

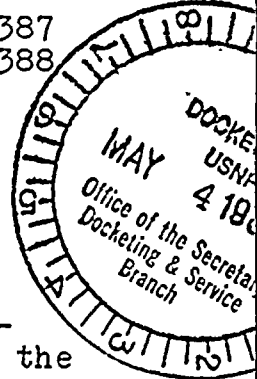
UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

4/29/81

In the matter of
PENNSYLVANIA POWER AND LIGHT CO.
and
ALLEGHENY ELECTRIC COOPERATIVE, INC.
(Susquehanna Steam Electric Station,
Units 1 and 2)



ocket Nos. 50-387
388



RESPONSE OF ENVIRONMENTAL COALITION ON NUCLEAR POWER
INTERVENORS TO APPLICANTS' MOTION TO DISMISS

The Environmental Coalition on Nuclear Power (ECNP) Inter-
venors in this proceeding oppose and object to the motion of the
Applicant, dated April 14, 1981. ECNP requests this newly con-
stituted Licensing Board instead to review fully the ECNP filings
in this proceeding, in conjunction with the filings of other citizen
intervenors, and to set the Susquehanna proceeding back onto a
reasonable track for the preparation to go to hearing.

As the ECNP Intervenors have explained repeatedly in the past,
they had timely filed a petition to intervene and contentions that
were found acceptable for litigation in the autumn of 1978, some
six months prior to the accident at Three Mile Island, Unit 2.
The same legal representatives of ECNP were also the sole litigants
on behalf of the citizen intervenors in that still-incomplete pro-
ceeding. In the aftermath of the TMI accident, ECNP is a party
to some four NRC proceedings related to Three Mile Island, Units 1
and 2; as a statewide coalition of citizen organizations we have
obligations to the residents of the TMI area as well as the Berwick
area. We can hardly be considered accountable for the TMI accident,
having been the only ones who had attempted to prevent that manifest-
ly unsafe reactor from operating. For ECNP to be subjected now to the
demands of counsel for these applicants -- counsel of the same legal
firm that represents the TMI licensee -- is the height of injustice.
It has been and continues to be our belief that this applicant is
utilizing the legitimate process of discovery for illegitimate pur-
poses in order to burden these unfunded citizen intervenors with an
intolerable burden of interrogatories.

Even when the ECNP Intervenors did respond to interrogatories
on environmental issues more than a year ago, the Applicant was
not satisfied, -demanding and obtaining from the Board additional
oral argument as to why these intervenors should not be prevented
from submitting direct evidence and cross-examination on their con-
tentions. Applicants' endeavor to prohibit ECNP participation in
a licensing proceeding that directly affects the interests of our
members failed. Now counsel is again attempting to prevent ECNP's
active participation.

In 1975, the U.S. Court of Appeals for the District of Columbia
Circuit found in York Committee for a Safe Environment, et al.,
(a case to which ECNP was a party) that citizen intervenors in an
AEC/NRC proceeding cannot be expected to have the resources to fully
mount the kind of case that is required -- resources of time, money,

DSOB
5/1

8106180276

G



expertise, or legal assistance -- and yet that such public-interest participants contribute positively to the outcome of reactor license proceedings. The ECNP Intervenorers have repeatedly explained the impact of these limitations upon their ability to respond to the tiresome efforts of Applicant's counsel to tie us up in non-productive paperwork. The term that applies to these relentless efforts to prevent our active participation in these proceedings is procedural harassment.

In these past months, other demands upon the time of ECNP's legal representatives, not least of which has been TMI-related proceedings, have absorbed all available energies. Had there even been time to lay out the hours of the day for this Board and to inquire as to when the time was to be eked out to respond to Applicant's interrogatories, ECNP's representative would have done so. We especially ask this reconstituted Board to review all previous ECNP filings on this procedural matter and the special prehearing conference transcript containing oral argument on the Applicant's earlier unsuccessful effort to restrict our participation. ECNP asks this Board to note in particular that at no time was there provided enough time to respond properly to the massive number of interrogatories Applicant had put forth. A month here, six weeks there is not enough. ECNP has in the past expressed its willingness to respond to either a reasonable number of interrogatories or interrogatories within a reasonable period of time.* A pro bono participant cannot, however, be reasonably expected to meet the crushing demands of Applicant's counsel.

If it is the NRC's intention to allow unsafe reactors to continue to be licensed without proper resolution of associated environmental impacts, in a disgraceful continuation of the "mind-set" identified by the NRC's Special Inquiry Group (Rogovin) Report, then Intervenorers can expect no relief from the agency. If, however, the positive contribution that citizen intervenors can make to the licensing proceeding is desired by the Board, then we ask this Board to deny Applicant's motion.

Respectfully submitted,
Judith H. Johnsrud
(Dr.) Judith H. Johnsrud
Co-Director, ECNP

Dated this 29th day of April, 1981

#####

I hereby certify that copies of RESPONSE OF ENVIRONMENTAL COALITION ON NUCLEAR POWER INTERVENORS TO APPLICANTS' MOTION TO DISMISS have been served on all parties to this proceeding by deposit in the U.S. Mail, first class, postage paid, this 29th day of April, 1981.

Judith H. Johnsrud

* Intervenorers ask the Board to note that Applicant has not yet provided ECNP's initial discovery request for the Reed Report from General Electric; we ask the Board to direct Applicant to do so.

