Because the list fails to describe accurately the Board's rulings in this proceeding, Applicants believe it would be useful to set forth accurately the status of the motions referenced by CAND.

"June 16, 1979." The oldest motion on CAND's list is dated June 16, 1979. CAND's only pleading of that date was its "Replies to the Interrogatories of the NRC Staff and the Applicants and Other Matters" in which it stated at p. 2:

The Citizens will presently submit a motion before the U.S. Atomic Safety and Licensing Board in the form of an Order announcing a suspension of the preliminary timetable for discovery requests and interrogatories, etc. decreed in the Board's Special Prehearing Conference Order, dated March 6, 1979.

This appears to be the only reference in the pleading to a motion by CAND. That motion was filed on June 22, 1979, as "Citizens Against Nuclear Dangers' Motion for Board Ruling on Revision of Preliminary Timetable" and was explicitly denied by the Board in its "Memorandum and Order on Scheduling and Discovery Motions," (August 24, 1979), slip op. at 4.

"September 9, 1979 (Mailgram)." Neither the Applicants nor the NRC's Public Document Room have any record of a September 9, 1979 mailgram from CAND. CAND may be referring here to a mailgram dated October 9, 1979, by which CAND moved for the Board to issue "a protective order...against the massive amounts of discovery documentation demanded by the NRC Staff." This motion was dealt with by the Board in its October 30, 1979 "Memorandum and Order on Discovery Motions (II)," LBP-79-31, 10 NRC 597, which explicitly cited CAND's October 9 request, 10 NRC at 599, and granted CAND certain

relief from its discovery obligations, while requiring CAND to answer other discovery requests, 10 NRC at 605-607.^{1/}

"October 24, 1979 (page 1)." On October 24, 1979, CAND filed a "Reply to NRC Staff and Applicants, and Motions Before the Board." The only motion appearing on page 1 asks that the Board "deny the NRC Staff and the Applicants motions against [CAND and ECNP] for dismissal." The Licensing Board's "Memorandum and Order on Discovery Motions (II)," LBP-79-31, supra, explicitly referenced CAND's October 24 pleading, 10 NRC at 599, and denied the motions to dismiss CAND and ECNP, 10 NRC at 602. Other motions appearing on subsequent pages of CAND's October 24, 1979, filing were similarly dealt with in the October 30 Memorandum and Order.

"January 11, 1980 (page 1)." On January 11, 1980, CAND filed a "Motion for Reconsideration of Motions before the Licensing Board" in which it moved the Board to reconsider its orders of October 30, 1979 and January 4, 1980. The board denied CAND's motion for reconsideration in an Order issued on January 16, 1980, which was conveyed to CAND by telegram on that same date.

1/

Notwithstanding this action by the Board, CAND renewed its October 9, 1979 motion in a "Petition for a Government Inquiry; Replies to Discovery Order; Motions on Interrogatories Before the Atomic Safety and Licensing Board," dated December 11, 1979, in which CAND insisted that the Licensing Board had not ruled on its October 9, 1979 motion and requested that the Board do so. The Board issued on January 4, 1980 a "Memorandum and Order Denying CAND Petition and Motions" in which it pointed out that the October 30, 1979 Memorandum and Order had ruled on CAND's October 9 motion and rejected CAND's request to reconsider its motion for a protective order and for its expansion to cover Applicants.

"January 18, 1980 (page 2)." On January 18, 1980, CAND filed a "Motion Before the Atomic Safety and Licensing Board to Certify Admission of a Standing Contention and the Issuance of Definitive Orders" in which it moved the Board to admit a contention on the health effects of low-level radiation from the Susquehanna plant on pregnant women and women of childbearing age within a fifty mile radius of the plant. By Order dated January 24, 1980, the Board explained to CAND that the contention it sought to have admitted was already part of Contention 2 in the proceeding and dismissed the motion as moot.^{2/}

"April 29, 1980 (page 5)(page 7)(page 8)." On April 29, 1980, CAND filed its "Motions and Replies to Interrogatories Concerning Contentions Nos. 2, 16 & 17", in which it moved the Board to transfer Contentions 2 and 16 from the "environmental" to the "health and safety" category, and "to issue a clarifying memorandum that states, unequivocally, and in considerable detail, how the NRC regulations will be interpreted by this Licensing Board concerning all types of evidence, testimony and discovery statements at public hearings" (emphasis in original). These motions were addressed by the Board in its June 24, 1980 Order. See below.

