

11/9/79

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

Before the Atomic Safety and Licensing Board

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

APPLICANTS' RESPONSE TO LICENSING BOARD
MEMORANDUM AND ORDER OF JUNE 18, 1979

On June 18, 1979, the Board issued a Memorandum and Order inviting the views of the parties in this proceeding on whether certain new Commission regulations related to the physical protection of spent fuel in transit are a basis for modifying earlier Board determinations on the admissibility of proposed intervenor contentions. See Memorandum and Order, June 18, 1979. Applicants have reassessed the contentions of Susquehanna Environmental Advocates ("SEA"), Citizens Against Nuclear Dangers ("CAND"), and Colleen Marsh, et al., identified in the Memorandum and Order in light of the new regulations. Having done so, Applicants conclude that the Board determinations on these contentions in its Special Prehearing Conference Order are correct and should be maintained.

On June 15, 1979, an "interim final rule" of the NRC was published in the Federal Register. 44 Fed. Reg. 34466. The purpose of this rule was to establish requirements for physical protection of spent fuel in transit. The rule requires that the NRC be notified of such shipments, that the route of shipment be ap-



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proved, that heavily populated areas be avoided, and that other physical security requirements be met. Any spent fuel shipments by Applicants would of course have to comply with all the requirements of the rule.

The cited contentions of CAND and Ms. Marsh regarding off-site transportation did not relate to sabotage. CAND's concern in its contention #12 related to roadbed condition and transportation safety. See CAND filing dated January 8, 1979. Ms. Marsh in contentions 1C, 2C, and 4C generally asserted that Applicants had failed to provide "adequate plans for safe transportation in connection with radioactive materials...." Supplement to Petition for Leave to Intervene of Colleen Marsh et al., dated January 12, 1979. Neither of these intervenors appear to have raised an issue on the possible sabotage of spent fuel shipments. Thus, the promulgation of the interim rule should have no bearing on the Licensing Board's dismissal of these contentions.

SEA's contention, on the other hand, did mention safeguarding the shipment of radioactive materials, asserting that Applicants' Environmental Report "[does] not mention what safeguards are being implemented and whether the government or private [industry] is handling the design and implementation of these safeguards." SEA Amended Petition for Leave to Intervene. Notwithstanding SEA's specific reference to transportation safeguards, the Licensing Board's rejection of this contention is still appropriate. The promulgation of the interim regulation, if anything, strengthens the arguments for rejection. Since NRC has now set forth explicitly the steps that are required for the physical security of spent fuel transportation, a challenge to the adequacy of those requirements is

inappropriate for this proceeding and can only be considered under the procedures spelled out in 10 CFR §2.758.

In the "Staff's Comments As To The Effect of the New Rule....", dated July 2, 1979, the Staff stated its belief that intervenors

may reasonably be given an opportunity, after issuance of the Staff document setting forth the Staff's conclusions about the Applicants' plans for implementing this new rule, to seek to raise appropriate contentions.

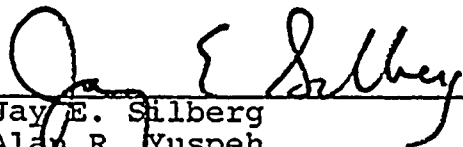
Since Applicants do not now intend to ship spent fuel for several years after the facility begins operation, arrangements to implement these regulations which Applicant would develop will not be finalized until such time as spent fuel is to be shipped. Thus, Applicants would not anticipate that there would be any "new information" beyond the regulations themselves on which contentions could be based. And, as noted above, contentions challenging the regulations would be subject to 10 CFR §2.758.

For these reasons, Applicants respectfully submit that the interim regulations for physical protection of spent fuel shipments do not warrant modification of the Special Prehearing Conference Order.

Respectfully submitted,

SHAW, PITTMAN, POTTS & TROWBRIDGE

By


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Dated: July 9, 1979

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CERTIFICATE OF SERVICE

This is to certify that copies of the foregoing "Applicants' Response to Licensing Board Memorandum and Order of June 18, 1979" were served by deposit in the U. S. Mail, first class, postage prepaid, this 9th day of July, 1979, to all those on the attached Service List.


Jay E. Silberg

Dated: July 9, 1979



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NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

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and) 50-388
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SERVICE LIST

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