

Case
50-315

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NOV 15 1979

Honorable Donald W. Riegler, Jr.
United States Senate
Washington, DC 20510

Dear Senator Riegler:

A letter of October 29, 1979 to you from Mr. Robert L. Ferguson, Program Director for Nuclear Energy, Department of Energy, stated that a letter to you from Ms. Vicky McCracken was being forwarded to the Nuclear Regulatory Commission to supply information requested by Ms. McCracken on the nuclear power plants in Michigan. Such information is enclosed with this letter.

Sincerely,

ORIGINAL SIGNED BY R. G. SMITH

Lee V. Gossick
Executive Director for Operations

Enclosure:
As Stated

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2
8001130125 GP

OFFICE	NRR:MASB <i>FLF</i>	NRR:DDIR	NRR:DIR			
CURNAME	Fine:pab	EGCase	HRDenton			
DATE	11/9/79	11/ /79	11/ /79			

Big Rock Point 1

Big Rock Point 1 is a nuclear power plant owned and operated by the Consumers Power Company at a site four miles northeast of Charlevoix, Michigan. It uses cooling water from Lake Michigan in a once-through system. The plant contains a boiling-water reactor and has a design electrical rating of 72,000 net kilowatts. The date of starting commercial operation was March 29, 1963. The cumulative input of electrical energy from the plant is more than 5 billion kilowatt-hours.

Palisades

Palisades is a nuclear power plant owned and operated by the Consumers Power Company near Van Buren, Michigan, five miles south of South Haven. It uses cooling water from Lake Michigan in a closed-cycle system having forced-draft cooling towers. The plant contains a pressurized-water reactor and has a design electrical rating of 805,000 net kilowatts. The date of starting commercial operation was December 21, 1971. The cumulative output of electrical energy from the plant is almost 21 billion kilowatt-hours.

Cook 1 and 2

Cook 1 and 2 are units of a nuclear power plant owned and operated by the Indiana and Michigan Power Company at a site near Berrien, Michigan, eleven miles south of Benton Harbor. Both units are cooled by water from Lake Michigan in a once-through system. Each unit contains a pressurized-water reactor. The design electrical rating of Cook 1 is 1,054,000 net kilowatts and of Cook 2 is 1,100,000 net kilowatts. Cook 1 started commercial operation on August 27, 1975, and Cook 2 on July 1, 1978. The cumulative output of electrical energy by the end of September 1979 was about 26 billion kilowatt-hours from Cook 1 and about 9 billion kilowatt-hours from Cook 2.

Fermi-2

Fermi 2 is a nuclear power plant under construction for the Detroit Edison Company at a site near Newport, Michigan, about 8 miles east-northeast of Monroe. It will be cooled by water from Lake Erie in a closed-cycle system using natural-draft cooling towers. The plant will contain a boiling-water reactor and have a design electrical rating of 1,093,000 net kilowatts. A construction permit was issued by the NRC on September 27, 1972, and construction is over 80% complete.

- 10 -

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Midland 1 and 2

Midland 1 and 2 are units of a nuclear power plant under construction for the Consumers Power Company at a site near Midland, Michigan. It will be cooled by water from the Tittabawassee River in a closed-cycle system using a cooling pond. Each unit will contain a pressurized-water reactor. The design electrical rating of Midland 1 will be 460,000 net kilowatts and of Midland 2 will be 811,000 net kilowatts. In addition to supplying electrical energy, Midland 1 will supply heated water to the Dow Chemical Company for use in industrial processing. A construction permit was issued by the NRC on December 15, 1972, and, as of September 1, 1979, construction of Midland 1 was 54% complete and of Midland 2 was 61% complete.

Greenwood 2 and 3

Greenwood 2 and 3 were units of a nuclear power plant for which the Detroit Edison Company tendered an application for a construction permit originally in September 1973 and again on March 1, 1979. Acceptance review of the application has been delayed by other NRC priorities. The Detroit Edison Company recently advised the NRC of an 18-month delay in order to assess the effects of the Three Mile Island accident and has stopped work in progress by the architect engineer and the reactor manufacturer. The plant was to be constructed in St. Clair County, Michigan, about 16 miles west-northwest of Port Huron. Each unit was to have a design electrical rating of 1,264,000 kilowatts net. Cooling water was to be supplied from Lake Huron in a closed-cycle system using a spray canal.



Department of Energy
Washington, D.C. 20545

OCT 29 1976

Honorable Donald W. Riegler, Jr.
United States Senate
Washington, DC 20510

Dear Senator Riegler:

Your letter requesting information on nuclear power plants for your constituent, Ms. Vicky McCracken, has been forwarded to this office for consideration.