"April 30, 1980 (page 2)(page 3)." On April 30, 1980, in its "Council on Environmental Quality Motion et al. and Replies to

^{2/} On page 3 of its January 18, 1980 pleading, CAND moved the Board to issue a "separate definitive order on the motion of the Citizens dated January 11, 1980." The Board's January 24, 1980 Order noted that the Board had ruled on the January 11, 1980 motion in its January 16, 1980 Order.

Applicants Interrogatories", CAND moved the Board to direct the Applicants to amend "the Draft Environmental Impact Statement, in the form of a supplemental publication that openly and fully discusses the consequences of serious accidents;" (page 2) and to "order Allegheny Electric to resubmit that part of the UHV line impact study prepared separately...as a draft supplement to the Berwick DIS [sic]" (Page 3) (emphasis in original). On June 24, 1980, the Board issued its "Memorandum and Order Ruling on Various CAND Motions," LBP-80-18, 11 NRC 906, in which it addressed and denied each of the CAND motions of April 29 and April 30, 1980, although it granted some of the relief sought by CAND by vacating most of an earlier order (LBP-79-29, 10 NRC 586 (1979)), which had limited the admissibility of Class 9 accident contentions.

"September 10, 1980 (page 4)." On September 10, 1980, CAND filed its "Motion in Opposition to Applicants' Summary Disposition Request", in which it moved the Board to direct Applicants to energize the high-voltage transmission lines that will transmit power out of the Susquehanna facility to 500 kV and test them for ozone levels during rain, sleet and snow storms prior to the hearing. This motion and Applicants' August 22, 1980 summary disposition motion on which it is based, have not been ruled upon.

"November 24, 1980 (page 2)(page 3)." On November 24, 1980, CAND filed its "Petition and Motions on Summary Disposition" in which it moved the Board to deny Applicants' motion for summary disposition of the chlorine portion of Contention 2. On March 16, 1981, the Board issued a "Memorandum and Order (Ruling on Motions

for Summary Disposition of Contentions 2 and 16)", LBP-81-8, 13 NRC ___, in which it denied in part Applicants' motion for summary disposition of the chlorine contention and therefore granted in part CAND's "motion" of November 24, 1980.^{3/}

"January 7, 1981 (page 1)." In this motion, CAND asked the Board to deny Applicants' motion for summary disposition of Contention 17 (transmission lines). This motion, like the one filed on September 10, 1980 also dealing with transmission lines, is still awaiting resolution as part of the Board's ruling on Applicants' summary disposition motions of August 22 and December 5, 1980.

"March 16, 1981 (page 2, two motions) (page 4)." On March 16, 1981, CAND filed its "Statements and Motions Concerning Discovery, Summary Disposition and Ex Parte Actions", where it moved the Board "to issue an order compelling the NRC staff to publish [the FES, FSAR and SER] forthwith"; to "investigate the several affidavits, filed by the Applicants and the NRC staff supporting summary disposition of the various contentions for instances of misinformation, which, if and when verified, should be stricken from the record, and appropriate action taken by the Licensing Board to insure against repetitions;" and, in relation to a letter sent by the president of Pennsylvania Power & Light Co. to the acting chairman of the Commission regarding the licensing schedule for Susquehanna, "to order the corporate officers involved to cease and desist from further attempts to pressure the Commission." These motions of March 16, 1981 await a ruling by the Board.

^{3/} The NRC Staff has requested that the Atomic Safety and Licensing Appeal Board direct the certification to it of portions of LBP-81-8. See "Motion for Directed Certification of the Licensing Board's Order Dated March 16, 1981," filed on April 14, 1981. On April 29, 1981 Applicants filed a response supporting the Staff's motion for directed certification of LBP-81-8.

