

DOCKET NUMBER
EXPORT/IMPORT

11000495

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION



In the matter of)	Application No. XR-120
WESTINGHOUSE ELECTRIC CORP.)	Docket No. 50-574
(Exports to the Philippines))	Application No. XCOM 0013
)	Application No. XSNMO 1471

SUPPLEMENTAL MEMORANDUM IN REPLY TO
NRC STAFF SUPPLEMENTAL ANSWER

The Center for Development Policy, the Philippine Movement for Environmental Protection ("PMEP"), Jesus Nicanor Perlas, III, and the Movement for a Free Philippines ("Petitioners") submit this memorandum to aid the Commission and to respond to the staff's Supplemental Answer in this proceeding.

1. Scope of Hearing.

Petitioners are aware that one of the crucial questions facing the Commission is the scope of the hearings to be held in this matter. More specifically, the question becomes whether or not the Commission will attempt to evaluate the health and safety risks of this export, and if so, to what extent.

Petitioners would submit that it is of crucial importance for this Commission to evaluate health and safety risks posed by this reactor. The NRC's actions are perceived abroad as evaluating the health and safety risks whether or not the Commission actually does. Thus, Westinghouse is on record in the Philippines as stating that the NRC had given "the Bataan nuclear plant a clean bill of health and [the reactor] would pose no undue risks to the public and plant surroundings."

1160 011

7910170583

Obviously, when the foreign nation views this as an American project, when the NRC's actions are viewed, rightly or wrongly, as judging the health and safety aspects of this project, and when the applicant is trying to persuade others that the NRC has judged the health and safety aspects, there is no choice left for this Commission but to engage in a thorough review of the health and safety aspects of this reactor.

2. Request to Add Necessary Parties.

The only party presently before this Commission is the applicant for the export license, Westinghouse. Yet the Commission will be making decisions on material developed and submitted by others besides the applicant. For example, most of the Preliminary Safety Analysis Report ("PSAR") and the Preliminary Site Investigation Report ("PSIR") were developed by Ebasco, a consultant to the Philippines National Power Corp. Neither of these are parties to this proceeding.

The State Department in the executive branch judgment submitted on September 28, 1979 relied heavily upon Ebasco data. Yet Ebasco will not be before the Commission and thus will not be forced to justify its results.

Ebasco is in possession of most of the primary evidence in this matter and yet unless it is a party to the proceedings it will not produce this evidence and thus the Commission will not have a complete record upon which to judge this export.

3. The Need for a Trial-type Hearing.

The NRC staff recommends against a trial-type hearing because the Commission is not required to hold such a hearing. Supplemental Answer p. 10. While this is indeed the general rule, the present case is exceptional and its facts require a hearing.

As Petitioners have detailed previously, there are crucial questions of credibility concerning the evidence submitted in this matter. The only way that credibility can be judged is to subject the individuals to cross-examination on the record in order that the fact-finders themselves can judge the witnesses' substantive answers and their demeanor. There can be no substitute for cross-examination in this case when there is evidence that reports have been deliberately and consciously misstated and that much evidence on the seismic and volcanic risks to this plant have been hidden.

As has been shown in the Puno Commission hearings in the Philippines, when the applicant and the engineering consultants, Ebasco, have been subjected to a rigorous cross-examination, much new and different evidence has been disclosed. This evidence has uniformly been unfavorable to the interests of Westinghouse and Ebasco and thus would never have been seen the light of day unless solicited through cross-examination.

Therefore, as Petitioners have demonstrated, the need for a trial-type adversarial hearing is overwhelming.

1160 013


4. Submission of Affidavits

Attached hereto are the affidavits of eight PMEPP members, seven of whom are American citizens currently residing in the Philippines within 70 kilometers of the proposed reactor site. These affidavits detail the Petitioners' interests in the subject matter of this proceeding and demonstrate why they meet the requirements for a hearing as of right in this matter.

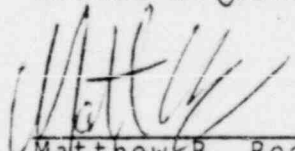
5. Conclusion

Petitioners respectfully request that this Commission issue an order (a) making Petitioners, as well as Philippines National Power Corp. and Ebasco Services, Inc. parties in this proceeding, and (b) ordering an adjudicatory hearing on all questions raised by the Petition at which all parties may present evidence, utilize compulsory process and cross-examine adverse witnesses.