In recognition of the severe implications of our continued dependence on foreign oil, President Carter has offered a National Energy Plan that calls for a combination of energy sources to meet our electrical requirements. He has also stressed the importance of conserving energy by such practices as driving our cars less and lowering the heat in our homes. Under the Energy Plan, solar, geothermal and fusion technologies are receiving great emphasis and accelerated development. However, their status is such that even under the most successful of efforts, they will not be able to meet all of the additional energy needs of the United States during the remainder of this century. Thus, in the near and intermediate term, coal and uranium must provide an increasing share of electrical generation. The important role that nuclear power must play in our energy future has been expressed repeatedly by the President and the Secretary of Energy.

Many citizens in the United States express confidence and support for nuclear energy. Others express concerns and opposition. But perhaps the largest group is the one that recognizes, as does Ms. McCracken, the contribution that nuclear is making but is apprehensive about its problems. In order to resolve this dilemma, strong measures are being taken to find solutions to the issues facing nuclear, such as the improvement of nuclear plant safety and demonstration of an acceptable means of disposing of nuclear wastes.

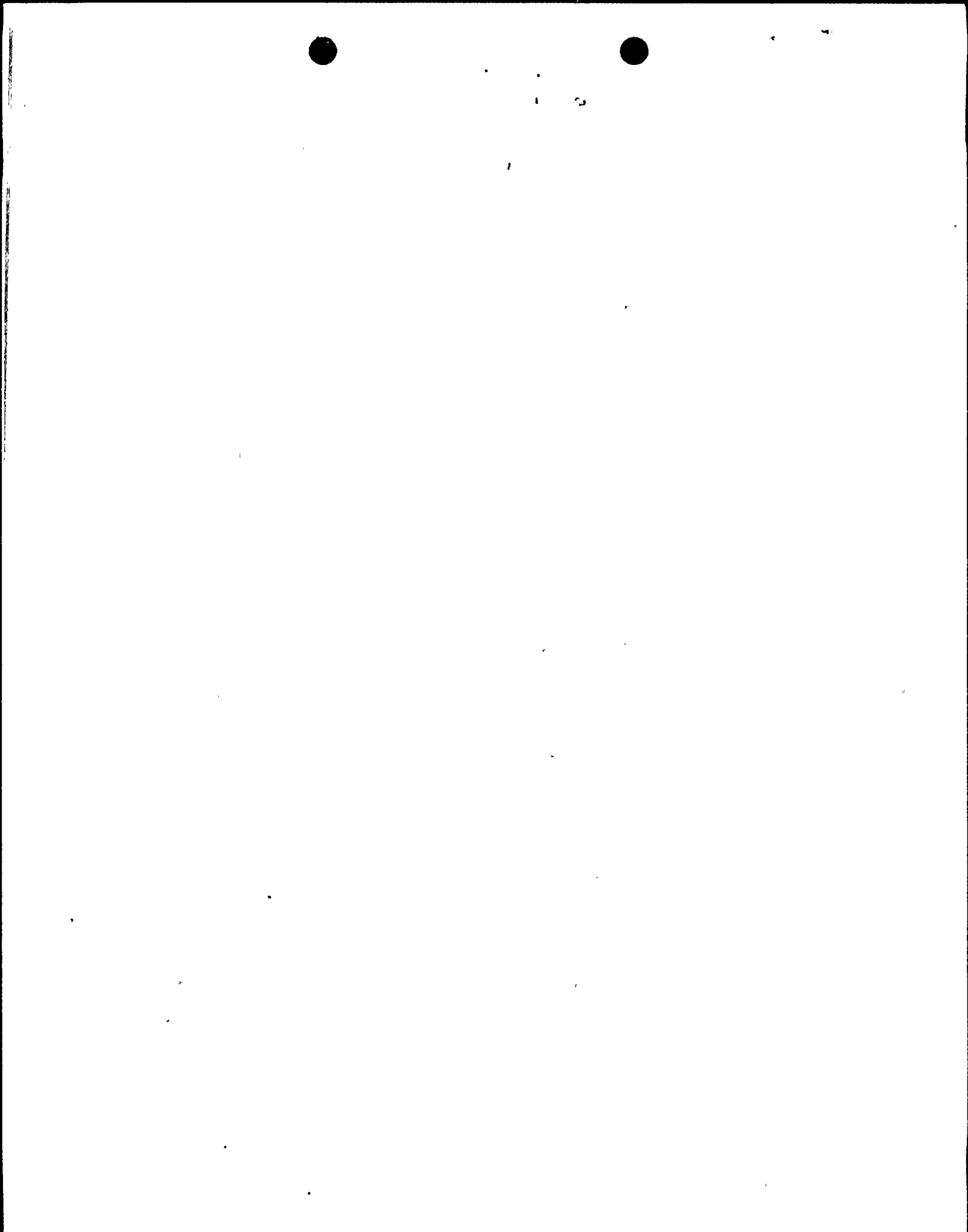
I am enclosing some material that will include more detailed information on nuclear energy and some of the programs that are being implemented to enhance its performance. In response to Ms. McCracken's specific request for information on plants in the Michigan area, I am forwarding her letter and yours to the Nuclear Regulatory Commission with the expectation that they will be able to supply more detailed data on the Michigan plants. Please advise me if I can be of additional assistance.

