June 18, 1981

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In The Matter Of:

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

Berwick Atomic Power Plant
Susquehanna Units 1 & 2
Docket Nos. 50-387 & 50-388

CITIZENS AGAINST NUCLEAR DANGERS
STATUS REPORT ON DISCOVERY PROCEEDINGS
AND MOTIONS CONCERNING INTERVENTIONS



In compliance with the ASLB's Memorandum of May 20, 1981, and pursuant to the NRC "Statement of Policy on Conduct of Licensing Proceedings" dated May 21, 1981, the Citizens Against Nuclear Dangers (Citizens), hereby submit a status report on discovery proceedings.

First and foremost, The Citizens would like to make reference to the NRC Statement of Policy, to wit; "The Commission believes that the benefits now obtained by the use of interrogatories could generally be obtained by using a smaller number of better focused interrogatories..." "...the Boards are reminded that they may limit the number of interrogatories in accordance with the Commission's rules." (page 6). The Berwick ASLB was definitely remiss in its duties by not invoking the above rule against the Applicants and the NRC staff, after the interveners repeatedly filed reasonable and valid motions seeking the very relief afforded by the above cited NRC rule (but denied the interveners for the sake of governmental expediency.

The current problem involving the Coalition is a direct result of the ASLB not invoking the rule to limit discovery, two years ago, which in turn caused the subsequent delays in these proceedings.

A good indication of the ultimate intent of the Applicants' discovery, which we now know, was to drive experienced and capable interveners from the proceedings, is verified in their communication

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to the ASLB, dated June 9, 1981. Therein, on page 2, paragraph 1, the letter States: "Applicants currently do not intend to file any further discovery requests..." No indeed. Why should they? They may well have accomplished their goal to oust an intervener...or have they? (Incidently, the Applicants interpretation in the last sentence of that letter is pure hogwash!)

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The status of the long standing and detrimental discovery non-compliance on the part of the Applicants, the Commonwealth and the NRC staff can only be determined by the resolution of the several motions filed by the Citizens before the ASLB on this subject. Beyond that, the Citizens will be submitting a limited number of interrogatories in the near future based on the recommendations and findings in the NRC Safety Evaluation Report (SER) Supplements that should address the crucial issues mentioned below.

The NRC, in the publication of the SER, has identified numerous departures from the General Design Criteria and other appropriate quality assurance codes, safety standards, and regulatory guides. The NRC also identified some major modifications to the Berwick facilities in the SER. Most importantly, the SER reveals that there are approximately fourteen unresolved safety issues, twelve safety issues reviewed by the NRC where the licenses will be conditioned, and more than one-hundred "outstanding issues" which have not been resolved with the Applicants. In addition, the NRC and the Applicants have proposed safety "modifications" to the Berwick facilities of questionable merit. Finally, the Applicants, in conjunction with several other utilities across the country, have formed a so-called Boiling Water Reactor-Licensing Review Group,

with the LaSalle reactor designated as the lead plant, in an attempt to expedite the resolution of generic safety problems. There apparently are numerous "open issues" of generic safety concern that have been identified, but yet to be tested and resolved, for all six reactors, including Berwick.

The publication of the SER Supplements will bring into focus the health and safety issues that the interveners will be evaluating under a microscope in the months ahead. It is self-evident from the very long list of deficiencies cited in the SER that the licensing of the Berwick reactors is a very, very long way down the road. So, it is inevitable that there will be additional discovery from the interveners because there will be some new contentions filed based on the NRC citations of the continuing unresolved safety evaluations that will appear in the SER Supplements.

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The Citizens hereby move the ASLB to order the intervener Colleen Marsh, et al., to promptly indicate in written detail whether or not their group is planning to start participating in the future course of these proceedings. All of the parties are entitled to be informed of their decision. The fact that Colleen Marsh, et al. did not defend the summary disposition challenge to Contention 12, which they initiated, and, has not communicated with the ASLB, except once, in more than two years, leaves one to doubt their interest in participating in public hearings in a meaningful way.

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The Citizens also move the ASLB to dismiss the Pennsylvania Bureau of Radiation from these proceedings as an uninterested party, but only on the condition that the Radiation Bureau be replaced on an order of the ASLB by the several other agencies of the Pennsylvania Department of Environmental Resources, and by the Susquehanna River Basin Commission (SRBC). Pennsylvania's participation (on the record) has been virtually nil since the commencement of the Berwick case nearly three years ago. Evidence of this apparent nonfeasance and misfeasance of office by the Bureau of Radiation, for not representing the public interest of the citizens of Pennsylvania will, in due course, be presented to the Attorney General of Pennsylvania for investigation, and, if warranted, prosecution.

The good cause for this change in participation by interested public entities in these proceedings should be expounded upon during public debate. This motion, therefore, should be commented upon and decided at a pre-hearing conference at Wilkes-Barre, Pa., with all member states of the SRBC encouraged to participate. The SRBC is comprised of the environmental commissioners representing the U.S. Secretary of the Interior, and the governors of New York, Maryland and Pennsylvania. Collectively, they have a public mandate to be interested in the Berwick licensing case.

Respectfully submitted

Thomas J. Halligan
Correspondent

Dated: June 18, 1981

CERTIFICATE OF SERVICE

I hereby certify that copies of Citizens Against Nuclear Dangers Status Report On Discovery Proceedings And Motions Concerning Interventions have been served on all parties to this proceeding by deposit in the U.S. mail, first class, this 18th day of June, 1981.