"March 27, 1981 (page 2, two motions) (page 3)". On March 27, 1981, CAND filed its "Statement on Interrogatories and Motions Before the Licensing Board" in which it moved the Board "to order the NRC to withhold the issuance of any license at this time pertaining to the Applicants application for a special nuclear material license for uranium fuel", "to conduct a special public hearing on this matter at Wilkes-Barre, Pa. with all parties participating", and to "hold an inquiry into the Applicants' plan to construct a so-called 'holding facility' for low-level radioactive materials on the Berwick site".^{4/} These March 27, 1981 motions are also outstanding.

As is evident from the above chronology, all but the most recent motions^{5/} in CAND's list have been explicitly ruled on by the Board, some of them on several occasions. CAND's representation that "in most every case the Board did not actually rule on the motions" is therefore simply incorrect. With respect to the most recent CAND motions, Applicants respectfully request that the Board rule expeditiously on them as well as on all other pending motions

^{4/} CAND's March 27, 1981 motions deal with Applicants Part 70 application to store new fuel at the Susquehanna site, and with Applicants' plan to add a low-level radioactive waste holding facility to the Susquehanna facility. Applicants have not as yet filed a license application for the facility at issue.

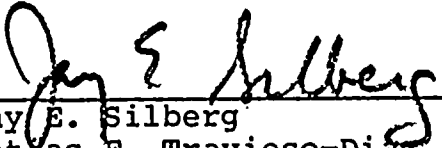
^{5/} Applicants and Staff have filed detailed responses opposing CAND's outstanding motions. Thus, on the March 16, 1981 motion Applicants filed a response on March 25, 1981, and Staff filed its response on April 6, 1981. On the March 27, 1981 motions, Applicants filed a response on April 9, 1981 and Staff did likewise on April 16, 1981. There is no need to repeat or expand on those responses here.

by Applicants and the other parties. See letter from Applicants' counsel dated April 14, 1981.

Respectfully submitted,

Shaw, Pittman, Potts & Trowbridge
1800 M Street, N.W.
Washington, D.C. 20036
Telephone: (202) 822-1000

By


Jay E. Silberg
Matias F. Travieso-Diaz

Counsel for Applicants

Dated: May 15, 1981

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

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

CERTIFICATE OF SERVICE

This is to certify that a copy of the foregoing Applicants' Answer to "Citizens Against Nuclear Dangers Motion Concerning Intervener Participation, and Motion to Resolve Backlog of Motions" was served by deposit in the United States Mail, First Class, postage prepaid, this 15th day of May, 1981, to all those on the attached Service List.



Jay E. Silberg

Dated: May 15, 1981

UNITED STATES OF AMERICA

NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matter of)
)
PENNSYLVANIA POWER & LIGHT COMPANY)
)
AND) Docket Nos. 50-387
) 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

Administrative Judge James P. Gleason
513 Gilmore Drive
Silver Spring, Maryland 20901

Mr. Glenn O. Bright
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

Dr. Paul W. Purdom
245 Gulph Hills Road
Radnor, Pennsylvania 19087

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

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

Susquehanna Environmental Advocates
c/o Gerald Schultz, Esquire
Post Office Box 1560
Wilkes-Barre, Pennsylvania 18703

Mr. Thomas J. Halligan, Correspondent
The Citizens Against Nuclear Dangers
Post Office Box 5
Scranton, Pennsylvania 18501

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

Jessica H. Laverty, Esquire
Office of the Executive Legal
Director
U. S. Nuclear Regulatory Commission
Washington, D. C. 20555

Karin W. Carter, Esquire
Department of Environmental Resources
Commonwealth of Pennsylvania
505 Executive House
Post Office Box 2357
Harrisburg, Pennsylvania 17120

Larry Chandler, Esquire
Office of the Executive Legal
Director
U. S. Nuclear Regulatory Commission
Washington, D. C. 20555

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