Sincerely,

JOHN W. CRAWFORD
Robert L. Ferguson
Program Director
for Nuclear Energy

6 Enclosures:
Constituent's Correspondence
"Nuclear Reactors, Built, Being Built,
or Planned in the United States as
of Dec. 31, 1978"
"Nuclear Fission"
Statement by John Deutch before
the Committee on Science and
Technology
Excerpt from May/June 1979 "UPDATE"
Excerpt from National Energy Plan II

cc:
L. Gossick, NRC



United States Senate

WASHINGTON, D.C. 20510

DATE October 4, 1979

TO: Operations and Inquiries
Office of Congressional Affairs
Department of Energy
Washington, D.C. 20461

ENCLOSURE FROM:

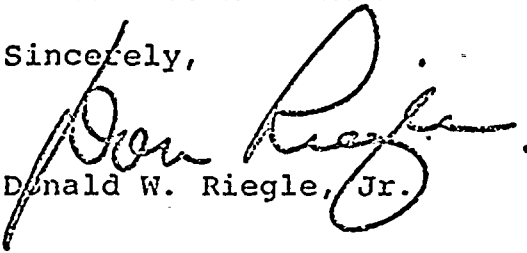
Ms. Vicky McCracken
11205 S. Jennings Road
Fenton, MI 48430

RE: SEE ATTACHED LETTER

I forward the attached for your consideration, and would appreciate receiving information in regard to this inquiry as soon as possible. Please return the original correspondence.

Many thanks for your time and assistance in this matter.

Sincerely,


Donald W. Riegle, Jr.

Please direct reply to:

Senator Donald W. Riegle, Jr.
5224 Dirksen Office Building
Washington, D.C. 20510

Attention: ~~Bernie-Gladney~~ LINDA BROWN

7 No. 1200, T. C. Cracker
11215 D. C. Building 120
Fenton, Mo. 64430

Senator Donald Reagle;
United States Senate
Washington, D. C. 20510

Sept. 26th, 1979

Dear Senator Reagle;

I am writing to let you know that I think you are doing a excellent job in the Senate. I have endorsed you in the past and shall continue to do so.

I am interested in the issue of Nuclear Power Plants, and would like to keep abreast on its progress in Michigan. I see the good that they can do for our country, but I also see the dangers that are involved. I would like to know more about

the Nuclear Power Plants in
Michigan?

I would surely appreciate
a reply in regard to the above.

Thank you very much
for your time and consideration.

Sincerely,

Ms. Vicky McCracken

July 16, 1979

7/16/79

Dr. and Mrs. Joseph F. Voita
Dunewood Drive, P.O. Box 342
Bridgman, MI 49106

In the Matter of
Indiana & Michigan Electric Company
Donald C. Cook Nuclear Plant, Units 1 & 2
Docket Nos. 50-~~325~~ and 50-316

