

August 16, 1979

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matter of)
HOUSTON LIGHTING & POWER COMPANY) Docket No. 50-466
(Allens Creek Nuclear Generating)
Station, Unit 1))

NRC STAFF'S RESPONSE TO PETITION FOR
LEAVE TO INTERVENE FILED BY KATHRYN OTTIE

On July 18, 1979, Ms. Kathryn Ottie filed a timely petition for leave to intervene in the captioned proceeding.^{1/} In her petition, Ms. Ottie alleges that she lives within 25 miles of the proposed site, and that she is concerned, inter alia, about both normal and accidental radioactive releases from the proposed facility. She also appears interested in issues related to site suitability and nuclear waste disposal.

10 CFR §2.714(a)(2) requires that a petitioner for leave to intervene set forth his or her interest in the proceeding and how such interest might be affected by the results thereof. In this regard, consideration is to be given to the nature of the petitioner's right to be made a party, the nature and extent of petitioner's property, financial or other interest in the proceeding and the possible effect on such interest of any order entered in the proceeding. 10 CFR §2.714(d). In addition, the petition must identify the specific aspects of the subject matter of the proceeding on which intervention is sought. 10 CFR §2.714(a)(2).

^{1/}The petition was not received by the Docketing and Service Section until August 6, 1979.

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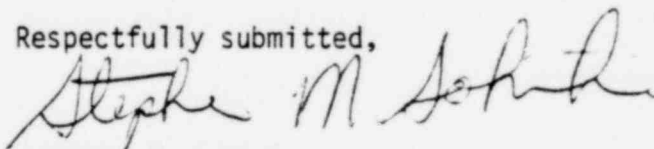
The Commission and Appeal Board have previously emphasized that judicial concepts of standing are controlling in determining whether a petitioner has satisfied the foregoing requirements for intervention as of right. Portland General Electric Company (Pebble Springs Nuclear Plant, Units 1 and 2), CLI-76-27, 4 NRC 610, 613-614 (1976); Public Service Company of Oklahoma, et al. (Black Fox Station, Units 1 and 2), ALAB-397, 5 NRC 1143, 1144-1145. Specifically, a petitioner must show "injury in fact" (which has occurred or will probably result from the licensing of the facility) and that his or her alleged interest is "arguably within the zone of interest" protected by either the Atomic Energy Act or NEPA. Pebble Springs, supra.

The Appeal Board has recently held that an allegation of close proximity to a proposed facility is deemed enough, standing alone, to satisfy the interest requirements of 10 CFR §2.714. Virginia Electric Power Company (North Anna Nuclear Power Station, Units 1 and 2), ALAB-522, 9 NRC 54, 56 (January 26, 1979). Although no specific distance from a nuclear power plant has evolved from Commission decisions to define the outer boundary of the geographic "zone of interest," distances up to 50 miles have been found not to be so great as to preclude a finding of standing based on residence. See, e.g., Tennessee Valley Authority (Watts Bar Nuclear Plant, Units 1 and 2) ALAB-413, 5 NRC 1418, 1421, n. 4 (1977). Cf. Virginia Electric & Power Co. (North Anna Power Station, Units 1 and 2), ALAB-146, 6 AEC 631, 633-34 (1973); Northern States Power Co. (Prairie Island Nuclear Generating Plant, Units 1 and 2), ALAB-107, 6 AEC 188, 190, 193, reconsid. den., ALAB-110, 6 AEC 247, aff'd, CLI-73-12, 6 AEC 241 (1973).

Therefore, the Staff believes that Dr. Warner has satisfied the minimal requirements of 10 CFR §2.714 regarding interest, as those requirements have been interpreted by the Appeal Board.

Pursuant to this Board's August 6, 1979 "Order Scheduling Special Prehearing Conference," a copy of which is enclosed for Ms. Oattie's information, she must file the required supplement to her petition identifying her proposed contentions on or before September 14, 1979 (Order, p. 2). The Staff has also enclosed a copy of 10 CFR Part 2 (the Commission's Rules of Practice) for Ms. Oattie's use.

Respectfully submitted,



Stephen M. Sohinki
Counsel for NRC Staff

Dated at Bethesda, Maryland,
this 16th day of August, 1979.

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CERTIFICATE OF SERVICE

I hereby certify that copies of "NRC STAFF'S RESPONSE TO PETITION FOR LEAVE TO INTERVENE FILED BY ROBERT A. EDGAR" and "NRC STAFF'S RESPONSE TO PETITION FOR LEAVE TO INTERVENE FILED BY KATHRYN OTTIE" in the above-captioned proceeding have been served on the following by deposit in the United States mail, first class, or, as indicated by an asterisk by deposit in the Nuclear Regulatory Commission internal mail system, this 16th day of August, 1979:

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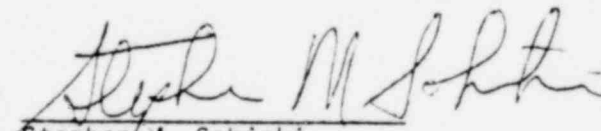
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