



UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D. C. 20555

October 24, 1979

The Honorable Benjamin R. Civiletti
Attorney General
Washington, D.C. 20530

NRC PUBLIC DOCUMENT ROOM

Attention: Donald A. Kaplan, Chief
Energy Section
Antitrust Division
Department of Justice

Re: Boston Edison Company
Pilgrim Nuclear Power Station
NRC Dkt. No. 50-293A
Department of Justice File 60-415-26

Dear Mr. Attorney General:

By letter dated August 2, 1971, the Department of Justice provided the former Atomic Energy Commission with antitrust advice in accordance with Section 105(c) of the Atomic Energy Act of 1954, as amended, concerning the application for nuclear power reactor licenses for the Pilgrim Nuclear Power Station filed by the Boston Edison Company. The Department advised that antitrust allegations advanced by certain Massachusetts Municipals raised substantial antitrust questions which, in the opinion of the Department, warranted an antitrust hearing before the Atomic Energy Commission. The Department's letter concluded:

It is possible that BECO and the intervenors may decide that their interests would be best served by mutual efforts to negotiate arrangements to insure the intervenors reasonable access to low cost power, and that a hearing might thereby be rendered unnecessary. We would of course be pleased to provide further advice to the Commission on the need for hearing if in light of subsequent developments the Commission should so request.

The Commission requests further advice from the Department as to whether, in light of the recent events outlined below, the Department still believes that an antitrust hearing should be held.

The antitrust allegations which formed the basis of the Department's August 2, 1971, advice to the Commission were first brought to the Commission's attention in a petition to intervene with respect to antitrust matters filed by the Massachusetts Municipals on May 24, 1971, and in a renewed petition filed on October 1, 1971. On October 14, 1971, the AEC Regulatory Staff filed an answer to the petition to intervene which stated that the Staff had no objection to the admission of the Massachusetts Municipals as parties to an antitrust hearing. The Massachusetts Municipals' petition to intervene and request for

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antitrust hearing are still pending before the Nuclear Regulatory Commission.

On October 11, 1979, the Massachusetts Municipals filed with the Nuclear Regulatory Commission a "Withdrawal Of Intervention As Moot". The Massachusetts Municipals explained that, over the years, they have been negotiating a settlement with Boston Edison Company which has finally been completed. As a consequence, the Massachusetts Municipals stated that they were withdrawing, as moot, their intervention on antitrust grounds. A copy of their pleading is attached hereto.

Since the Department's August 2, 1971 advice letter in connection with the Pilgrim Nuclear Power Station, the Department had occasion to advise the Commission with respect to Boston Edison Company's Pilgrim Nuclear Generating Station, Unit No. 2 (NRC Docket No. 50-471A). On June 26, 1974, the Department advised the Commission that its review of information concerning Boston Edison Company did not indicate any need for an antitrust hearing concerning Pilgrim 2. Similarly, on April 20, 1978, the Department advised the Commission in connection with three additional applicants for Pilgrim 2, namely, the Massachusetts Municipal Wholesale Electric Company, Taunton Municipal Lighting Plant, and the Vermont Electric Cooperative, Inc. That letter concluded:

Our review of the information submitted by these three new applicants, as well as other relevant information, has disclosed no basis upon which to change our earlier conclusion that an antitrust hearing will not be necessary in this matter.

In light of the settlement between the Massachusetts Municipals and the Boston Edison Company, and the Massachusetts Municipals "Withdrawal of Intervention As Moot," we would appreciate further advice from the Department of Justice as to whether an antitrust hearing is still believed to be necessary.

Sincerely yours,

Thomas F. Engelhardt

for Howard K. Shapar
Executive Legal Director

Enclosure:
As stated

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