3/5

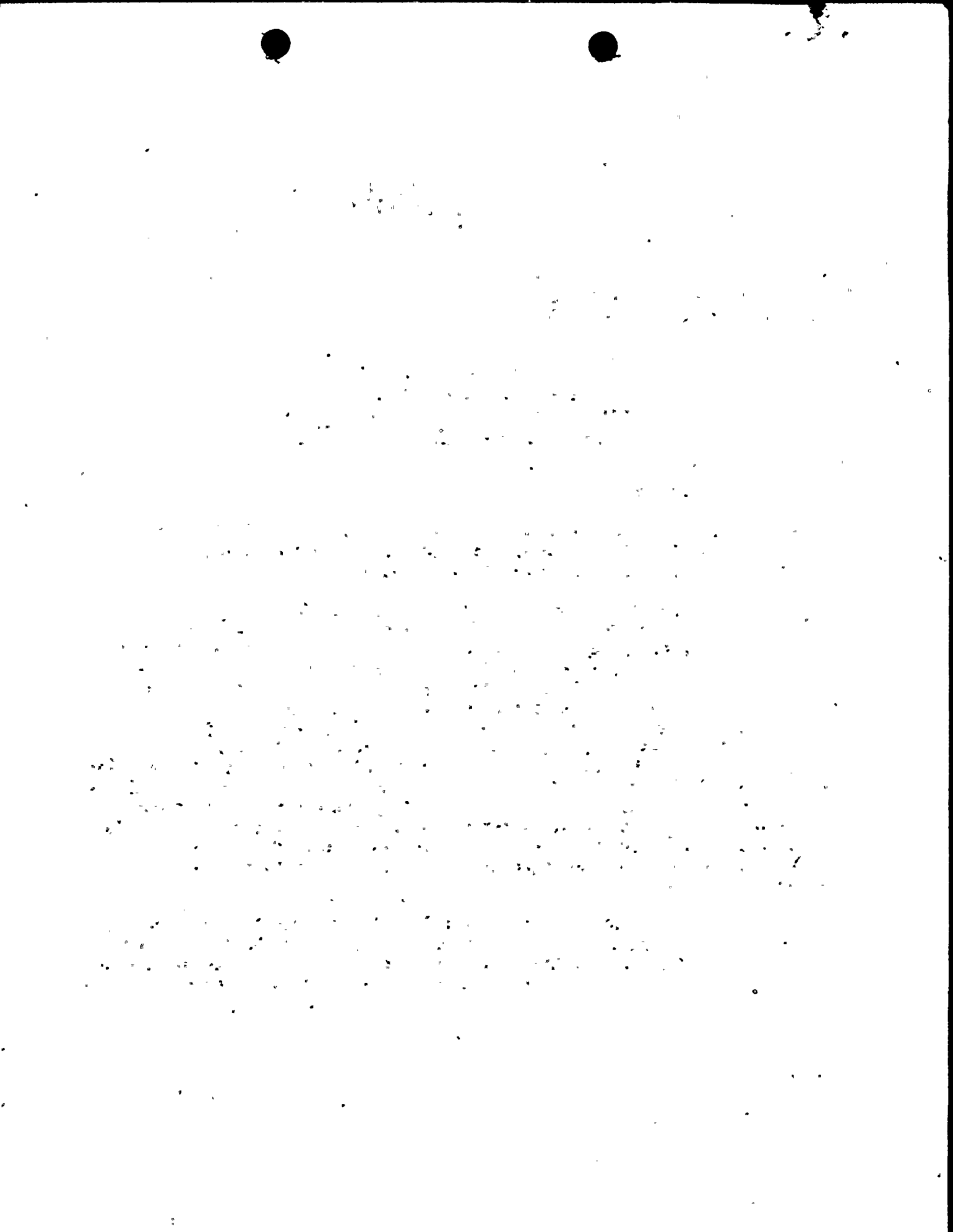
Dear Dr. and Mrs. Voita:

This is in reply to your letter of April 13, 1979 concerning the application for an amendment to the operating license for the Donald C. Cook Nuclear Plant to increase the spent fuel storage capacity.

The proposed issuance of this amendment was noticed in the Federal Register on January 11, 1979 (44 Fed. Reg. 2438). The notice provided that any person whose interest may be affected by this amendment and who wished to participate as a party in an adjudicatory hearing should file a written petition to intervene by February 12, 1979. (A copy of this notice is enclosed.) The notice further provided that requests for a hearing and petitions for leave to intervene must be filed in accordance with the Commission's "Rules of Practice for Domestic License Proceedings" set forth in 10 CFR Part 2. No petitions were filed within the prescribed time period, nor has any person attempted to file a late petition in accordance with the Commission's practice of permitting untimely petitions where an acceptable justification for such delay is established. (A copy of the Commission's regulations concerning this requirement is also enclosed.) Accordingly, there is, at this time, no adjudicatory hearing scheduled regarding this license amendment.

However, we have recently received your letter and several others expressing a general concern regarding this amendment. Because of the interest expressed by you and others, the NRC Staff, in conjunction with the State of Michigan and local officials, has decided to hold a public meeting in order that the

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concerns expressed may be considered in the Staff's review process for this application. This public meeting will be held within the next several months at a location near the nuclear plant site. The particulars of this meeting, such as location, time, and format, have not yet been decided. However, they will be announced publicly and we will mail you a copy of such notice. We invite and look forward to your participation in this meeting.

Sincerely,

Richard L. Black
Counsel for NRC Staff

Distribution:

- R. Black
- S. Treby
- HKS/TFE/ESC
- NRC Central
- LPDR
- ELD FF (2)
- D. Wigginton, 316-Phil
- A. Schwencer, 316-Phil
- P. Cota, P-528
- R. Ballard, P-530
- Chron.

