

COMMUNICATIONS SECTION

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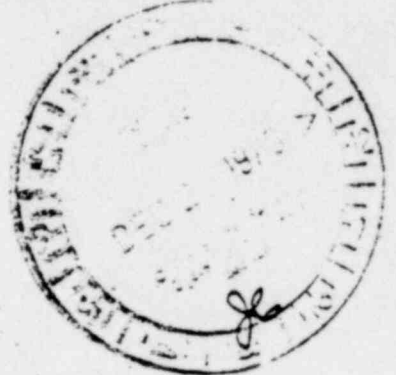
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Omaha Public Power District

1623 HARNEY • OMAHA, NEBRASKA 68102 • TELEPHONE 536-4000 AREA CODE 402

December 10, 1979



Alan H. Kirshen, Esq.
Associate Professor of Law
Creighton University
School of Law
2500 California Street
Omaha, Nebraska 68178

Dear Mr. Kirshen:

Thank you for your letter of December 3, 1979, concerning the proposed meeting between the Natural Resources Committee of the Citizens Advisory Board and the District for public discussion of questions about our application for an increase in rated power at Fort Calhoun. The District is in general accord with your proposals and we look forward to working with you to complete the arrangements for the meeting. We continue to believe that questions raised by the Committee and other members of the public can better be addressed in the public meeting format than in a full adversary hearing under the rules and regulations of the Nuclear Regulatory Commission.

I wish now to comment on the specific proposals contained in your December 3, 1979, letter, addressing them in the same order as the numbered paragraphs in your letter:

1. The District agrees with your suggestion that the meeting should be chaired by a neutral party. We would recommend that Honorable John C. Burke, whom I am sure you know, be agreed upon as a neutral chairman. We have contacted Judge Burke and he is willing to serve in that capacity, subject to approval by the Committee.
2. The District will prepare a written, non-technical summary of its application to the NRC for "stretch power".
3. We endorse the idea that the Committee will publicize the meeting widely. We agree with the suggested date and place. With respect to time, the District believes that public access to the meeting might be increased if it were held outside normal working hours. Accordingly, we would like the Committee to consider a meeting commencing at 6:00 p.m., with the understanding that the designated participants would remain available until approximately 10:00 p.m. to afford a full opportunity for discussion.

4. (a) Mr. S. C. Stevens, the Manager of Fort Calhoun Station, and Mr. W. C. Jones, Division Manager - Production Operations, will attend the meeting. Other individuals who have been involved in the preparation and processing of the application for "stretch power" also will attend.
- (b) Dr. R. L. Jaworski, Section Manager - Technical Services, and Mr. L. G. Harrow, Manager - Chemical and Environmental Technical Services, will attend to respond to questions concerning technical and environmental matters. (These individuals attended the meeting referenced in part 4.b. of your letter.)
- (c) I plan to attend the meeting myself and I expect that Mr. T. E. Short, our Assistant General Manager for Production, will accompany me.
- (d) We have no objection to the Committee inviting individual members of the District's Board of Directors.
- (e) Mr. H. H. Voigt plans to attend the meeting.
- (f) The District will arrange for a representative of Pickard, Lowe & Garrick, Inc. to attend the meeting.
- (g) The District will arrange for one or more representatives of Exxon Nuclear Corporation to attend the meeting.
5. Since the Committee is primarily responsible for arranging the meeting, we agree that you have the right to issue special invitations to third parties. With respect to attendance by the NRC Staff, we would suggest not only that they be invited to attend, but that the NRC be scheduled to make an opening presentation (following the District's opening presentation) to outline for the Committee the steps being taken by the Staff to review the application for "stretch power". In addition to NRC participation, you may wish to consider inviting a representative of the Nebraska Department of Environmental Control to attend the meeting and comment on that agency's review. Finally, with the concurrence of the Committee, the District would like to invite the President of The League of Women Voters of Omaha, Inc. to attend the meeting.
6. The District will pay or reimburse the out-of-pocket costs of holding the meeting, provided that all proposed expenditures are submitted to us for prior approval.

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You will note that the Committee and the District are in nearly complete agreement concerning detailed arrangements for the proposed meeting on January 16, 1980. We would be pleased to discuss any remaining points of difference with you either prior to or immediately following the Committee's December 12, 1979, meeting.

In closing, I would like to say that, while the District has no objection to holding the public meeting in January rather than going forward with it in December, we would be concerned over any delay beyond mid-January. I therefore hope that you and we can work together to complete all necessary arrangements promptly, so that January 16, 1980, will become a firm date for all concerned.

