



May 7, 1981

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

In The Matter Of;

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

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

CITIZENS AGAINST NUCLEAR DANGERS  
MOTION CONCERNING INTERVENER PARTICIPATION,  
AND MOTION TO RESOLVE BACKLOG OF MOTIONS

The Citizens Against Nuclear Dangers (Citizens) oppose the Applicants' motion, dated April 14, 1981, attempting to dismiss the Environmental Coalition on Nuclear Power (Coalition) from this proceeding. The Citizens summarize that attempt in one word... UNAMERICAN!

The Applicants pleading is replete with false assumptions, such as their erroneous statement that "interveners typically do not present affirmative cases." The Applicants should know full well that the Coalition will present an affirmative case, and so will the Citizens and the Environmental Advocates. The Coalition will address certain important issues and contentions at the public hearings. If they are not allowed to actively participate, it will be necessary for other interveners to submit new contentions similar in scope to the contentions the Coalition would have argued, with the resultant delays such action would entail.

The Applicants have an erroneous perception of the role of the interveners in these proceedings. The purpose of the intervention is to assist the Licensing Board in compiling as complete a record as possible in conjunction with the NRC license review process. The interveners are not concerned with engaging in legalistic adversary confrontations. The Applicants strategy evidently is to attempt to cast us in the negative role. We must remind the Licensing Board that we are participating without legal counsel, having that right,

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and therefore will not be baited into a legal tug-of-war over procedural hair-splitting. The Board must not be distracted by the clever legal hurdles being thrown up by the Applicants and the NRC legal staff pertaining to discovery.

In this instance, the Applicants conclude by quoting the Appeal Board which previously stated that "as a matter of fairness, a licensing board may not waive the discovery rules for one side and not the other." Yet, that is precisely what the Board did on numerous occasions, giving sanction to the NRC staff's and the PP&L's refusal to comply with their discovery obligations. The Licensing Board, as previously constituted, established a double standard which discriminated against the interveners. That licensing board was unjust and unfair in its one-sided decisions that, de facto, denied the interveners the discovery documents they requested, which, in turn, is a denial of due process. The Coalition and the Citizens protested these arbitrary and capricious rulings on several occasions, but, to no avail, thus, proving the prevalence of the discrimination.

The Applicants, in their April 14th motion, offered a bit of absurdity by insinuating that the Coalition, by not fully complying with the unfair discovery demands, "places Applicants at a significant and unfair disadvantage in their preparation for the hearing." Such a ludicrous remark coming from a multi-billion dollar corporation only points up the high-handed disregard the Applicants must have toward public interest concerns, concerns that are to be well represented by the Coalition at the public hearings.

Therefore, the Citizens move the Licensing Board to deny the Applicants un-American motion for dismissal dated April 14, 1981.

Because of the reconstitution of the Atomic Safety and Licensing Board in this proceeding and the rather lengthy history of the case, we are taking the liberty of setting forth the Citizens' understanding of the outstanding matters. The following list of dates identify correspondence submitted to the Licensing Board by the Citizens, containing salient motions that are still pending.

The Licensing Board may have alluded to one or more of these motions in past orders but in most every case the Board did not actually rule on these motions. There cannot be any objective and logical resolution of the motions submitted by the Applicants (itemized in their April 14, 1981 letter), or of NRC staff motions, unless and until the interrelated motions of the Citizens are first resolved by the reorganized Licensing Board.

Therefore, the Citizens move the Licensing Board to presently rule on all of the motions filed on the dates listed below. We firmly believe that it is the members of the Licensing Board, not the biased statements of our antagonists, in Washington, Bethesda and Allentown, who have the right and duty to make those decisions.

LIST OF CITIZENS' MOTIONS STILL PENDING

March 27, 1981 (page 2, two motions) (page 3)

March 16, 1981 (page 2, two motions) (page 4)

January 7, 1981 (page 1)

November 24, 1980 (page 2) (page 3)

September 10, 1980 (page 4)

April 29, 1980 (page 5) (page 7) (page 8)

April 30, 1980 (page 2) (page 3)

January 18, 1980 (page 2)

LIST OF CITIZENS' MOTIONS STILL PENDING

January 11, 1980 (page 1)

October 24, 1979 (page 1)

September 9, 1979 (Mailgram)

June 16, 1979

Dated: May 7, 1981:

*Thomas J. Halligan*  
Correspondent

CERTIFICATE OF SERVICE

I hereby certify that copies of Citizens Against Nuclear Dangers Motion Concerning Intervener Participation, And Motion To Resolve Backlog of Motions have been served on all parties to this proceeding by deposit in the United States mail, first class, this 7th day of May, 1981.