Enclosures: As stated

Identical Letters Sent to the Following

Mr. & Mrs. Edward Temmel
Rosemary Beach
Stevensville, MI 49127

William David Mohr, PE
152 Orchard Lane
Benton Harbor, MI 49022

Mrs. Kendall
8955 S. Corcoran
Hamilton, IL 60956

Mrs. Lucile L. Andreason
P.O. Box 638
Bridgman, MI 49106

Beth Jones
Route 4, Box 857
Stevensville, MI 49127

Robert J. Charles
Wildwood Estates
Bridgman, MI 49106

Lois Haskins
893 Willow Drive
Stevensville, MI 49127

OFFICE >	ELD R. Black	ELD	ORB-1 DW	ORB-1 AS	DSE P. Cota	AD/SCD DE
SURNAME >	L. Chandler		D. Wigginton	A. Schwencer	P. Cota	D. Eisenhut
DATE >	07/5/79	07/1/79	07/6/79	07/6/79	07/11/79	07/13/79



1948

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UNITED STATES NUCLEAR REGULATORY COMMISSION

DOCKET NOS. 50-315 AND 50-316

INDIANA AND MICHIGAN POWER COMPANY

INDIANA AND MICHIGAN ELECTRIC COMPANY

NOTICE OF PROPOSED ISSUANCE OF AMENDMENT TO

FACILITY OPERATING LICENSE

The United States Nuclear Regulatory Commission (the Commission) is considering approval of an application by Indiana and Michigan Power Company and Indiana and Michigan Electric Company (the licensees) to expand spent fuel storage capacity from 500 to 2050 fuel assemblies. This application has been made for the Donald C. Cook Nuclear Plant, Units 1 and 2 located in Bridgman, Michigan, which the licensees operate under Facility Operating Licenses Nos. DPR-58 and DPR-74.

Prior to approval of this application for increased spent fuel storage capacity, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

By February 12, 1979 the licensee may file a request for a hearing with respect to approval of the application for increase in spent fuel storage capacity and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written petition for leave to intervene. Requests for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice

for Domestic Licensing Proceedings" in 10 CFR Part 2. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR §2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) the nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend his petition, but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, the petitioner shall file a

supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter, and the bases for each contention set forth with reasonable specificity. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

A request for a hearing or a petition for leave to intervene shall be filed with the Secretary of the Commission, United States Nuclear Regulatory Commission, Washington, D. C. 20555, Attention: Docketing and Service Section, or may be delivered to the Commission's Public Document Room, 1717 H Street, N.W., Washington, D. C. by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner or representative for the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at (800) 325-6000 (in Missouri (800) 342-6700). The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to A. Schwencer: (petitioner's name and telephone number); (date petition was mailed); Donald C. Cook Nuclear Plant, Units 1 and 2; and

(publication date and page number of this FEDERAL REGISTER notice). A copy of the petition should also be sent to the Executive Legal Director, U. S. Nuclear Regulatory Commission, Washington, D. C. 20555, and to Gerald Charnoff, Esquire, Shaw, Pittman, Potts and Trowbridge, 1800 M Street, N.W., Washington, D. C. 20036, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the Atomic Safety and Licensing Board designated to rule on the petition and/or request, that the petitioner has made a substantial showing of good cause for the granting of a late petition and/or request. That determination will be based upon a balancing of the factors specified in 10 CFR §2.714(a)(i)-(v) and §2.714(d).

For further details with respect to this action, see the licensees' application for increase in spent fuel storage capacity dated November 22, 1978, which is available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D. C., and at the Maude Reston Palenske Memorial Library, 500 Market Street, St. Joseph, Michigan, 49085.

Dated at Bethesda, Maryland this 3rd day of January , 1979.

FOR THE NUCLEAR REGULATORY COMMISSION



A. Schwencer, Chief
Operating Reactors Branch #1
Division of Operating Reactors

PART 2 • RULES OF PRACTICE FOR DOMESTIC LICENSING PROCEEDINGS

States mail, properly stamped and addressed; or

(4) When service cannot be effected in a manner provided by subparagraphs (1) to (3) inclusive of this paragraph, in any other manner authorized by law.

(c) *Proof of service.* Proof of service, stating the name and address of the person on whom served and the manner and date of service, shall be shown for each document filed, and may be made by:

(1) Written acknowledgment of the party served or his counsel;

(2) The certificate of counsel if he has made the service; or

(3) The affidavit of the person making the service.

§ 2.713 Appearance and practice before the Commission in Adjudicatory Proceedings.

(a) *Representation.* A person may appear in an adjudication on his own behalf or by an attorney-at-law in good standing admitted to practice before any court of the United States, the District of Columbia, or the highest court of any State, territory, or possession of the United States. An attorney appearing in a representative capacity shall file with the Commission a written notice of appearance which shall state his name, address, and telephone number; the basis of his eligibility; and the name and address of the person on whose behalf he appears.

(b) *Standards of conduct.* An attorney shall conform to the standards of conduct required in the courts of the United States.