Respectfully submitted,



Thomas R. Asher



Matthew B. Bogin

Thomas R. Asher, P.C.
1232 Seventeenth Street, N.W.
Third Floor
Washington, D.C. 20036
(202) 452-1540

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

In the matter of)	
WESTINGHOUSE ELECTRIC CORP.)	Application No. XR-120
)	Docket No. 50-574
(Exports to the Philippines))	Application No. XCOM 0013
)	Application No. XSNMO 1471

CERTIFICATE OF SERVICE

I hereby certify that copies of "Supplemental Memorandum in Reply to NRC Staff Supplemental Answer" were mailed, first-class postage prepaid, to the following individuals this 9th day of October, 1979:


Howard K. Shapar, Esq.
Joanna Becker, Esq.
U.S. Nuclear Regulatory Commission
Room 10604
Maryland National Bank Building
Washington, D. C. 20555

Barton Z. Cowan, Esq.
Eckert, Seamons, Cherin & Mellott
42nd Floor, 600 Grant Street
Pittsburgh, Pennsylvania 15230

Thomas M. Daugherty, Esq.
Westinghouse Nuclear Energy Systems
P. O. Box 355
Pittsburgh, Pennsylvania 15230

Peter Tarnoff
Executive Secretary
U.S. Department of State
Washington, D. C. 20520




Matthew B. Bogin

1160 015



In the matter of
WESTINGHOUSE ELECTRIC CORP.
(Exports to the Philippines)

Application No. XR-120
Docket No. 50-574

Application No. XCOM 0013
Application No. XSNMO 1471

POOR ORIGINAL

Affidavit about PNEP Membership
and Petition for Leave to Intervene
and Request for Hearing

I, Jose Leonidas, A Filipino citizen now residing
at 128 N. Domingo st. San Juan Rizal, Metro Manila
Philippines, state that:

1. I was born in San Juan Rizal, Metro Manila
Philippines in 29 August 1954, and I have been
staying in San Juan Rizal for the past 25 years. This place
is about 70 km away (radial distance) from the Bataan
Nuclear power plant site.

2. I am a member of the Philippine Movement for
Environmental Protection (PNEP) and I join the PNEP
in its petition for Leave to Intervene and Request for
Hearing concerning the proposed export of a nuclear
power reactor and fuel to the Philippines by the Westing-
house Electric Corp.

I am trully disturbed by the hazards posed by
the Bataan nuclear power plant, for my own safety and
those of others. I hope an exhaustive and open discussion
of this will take place before the Nuclear Regulatory
Commission decide on the proposed nuclear exports.

IN WITNESS WHEREOF, I hereunto affix my signature
this 25th day of July, 1979 at Manila.

ARLS,
REPUBLIC OF THE PHIL.
RIZAL PROV.
CITY OF MANILA

(SGD) Jose Leonidas
Affiant

SUBSCRIBED AND SWORN to before me this 25th day of
July, 1979: affiant exhibiting to me his Residence
Certificate No. 142078075 issued on April 3, 1978
at SAN JUAN, M.A.I.

(SGD) Ana R. Garcia
Notary Public

DOC. NO. 148
PAGE NO. 31
BOOK NO. I
SERIES OF 1979

1160 016

ANA R. GARCIA
NOTARY PUBLIC
UNTIL DEC. 31, 1980

In the matter of
WESTINGHOUSE ELECTRIC CORP.
(Exports to the Philippines)

Application No. KR-120
Docket No. 50-574

Application No. XCOM 0013
Application No. ISNHO 1471

POOR ORIGINAL

Affidavit about PNEP Membership
and Petition for Leave to Intervene
and Request for Hearing

I, James B. Reuter S., an American citizen now residing at
2307 Pedro Gil, Manila, state that:

1. I was born in Elizabeth, New Jersey USA in May, 1916
and I have been staying in MANILA, Philippines for
the past 41 years. This place is about 70 km away (radial
distance) from the Bataan nuclear power plant site.

