

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

SUPPLEMENTAL MEMORANDUM OF THE
CENTER FOR DEVELOPMENT POLICY
IN SUPPORT OF
PETITION TO INTERVENE AND REQUEST FOR HEARING

On April 20, 1979, the Center for Development Policy ("CDP") filed with this Commission ("NRC") a "Petition for Leave to Intervene and Request for Hearing" in the above-captioned matters. This Memorandum and accompanying Affidavit are submitted in support thereof.

I. THE STANDARDS FOR INTERVENTION ARE SET OUT IN THE NUCLEAR NONPROLIFERATION ACT AND THE NRC'S REGULATIONS.

The standards governing intervention are contained in the regulations on public participation, 10 C.F.R. §§ 110.80 through 110.13, promulgated by the NRC under congressional mandate contained in the Nuclear Nonproliferation Act ("NNPA") of 1978, 42 U.S.C. § 2155. The tests for intervention are (a) whether the proposed intervenor has an interest which may be affected, 10 C.F.R. § 110.82(b)(4), or (b) that intervention would be in the public interest and would assist the Commission in making the statutorily required determinations, 10 C.F.R. § 110.82(b)(3). CDP meets both these tests.

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II. CDP HAS AN INTEREST IN THIS EXPORT PROCEEDING.

As demonstrated in the attached affidavit of Lindsay Mattison, CDP has a vital interest in monitoring the flow of resources from the United States to developing nations, conducting research and analysis of development programs and their effects, and disseminating this analysis to the public and interested public officials. In sum, CDP's public interest activities give it a previously recognized and legally cognizable interest in these proceedings.

This interest was recognized by Congress in enacting the public participation section of NNPA:

[I]t is the intent of the Committee to guarantee the citizens and public interest groups their right to make their views known during the export licensing process.

H. R. Rep. No. 95-587, 95th Cong., 1st Sess., p. 22 (1977).

(Emphasis added.) Clearly Congress wanted the NRC to allow public interest groups such as CDP the right of intervention in nuclear export licensing proceedings.

III. CDP'S INTERVENTION WILL ASSIST THE COMMISSION IN MAKING ITS STATUTORILY REQUIRED DETERMINATIONS.

As demonstrated in Mr. Mattison's affidavit, CDP has spent much time, effort and money in studying this proposed export. CDP has brought to the attention of the State Department and NRC much evidence which otherwise would not have been in the public record. These efforts on CDP's part are continuing and more relevant and undisclosed evidence is being discovered every day. CDP's involvement allows the NRC to make the statutorily required judgments on the widest possible record, thus ensuring that the NRC's decision is based upon all the relevant facts.

As documented in Mr. Mattison's affidavit, CDP is the only group other than the NRC and the applicant that has both the interest and the financial resources to be able to develop independent evidence in this matter. It has been involved in the proceedings in the Philippines (the Puno Commission) and has served to relay information from the proceedings in the Philippines to the NRC and developments in the United States to the Philippines. Without the participation of CDP, the Commission's judgment on this matter will necessarily be one-sided, for there is no other way that evidence critical of the applicant will be developed.

IV. A FULL, OPEN, ADJUDICATORY PUBLIC HEARING
IS REQUIRED IN THIS INSTANCE.

As demonstrated in Mr. Mattison's affidavit and by the record in this case, CDP has discovered much evidence which contradicts that submitted by the applicant. It is hornbook law that in matters where the credibility of witnesses is questioned, the only method to discover the truth is through cross-examination. This is the instant situation and therefore only a full, open, adjudicatory public hearing with full cross-examination will serve the purpose of discovering the truth. Only in this manner can the proposed export be scrutinized adequately.

Additionally there are many individuals who have extensive knowledge of the project under consideration but who will only divulge such under compulsory process. A full, open hearing will be the only way to procure this information.

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Thus not only is an oral public hearing necessary, but to adequately prepare, the NRC must allow the parties full discovery rights. This will result in the fullest presentation of evidence and thus allow the NRC to make a decision on the broadest possible record.

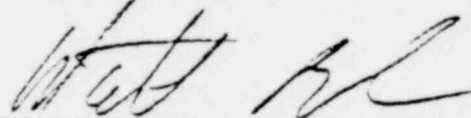
V. CONCLUSION.

In conclusion, CDP has demonstrated in its original Petition and this Supplement that it meets the standards for standing in this matter and that only a full, open, public hearing can adequately assure that all the relevant evidence will be disclosed.

Respectfully submitted,



Thomas R. Asher



Matthew B. Bogin

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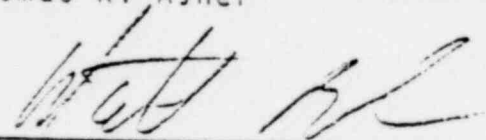
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WESTINGHOUSE ELECTRIC CORP.
(Exports to the Philippines)

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) Application No. XR-120
) Docket No. 50-574
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) Application No. XSNMO 1471

AFFIDAVIT

City of Washington

District of Columbia: ss:

Lindsay Mattison swears and deposes as follows:

I am the Director of the Center for Development Policy, a project of The International Center, a District of Columbia nonprofit corporation of which I am the president. CDP monitors the flow of resources from the United States to developing nations; conducts independent nonpartisan research and analysis of U.S. development programs and policies and their domestic and international effects; and disseminates the results of its analysis to the public and interested public officials.

For well over one year, CDP has focused its primary attention upon United States exports of nuclear power plants. During this year, most of the research in the area has centered around the Napot Point reactor project ("PNPP-1"), the subject of these proceedings. Our attention was drawn to PNPP-1 because of the serious questions it raises and the cataclysmic risks it poses.