(c) *Suspension of attorneys.* A presiding officer may, by order, suspend or bar any person from participation as an attorney in a proceeding if the presiding officer finds that such person:

(1) Is not an attorney at law in good standing admitted to practice before any court of the United States, the District of Columbia, or the highest court of any State, territory, or possession of the United States.

(2) Has failed to conform to the standards of conduct required in the courts of the United States.

(3) Is lacking in character or professional integrity;

(4) Engages in dilatory tactics or disorderly or contemptuous conduct; or

(5) Displays toward the Commission or any of its presiding officers conduct which, if displayed toward any court of the United States, would be cause for censure, suspension, or disbarment.

Any such order shall state the grounds on which it is based. Before any person is suspended or barred from participation

as an attorney in a proceeding, charges shall be preferred by the presiding officer against such person and he shall be afforded an opportunity to be heard thereon before another presiding officer.

§ 2.714 Intervention.

(a)(1) Any person whose interest may be affected by a proceeding and who desires to participate as a party shall file a written petition for leave to intervene. In a proceeding noticed pursuant to § 2.105, any person whose interest may be affected may also request a hearing. The petition and/or request shall be filed not later than the time specified in the notice of hearing, or as provided by the Commission, the presiding officer or the atomic safety and licensing board designated to rule on the petition and/or request, that the petition and/or request should be granted based upon a balancing of the following factors in addition to those set out in paragraph (d) of this section:

(i) Good cause, if any, for failure to file on time.

(ii) The availability of other means whereby the petitioner's interest will be protected.

(iii) The extent to which the petitioner's participation may reasonably be expected to assist in developing a sound record.

(iv) The extent to which the petitioner's interest will be represented by existing parties.

(v) The extent to which the petitioner's participation will broaden the issues or delay the proceeding.

(2) The petition shall set forth with particularity the interest of the petitioner in the proceeding, how that interest may be affected by the results of the proceeding, including the reasons why petitioner should be permitted to intervene, with particular reference to the factors in paragraph (d) of this section, and the specific aspect or aspects of the subject matter of the proceeding as to which petitioner wishes to intervene.

(3) Any person who has filed a petition for leave to intervene or who has been admitted as a party pursuant to this section may amend his petition for leave to intervene. A petition may be amended without prior approval of the presiding officer at any time up to fifteen (15) days prior to the holding of the special prehearing conference pursuant to § 2.751a, or where no special prehearing conference is held, fifteen (15) days prior to the holding of the first prehearing conference. After this time a petition may be amended only with approval of the presiding officer, based on a balancing of the factors specified in paragraph (a)(1) of this section. Such an amended petition

for leave to intervene must satisfy the requirements of this paragraph (a) of this section pertaining to specificity.

(b) Not later than fifteen (15) days prior to the holding of the special prehearing conference pursuant to § 2.751a, or where no special prehearing conference is held, fifteen (15) days prior to the holding of the first prehearing conference, the petitioner shall file a supplement to his petition to intervene which must include a list of the contentions which petitioner seeks to have litigated in the matter, and the bases for each contention set forth with reasonable specificity. A petitioner who fails to file such a supplement which satisfies the requirements of this paragraph with respect to at least one contention will not be permitted to participate as a party. Additional time for filing the supplement may be granted based upon a balancing of the factors in paragraph (a)(1) of this section.

(c) Any party to a proceeding may file an answer to a petition for leave to intervene within ten (10) days after the petition is filed, with particular reference to the factors set forth in paragraph (d) of this section. However, the staff may file such an answer within fifteen (15) days after the petition if filed.

(d) The Commission, the presiding officer or the atomic safety and licensing board designated to rule on petitions to intervene and/or requests for hearing shall, in ruling on a petition for leave to intervene, consider the following factors, among other things:

(1) The nature of the petitioner's right under the Act to be made a party to the proceeding.

(2) The nature and extent of the petitioner's property, financial, or other interest in the proceeding.

(3) The possible effect of any order which may be entered in the proceeding on the petitioner's interest.

(e) An order permitting intervention and/or directing a hearing may be conditioned on such terms as the Commission, presiding officer or the designated atomic safety and licensing board may direct in the interests of: (1) Restricting irrelevant, duplicative, or repetitive evidence and argument, (2) having common interests represented by a spokesman, and (3) retaining authority to determine priorities and control the compass of the hearing.