2. I am a member of the Philippine Movement for Environmental
Protection (PNEP) and I join the PNEP in its petition for Leave to
Intervene and Request for Hearing concerning the proposed export of
a nuclear power reactor and fuel to the Philippines by the Westing-
house Electric Corp.

I am truly disturbed by the hazards posed by the Bataan nuclear
power plant, for my own safety and those of others. I hope an ex-
haustive and open discussion of this will take place before the
Nuclear Regulatory Commission decide on the proposed nuclear exports.

IN WITNESS WHEREOF, I hereunto affix my signature this 18th 25th
day of July 1979 at Manila. ARC.

(SGD). James B. Reuter S.
Affiant

SUBSCRIBED AND SWORN to before me this 25th day of July, 1979:
affiant exhibiting to me his Residence Certificate No. 3200934
issued on January 29, 1979 at Manila.

REPUBLIC OF THE PHILIPPINES
RIZAL PROV.
CITY OF MANILA

(SGD).

Ana R. Garcia
Notary Public

DOC. NO. 149
PAGE NO. 31
BOOK NO. I
SERIES OF 19 79

ANA R. GARCIA
NOTARY PUBLIC
UNTIL DEC. 31 1980

1160 017

In the matter of
WESTINGHOUSE ELECTRIC CORP.
(Exports to the Philippines

Application No. XR-120
Docket No. 50-574

Application No. KCON 0013
Application No. KSNRO 1471

POOR ORIGINAL

Affidavit about PNEP Membership
and Petition for Leave to Intervene
and Request for Hearing

I, John F. Dancoff, an American citizen now
residing at 2215 ..., state that:

1. I was born in December 1925, USA in San Francisco, CA
and I have been staying in Manila, Philippines for
the past 57 years. This place is about 70 km. away (radial
distance) from the Bataan nuclear power plant site.

2. I am a member of the Philippine Movement for Environ-
mental Protection (PNEP) and I join the PNEP in its petition
for Leave to Intervene and Request for Hearing concerning the
proposed export of a nuclear power reactor and fuel to the
Philippines by the Westinghouse electric Corporation.

I am truly disturbed by the hazards posed by the Bataan
nuclear power plant, for my own safety and those of others.
I hope an exhaustive and open discussion of this will take
place before the Nuclear Regulatory Commission decide on the
proposed nuclear exports.

IN WITNESS WHEREOF, I hereunto affix my signature this
25th day of July, 1979 at Manila.

AKA.

(SGD.)

John F. Dancoff
Affiant

SUBSCRIBED AND SWORN to before me this 25th day of July
1979: affiant exhibiting to me his Residence Certificate No. ...
issued on ... at ...

REPUBLIC OF THE PHILIPPINES
RIZAL PROV.
CITY OF MANILA

DOC. NO. 150
PAGE NO. 21
BOOK NO. I
SERIES OF 19 79

(SGD.)

Ana R. Garcia
Notary Public

ANA R. GARCIA
NOTARY PUBLIC
UNTIL DEC. 31, 1980

1160 018

In the matter of
WESTINGHOUSE ELECTRIC CORP.
(Exports to the Philippines

Application No. XR-120
Docket No. 50-574

Application No. KCOH 0013
Application No. ASNMO 1471

POOR ORIGINAL

Affidavit about PMSM Membership
and Petition for Leave to Intervene
and request for hearing

I, (Name) Garcia, an American citizen now
residing at ... state that:

1. I was born in USA, USA in 1918
and I have been staying in ..., Philippines for
the past 14 years. This place is about 70 km. away (radial
distance) from the Bataan nuclear power plant site.

2. I am a member of the Philippine Movement for Environ-
mental Protection (PMEP) and I join the PMEP in its petition
for Leave to Intervene and Request for Hearing concerning the
proposed export of a nuclear power reactor and fuel to the
Philippines by the Westinghouse electric Corporation.

I am truly disturbed by the hazards posed by the Bataan
nuclear power plant, for my own safety and those of others.
I hope an exhaustive and open discussion of this will take
place before the Nuclear Regulatory Commission decide on the
proposed nuclear exports.