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During the course of its research on PNPP-1, CDP has undertaken to review every available public document concerning this project. Both the PSAR and the PSIR have been thoroughly scrutinized by CDP as well as an extensive analysis of the IAEA safety mission report on this project. These reports have given us insight into the problems posed by PNPP-1 and the harm that may result from its construction.

I have studied the Nuclear Nonproliferation Act of 1978 and the regulations for nuclear export proceedings promulgated under the authority of that Act. It is my understanding that the Commission when ruling on petitions for intervention will consider among other matters (1) "whether a hearing would be in the public interest" and (2) "whether a hearing would assist the Commission in making the statutory determinations required" As is already evident, CDP's intervention would be in the public interest and would certainly assist the Commission in making the required determinations.

CDP has retained the services of David J. Leeds, a noted seismologist who has been a consultant on approximately 30 nuclear reactor projects in this country and abroad. CDP has made available to Mr. Leeds copies of all the technical documents in these proceedings--e.g. the PSAR, the PSIR, the IAEA safety mission's report--and at CDP's expense Mr. Leeds traveled to the Philippines to give testimony before the Puno Commission as well as view firsthand PNPP-1's site. Mr. Leeds is continuing to study

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this project and has submitted to both the Puno Commission and the NRC a detailed report of his findings on PNPP-1. CDP expects that if it is granted intervention and a hearing is held in this matter that Mr. Leeds would provide extensive testimony on PNPP-1, its risks and hazards, and detail the deliberate and consistent pattern of EBASCO and Westinghouse of minimizing the risks attendant to this project.

CDP has also retained Christopher G. Newhall of Dartmouth College, a volcanologist with extensive field experience in the Philippines. He has had an opportunity to study the documents submitted by EBASCO and Westinghouse as to the volcanic risks posed to PNPP-1 by, among other volcanoes, Mt. Natib, and will testify that there has been a consistent pattern in those reports of downplaying of the volcanic risks. Mr. Newhall has had experience with volcanic monitoring systems and is expected to provide testimony concerning the minimal utility of the volcanic monitoring system suggested by the IAEA mission. He is continually studying technical material relayed by CDP and submitting his observations and conclusions on an ongoing basis.

CDP has retained the services of Walter Berry, a meteorologist with substantial experience who has studied the weather conditions around PNPP-1 and metropolitan Manila and will testify as to the hazards posed by an atmospheric leak of radiation from PNPP-1. He is also consulting with CDP on an ongoing basis.

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CDP was responsible for bringing to the attention of the NRC as well as the State Department Walter Newcombe. Dr. Newcombe was a member of the EBASCO field team in the Philippines who resigned because, in his opinion, the geologic and seismic surveys undertaken by EBASCO prejudged the situation in the Philippines and resulted in a consistent pattern of downplaying the seismic and volcanic risks attendant to PNPP-1. CDP is presently negotiating with Dr. Newcombe's employers and attorneys in order to have Dr. Newcombe voluntarily participate in these proceedings. CDP will provide to the Commission Dr. Newcombe's testimony through his voluntary appearance or, on a granted intervention, subpoena.

CDP has also been in close contact with several groups in the Philippines who have studied this project thoroughly and who rely upon CDP to bring these problems to the attention of the NRC. These groups include the Bataan chapter of the Integrated Bar of the Philippines, whose attorney, Jaime Guerrero, was brought to the NRC on two occasions by CDP in order that the NRC staff hear the concerns raised in the Philippines by PNPP-1. Mr. Guerrero will be returning shortly to the Philippines and will stay in constant contact with CDP in order that further information developed by his organization can be relayed to CDP for submission to the NRC.

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CDP has also attempted to ascertain through the Freedom of Information Act the participation of other branches and agencies of the United States Government in the evaluations of this project. CDP has had the opportunity to meet with the United States State Department on this matter, as well as supply the Department of Defense information about the risks and hazards to U.S. defense and security posed by PNPP-1. CDP will continue to compile information about the federal government's study and evaluations of this project as part of CDP's ongoing review of PNPP-1.

It should be noted that CDP, in its original petition filed at the NRC, was the first to raise the argument that PNPP-1's proximity to the United States bases in the Philippines, Subic Bay Naval Station and Clark Air Force Base, threatens the "common defense and security" of the United States and the Philippines. CDP is continually studying this matter and consulting with experts in the field of foreign relations and international politics to more thoroughly understand the need for the United States bases in the Philippines and the risks to U.S. common defense and security that would be posed by the emergency closing of these bases due to radioactive contamination. CDP expects that at a public hearing in this matter testimony by experts in these fields will be produced to assist the Commission in judging whether the project is "inimical" to the common defense and security.

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CDP's intervention in this matter is very much in the public interest. CDP is the only group other than the applicant and the NRC who has had the opportunity to thoroughly review and study PNPP-1. CDP is the only group of interested citizens who has had the resources to retain experts to study this matter. It is absolutely essential for the Commission to allow CDP's intervention so that a full and fair presentation of all the evidence concerning PNPP-1 can be brought before the Commission and the Commission not be faced with a one-sided presentation of the evidence by the applicant in this matter.

Lindsay Mattison

Lindsay Mattison

Subscribed and sworn to before me this 28th day
of September, 1979.

[Signature]
Notary Public

My commission expires:

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(Exports to the Philippines))	(Export/Import No. 11000495)
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CERTIFICATE OF SERVICE

I hereby certify that I have this day served the foregoing document(s) upon each person designated on the official service list compiled by the Office of the Secretary of the Commission in this proceeding in accordance with the requirements of Section 2.712 of 10 CFR Part 2 - Rules of Practice, of the Nuclear Regulatory Commission's Rules and Regulations.

Dated at Washington, D.C. this

3rd day of Oct 1979.

Regent T. Downing
Office of the Secretary of the Commission

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