(f) In any case in which, after consideration of the factors set forth in paragraph (d) of this section, the Commission or the presiding officer finds that the petitioner's interest is limited to one or more of the issues involved in the proceeding, any order allowing intervention

27 FR 377

37 FR 15127

43 FR 17798

43 FR 17798

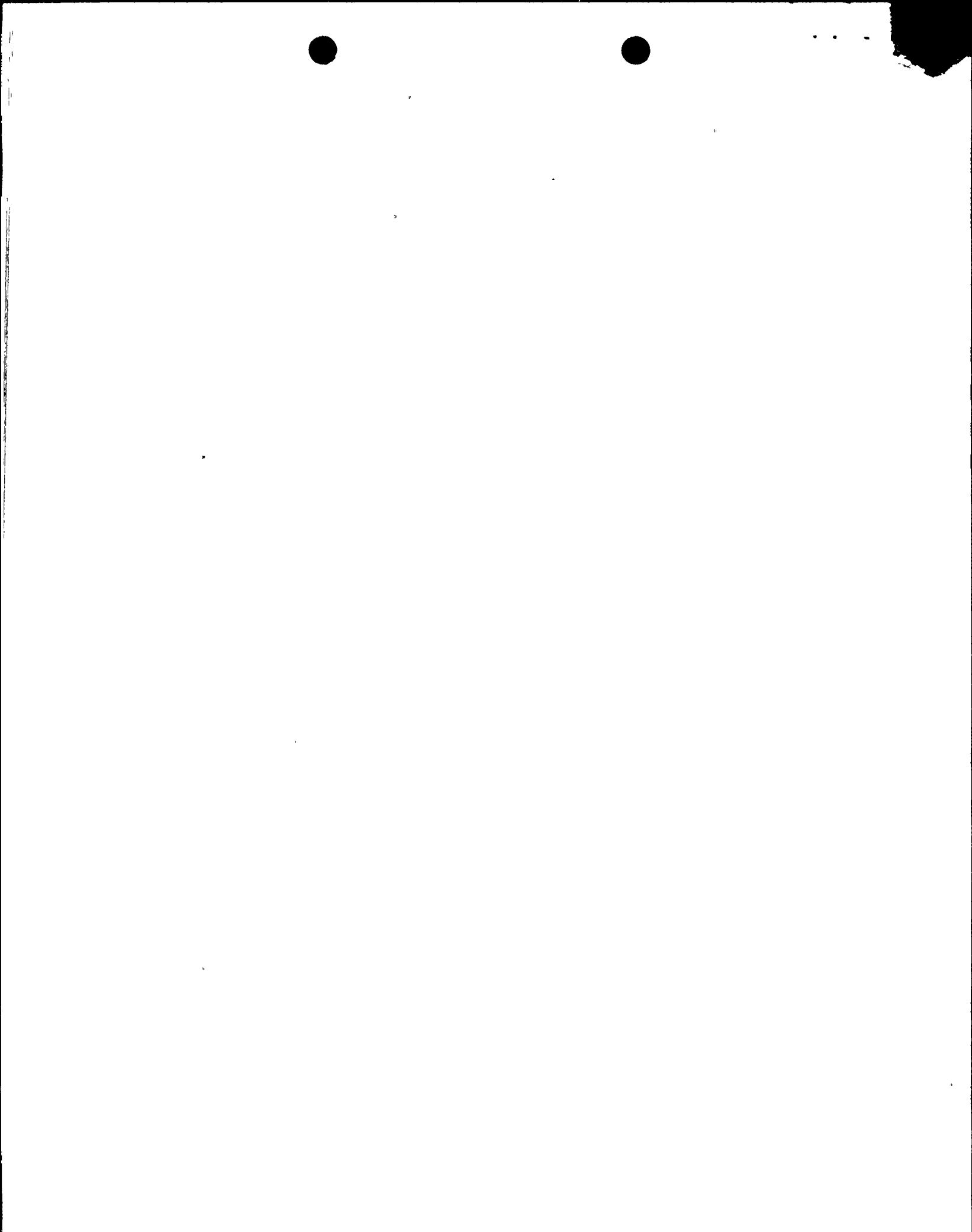
37 FR 28710

37 FR 15127

37 FR 28710

37 FR 15127

37 FR 15127



PART 2 o RULES OF PRACTICE FOR DOMESTIC LICENSING PROCEEDINGS

shall limit his participation accordingly.

(g) A person permitted to intervene becomes a party to the proceeding, subject to any limitations imposed pursuant to paragraph (f) of this section.

(h) Unless otherwise expressly provided in the order allowing intervention, the granting of a petition for leave to intervene d not change or enlarge the issues specified in the notice of hearing.

§ 2.714a Appeals from certain rulings on petitions for leave to intervene and/or requests for hearing.

(a) Notwithstanding the provisions of § 2.730(f), an order of the presiding officer or the atomic safety and licensing board designated to rule on petitions for leave to intervene and/or requests for hearing may be appealed, in accordance with the provisions of this section, to the Atomic Safety and Licensing Appeal Board within ten (10) days after service of the order. The appeal shall be asserted by the filing of a notice of appeal and accompanying supporting brief. Any other party may file a brief in support of or in opposition to the appeal within ten (10) days after service of the appeal. No other appeals from rulings on petitions and/or requests for hearing shall be allowed.