IN WITNESS WHEREOF, I hereunto affix my signature this
25 day of July, 1979 at Manila.

(SGD.) R. Garcia
Affiant

SUBSCRIBED AND SWORN to before me this 25th day of July,
1979: affiant exhibiting to me his Residence Certificate No. ...
issued on ... at

REPUBLIC OF THE PHILIPPINES
RIZAL PROV.
CITY OF MANILA

DOC. NO. 151
PAGE NO. 32
BOOK NO. 1
SERIES OF 1979

(SGD.) Ana R. Garcia
Notary Public

ANA R. GARCIA
NOTARY PUBLIC
UNTIL DEC. 31, 1980

1160 019

POOR ORIGINAL

In the matter of
WESTINGHOUSE ELECTRIC CORP.
(Exports to the Philippines

Application No. XR-120
Docket No. 50-574

Application No. KCOM 0013
Application No. KCONMO 1471

Affidavit about PNEP membership
and Petition for Leave to Intervene
and request for Hearing

I, Kenneth Charles Bogart, S.J., an American citizen now
residing at 2307 Padre Gil, Metro Manila, Phil., state that:

1. I was born in Buffalo, New York, USA in 6 June 1925
and I have been staying in Metro Manila, Philippines for
the past twenty years. This place is about 70 km. away (radial
distance) from the Bataan nuclear power plant site.

2. I am a member of the Philippine Movement for Environ-
mental Protection (PMEP) and I join the PNEP in its petition
for Leave to Intervene and Request for Hearing concerning the
proposed export of a nuclear power reactor and fuel to the
Philippines by the Westinghouse electric Corporation.

I am truly disturbed by the hazards posed by the Bataan
nuclear power plant, for my own safety and those of others.
I hope an exhaustive and open discussion of this will take
place before the Nuclear Regulatory Commission decide on the
proposed nuclear exports.

25th IN WITNESS WHEREOF, I hereunto affix my signature this
day of July, 1979 at Manila.

(SGD.)

Kenneth C Bogart SJ
Affiant

SUBSCRIBED AND SWORN to before me this 25th day of July,
1979: affiant exhibiting to me his Residence Certificate No.
1451471 issued on March 5, 1979 at Manila.

REPUBLIC OF THE PHILIPPINES
RIZAL PROV.
CITY OF MANILA

(SGD.)

Ana R. Garcia
Notary Public

DOC. NO. 152
PAGE NO. 32
BOOK NO. I
SERIES OF 1979

ANA R. GARCIA
NOTARY PUBLIC
UNTIL DEC. 31, 1980

1160 020

In the matter of
WESTINGHOUSE ELECTRIC CORP.
(Exports to the Philippines

Application No. XR-120
Docket No. 50-574

Application No. KCON 0013
Application No. KSNRO 1471

POOR ORIGINAL

Affidavit about PNEP Membership
and Petition for Leave to Intervene
and Request for Hearing

I, Thomas B. Steinbock, an American citizen now
residing at 2001 P. O. Box 100, San Francisco, Calif., state that:

1. I was born in Bronxville, New York, USA in Dec. 1929
and I have been staying in Manila, Philippines for
the past 15 years. This place is about 70 km. away (radial
distance) from the Bataan nuclear power plant site.

2. I am a member of the Philippine Movement for Environ-
mental Protection (PMEP) and I join the PMEPP in its petition
for Leave to Intervene and Request for Hearing concerning the
proposed export of a nuclear power reactor and fuel to the
Philippines by the Westinghouse Electric Corporation.

I am truly disturbed by the hazards posed by the Bataan
nuclear power plant, for my own safety and those of others.
I hope an exhaustive and open discussion of this will take
place before the Nuclear Regulatory Commission decide on the
proposed nuclear exports.

IN WITNESS WHEREOF, I hereunto affix my signature this
25th day of July, 1979 at Manila.
ANA

(SGD.) Thomas B. Steinbock
Affiant

SUBSCRIBED AND SWORN to before me this 25th day of July,
1979; affiant exhibiting to me his Residence Certificate No. 904:876
issued on 11/11/78 at Manila.