Sincerely yours,


Lloyd C. Shalla
General Manager

LCS/WCJ/KJM:jmm

cc: → Joseph R. Gray, Esq.
Harry H. Voigt, Esq.
OPPD Board Members
Robert W. Reid

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December 3, 1979

Mr. Lloyd Schalla
General Manager
Omaha Public Power District
1623 Harney Street
Omaha, NE 68102

Dear Mr. Schalla:

Thank you for your telephone call of November 9, 1979, in response to my letter of November 2, 1979. While I was somewhat surprised at your admission that OPPD intended its legal actions to foreclose a public hearing before the Nuclear Regulatory Commission, I was nonetheless gratified at your offer to resolve the problem by meeting with my committee. As I indicated however, this means of resolution could only be availing if all interested persons could be present and have an opportunity for meaningful participation. (By this I mean participation directed specifically to the question of "Stretch Power" at Fort Calhoun and not a generalized debate on the merits of nuclear energy. I am sure you share my desires in this regard.

I have submitted your proposal to the Natural Resources Committee for their determination. I am happy to report that we believe that there is a sound basis for accommodation, provided that certain criteria for the public meeting are met:

1. As we discussed, the meeting would be open to the public and all present would have an opportunity to ask questions or make comments. As we envision it, the format would consist of an initial presentation by OPPD, followed by throwing the floor open. As indicated, any questions or comments not specifically directed to the Fort Calhoun proposal would be ruled out of order. While no specific time limit would be placed on any individual's opportunity to be heard, a rule of reasonableness will prevail.

So long as questions and comments are not repetitive, they would be entertained. However, no person would be recognized for a second time until all have had their first opportunity. I had hoped to find a Chairman for this from among the Omaha Jaycees, but they have declined to participate due to the fact that many Jaycees are OPPD employees, or the employees of other public utilities. If you have anyone in mind for this function, we would prefer a neutral but strong individual. I do not believe it would be appropriate for me to both chair the meeting and ask questions.

2. In addition to an oral presentation at the public meeting, we would request that OPPD prepare a brief (4-8 page) description in lay terms of exactly what the stretch power proposal at Fort Calhoun entails. While this might to some extent be a summary of your 192 page Environmental Assessment, it should also describe more adequately, in non-technical language, what exactly 'stretch power' entails. (For example, our committee was unaware of the Exxon fuel rod assembly and analytical techniques until the NRC Notice of Opportunity to Request a Hearing.)

3. We would want it understood that our Committee or its designates would desire as wide a publicization as possible of the date, time, nature and ground rules for the public meeting. In this regard, we would suggest a date of January 16, 1980, in the Legislative Chambers at the Civic Center.

4. We would like it expressly understood, to avoid the problems previously encountered, that OPPD will undertake to make available at the public meeting the following individuals:

- a. The Manager and/or Chief Engineer of the Fort Calhoun Nuclear Facility;
- b. The three individuals who previously were tendered to our Committee, whom you have now indicated were not authorized to make the representations which were made to us, together with the fourth individual who was sent to the Quarterly Meeting of the Citizens Advisory Board;
- c. Yourself and such of your assistants as you would care to have present;
- d. Such members of the OPPD Board as would care to attend. (We would extend a special invitation to these individuals.);

- e. Harry H. Voight and/or Margaret R.A. Paradis,
your Washington counsel,
- f. Mr. T. Robbins and/or other representatives
of your consultant,
- g. Mr. J. Owsley and/or other representatives
of the Exxon Nuclear Co., Inc.

5. We would reserve the right to issue other special invitations to the public meeting, in our discretion. For example, while I understand that there are legal constraints regarding attendance by the designated Atomic Safety and Licensing Board, we understand that there is no problem of attendance by members of the NRC staff, whom we would be most desirous of having in attendance.

6. While our expenses are anticipated to be minimal, our Committee has no operating budget, and we would request that OPPD undertake to underwrite a portion of the costs of this public meeting, including specifically the \$50 expense of renting the Legislative Chambers. (I cannot envision that the total expense would be over \$150, a mere pittance compared to what you must have spent to contest this matter in the first place.)

I hope that the foregoing proposal will prove either acceptable in toto or a basis for further discussions. Hopefully, we can reach agreement in sufficient time to give us at least 30 days before the public meeting, and I hope to have your response before our Committee meets again on December 12.

I very much appreciate your conciliatory efforts in this matter, and hope that it can reach an early resolution and consummation, so that our contest before the NRC can be dismissed by consent.

Very truly yours,

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Alan H. Kirshen
Associate Professor of Law

AHK/jkk

cc: Joseph R. Grey, Esq.

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