(b) An order wholly denying a petition for leave to intervene and/or request for a hearing is appealable by the petitioner on the question whether the petition and/or hearing request should have been granted in whole or in part.

(c) An order granting a petition for leave to intervene and/or request for a hearing is appealable by a party other than the petitioner on the question whether the petition and/or the request for a hearing should have been wholly denied.

§ 2.715 Participation by a person not a party.

(a) A person who is not a party may, in the discretion of the presiding officer, be permitted to make a limited appearance by making oral or written statement of his position on the issues at any session of the hearing or any prehearing conference within such limits and on such conditions as may be fixed by the presiding officer, but he may not otherwise participate in the proceeding.

(b) The Secretary will give notice of a hearing to any person who requests it prior to the issuance of the notice of hearing, and will furnish a copy of the notice of hearing to any person who re-

quests it thereafter. When a communication bears more than one signature, the Commission will give the notice to the person first signing unless the communication clearly indicates otherwise.

(c) The presiding officer will afford representatives of an interested State, county, municipality, and/or agencies thereof, a reasonable opportunity to participate and to introduce evidence, interrogate witnesses, and advise the Commission without requiring the representative to take a position with respect to the issue. Such participants may also file proposed findings and exceptions pursuant to §§ 2.754 and 2.762 and petitions for review by the Commission pursuant to § 2.786. The presiding officer may require such representative to indicate with reasonable specificity, in advance of the hearing, the subject matters on which he desires to participate.

(d) If a matter is taken up by the Appeal Board on appeal or sua sponte or by the Commission pursuant to § 2.786 or sua sponte, a person who is not a party may, in the discretion of the Appeal Board or the Commission, respectively, be permitted to file a brief "amicus curiae". A person who is not a party and desires to file a brief must submit a motion for leave to do so which identifies the interest of the person and states the reasons why a brief is desirable. Except as otherwise provided by the Commission or the Appeal Board, such brief must be filed within the time allowed to the party whose position the brief will support. A motion of a person who is not a party to participate in oral argument before an Appeal Board or the Commission will be granted at the discretion of the Appeal Board or the Commission.

§ 2.715a Consolidation of parties in construction permit or operating license proceedings.

On motion or on its or his own initiative, the Commission or the presiding officer may order any parties in a proceeding for the issuance of a construction permit or an operating license for a production or utilization facility who have substantially the same interest that may be affected by the proceeding and who raise substantially the same questions, to consolidate their presentation of evidence, cross-examination, briefs, proposed findings of fact, and conclusions of law, and argument. However, it may not order any consolidation that would prejudice the rights of any party. A consolidation under this section may be for all purposes of the proceeding, all of the issues of the proceeding, or with respect to any one or more issues thereof.

§ 2.716 Consolidation of proceedings:

On motion and for good cause shown or on its own initiative, the Commission or the presiding officers of each affected proceeding may consolidate for hearing or for other purposes two or more proceedings, or may hold joint hearings with interested States and/or other federal agencies on matters of concurrent jurisdiction, if it is found that such action will be conducive to the proper dispatch of its business and to the ends of justice and will be conducted in accordance with the other provisions of this subpart.

§ 2.717 Commencement and termination of jurisdiction of presiding officer.

(a) Unless otherwise ordered by the Commission, the jurisdiction of the presiding officer designated to conduct a hearing over the proceeding, including motions and procedural matters, commences when the proceeding commences. If no presiding officer has been designated, the Chief Administrative Law Judge has such jurisdiction or, if he is unavailable, another hearing examiner has such jurisdiction.

A proceeding is deemed to commence when a notice of hearing or a notice of proposed action pursuant to § 2.105 is issued.

When a notice of hearing provides that the presiding officer is to be a hearing examiner, the Chief Administrative Law Judge will designate by order the hearing examiner who is to preside. The presiding officer's jurisdiction in each proceeding will terminate upon the expiration of the period within which the Commission may direct that the record be certified to it for final decision, or when the Commission renders a final decision, or when the presiding officer shall have withdrawn himself from the case upon considering himself disqualified, whichever is earliest.

(b) The Director of Nuclear Reactor Regulation or Director of Nuclear Material Safety and Safeguards, as appropriate may issue an order and take any otherwise proper administrative action with respect to a licensee who is a party to a pending proceeding. Any order related to the subject matter of the pending proceeding may be modified by the presiding officer as appropriate for the purpose of the proceeding.

37 FR 15127

37 FR 28710

28 FR 10151

28 FR 10151

43 FR 17798

31 FR 12774

37 FR 15127

43 FR 17798

31 FR 12774

37 FR 28710

31 FR 12774

28 FR 10151

Amended 43 FR 17798.

Amended by 38 FR 2330.



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