REPUBLIC OF THE PHILIPPINES
RIZAL PROV.
CITY OF MANILA

(SGD.) Ana R. Garcia
Notary Public

DOC. NO. 153
PAGE NO. 32
BOOK NO. I
SERIES OF 19 79

ANA R GARCIA
NOTARY PUBLIC
UNTIL DEC. 31, 1980

1160 021

POOR ORIGINAL

In the matter of
WESTINGHOUSE ELECTRIC CORP.
(Exports to the Philippines

Application No. KR-120
Docket No. 5'-574

Application No. XCOM 0013
Application No. KBNMO 1471

Affidavit about PMP Membership and Petition for Leave to Intervene and Request for Hearing

I, JAMES J. HENNESSEY, S.J., an American citizen now
residing at Lovola Heights, Quezon City, state that:

1. I was born in Croveland, New York, USA in 1909
and I have been staying in Metro Manila, Philippines for
the past 16 years. This place is about 70 km. away (radial
distance) from the Bataan nuclear power plant site.

2. I am a member of the Philippine Movement for Environ-
mental Protection (PMP) and I join the PMP in its petition
for Leave to Intervene and Request for Hearing concerning the
proposed export of a nuclear power reactor and fuel to the
Philippines by the Westinghouse Electric Corporation.

I am truly disturbed by the hazards posed by the Bataan
nuclear power plant, for my own safety and those of others.
I hope an exhaustive and open discussion of this will take
place before the Nuclear Regulatory Commission decide on the
proposed nuclear exports.

20th IN WITNESS WHEREOF, I hereunto affix my signature this
21st day of July, 1979 at Manila.
AKB.

(SGD.) James J. Hennessey, S.J.
Affiant
JAMES J. HENNESSEY, S. J.

SUBSCRIBED AND SWORN to before me this 25th day of July,
1979: affiant exhibiting to me his Residence Certificate No. 3156702
issued on January 19/79 at Manila.

PHILIPPINES
RIZAL PROV.
CITY OF MANILA

DOC. NO. 154
PAGE NO. 32
BOOK NO. I
SERIES OF 19 79

(SGD.) Ana R. Garcia
Notary Public

ANA R. GARCIA
NOTARY PUBLIC
UNTIL DEC. 31, 1980

1160 022



In the matter of
WESTINGHOUSE ELECTRIC CORP.
(Exports to the Philippines

Application No. XR-120
Docket No. 50-574

Application No. KCOH 0013
Application No. KSNMO 1471

POOR ORIGINAL

Affidavit about PMAEP Membership
and Petition for Leave to Intervene
and Request for Hearing

I, ALOYSIUS F. TORRALBA, an American citizen now
residing at 2107 Pedro Gil, Sta. Ana, Manila, state that:

1. I was born in the Philippines, USA in Zamboanga
and I have been staying in Manila, Philippines for
the past five years. This place is about 70 km. away (radial
distance) from the Bataan nuclear power plant site.

2. I am a member of the Philippine Movement for Environ-
mental Protection (PMAEP) and I join the PMAEP in its petition
for Leave to Intervene and Request for Hearing concerning the
proposed export of a nuclear power reactor and fuel to the
Philippines by the Westinghouse electric Corporation.

I am truly disturbed by the hazards posed by the Bataan
nuclear power plant, for my own safety and those of others.
I hope an exhaustive and open discussion of this will take
place before the Nuclear Regulatory Commission decide on the
proposed nuclear exports.

25th IN WITNESS WHEREOF, I hereunto affix my signature this
12th day of July, 1979 at Manila.

- * I am a naturalized American citizen.
- * I am not a member of the PMAEP but I join in its petition.

(SGD.) Aloysius F. Torralba
Affiant

SUBSCRIBED AND SWORN to before me this 25th day of July,
1979; affiant exhibiting to me his Residence Certificate No. 3047988
issued on January 25, 1979 at Manila.
AT THE PROV. OF RIZAL, MUN. OF SAN JUAN, METRO MANILA

(SGD.) Ana R. Garcia
Notary Public

DOC. NO. 155
PAGE NO. 32
BOOK NO. I
SERIES OF 1979

ANA R. GARCIA
NOTARY PUBLIC
UNTIL DEC. 31, 1980

1160 023