

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

In the Matter of)	Docket No. 50-367
)	
NORTHERN INDIANA PUBLIC SERVICE)	(Construction Permit
COMPANY)	Extension)
)	
(Bailly Generating Station,)	January 18, 1980
Nuclear 1))	

NIPSCO'S RESPONSE TO
LETTERS FILED BY
CITIZENS GRABOWSKI,
LAUDIG, AND SCHULTZ

Counsel for Northern Indiana Public Service Company (NIPSCO) have received copies of several letters addressed to the Nuclear Regulation Commission (NRC) written, we assume, in response to the Notice of Opportunity for Hearing published on November 30, 1979 (40 Fed. Reg. 69061). For the most part, the letters express the general views of the individual authors regarding the Bailly Generating Station, Nuclear 1 (Bailly). The majority of the letters so received appear at most to be requests for limited appearances and make no effort to meet the requirements for intervention as a party of 10 C.F.R. § 2.714. We assume that the Licensing Board will treat such letters as requests for limited appearances and, accordingly, we shall not respond to them.

However, three letters of which we are aware are characterized by the writers as "petitions" and therefore warrant a brief response. None of the letters meet the requirements of

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a petition to intervene as a party under 10 C.F.R. § 2.714 and, if they are in fact intended as requests for intervention, they should be denied.

Mr. Stephen Laudig, an attorney from Indianapolis, Indiana, a city located more than 100 miles from the Bailly site, states in his letter of December 29, 1979, that his "petition" is addressed to the Commission as "a member of the public and as a person who lives 'down wind' from proposed site at Bailly." His stated interest which would allegedly be affected by any order entered in this proceeding is: that he "would be the likely recipient of escaped radiation", he would be taxed to pay for "government planning of evacuation", that the "Rice-Anderson Act" [sic] makes "him an insurer of any accident at Bailly," and finally that his "physical and mental well-being is inescapably linked to radiation injected into the biosphere."

As we have pointed out in Section II of NIPSCO's Response to Petitions Filed in Response to Notice of Opportunity for Hearing, the type of interest asserted by Mr. Laudig is not sufficient to support a request for intervention in a proceeding to extend the construction completion date for Bailly. Mr. Laudig does not even attempt to demonstrate how the interest he cites will be affected by the requested extension. We assume that his residence is in Indianapolis where his professional office is located. That City is more than 100 miles from the Bailly site, well beyond the radius which has been

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found to support intervention in construction permit and operating license proceedings. (See Tennessee Valley Authority (Watts Bar Nuclear Plant, Units 1 and 2), ALAB-413, 5 NRC 1418, 1421 at n.4 (1977).)

Moreover, the issues raised by Mr. Laudig deal solely with emergency response plans and plant siting which are beyond the scope of this proceeding. (See NIPSCO's Response to Petitions Filed in Response to Notice of Opportunity for Hearing, Section III.) The petition should be denied.

The undated letter of George and Anna Grabowski docketed on January 3, 1980, states their desire "to petition for leave to intervene before the Nuclear Regulatory Commission against the extension of the construction permit for the proposed Bailly Nuclear Plant (No. CPPR-104)." However, the letter falls far short of meeting the requirements of 10 C.F.R. § 2.714 necessary for intervention.

The only indication of any interest which might be injured by any proceeding is that their life and health and that of others would be imperiled if "this nuclear plant is allowed to be built." This proceeding is not to consider whether construction should be authorized--that took place in 1973--but rather whether the time in which it will be built should be extended. Thus the Grabowski interest as stated in their letter cannot be injured by this proceeding and their petition for intervention should be denied for lack of standing.

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The concerns expressed by the Grabowskis are all related to construction of Bailly or a desire to reevaluate the Bailly site and thus beyond the scope of this proceeding. (See Section III of NIPSCO's Response to Petitions Filed in Response to Notice of Opportunity for Hearing.)

Dr. George Schultz states that his letter of December 10, 1979, is "meant to be a formal petition to oppose the extension of the construction permit" for Bailly. His primary concern and only statement of possible interest in the proceeding is concern for his personal health and safety and that of the 1600 inmates of the Indiana State Prison because no evacuation plan has been developed. In this respect the Schultz petition is similar to the Gary petition and should be denied for all of the reasons discussed in NIPSCO's Response to Petitions Filed in Response to Notice of Opportunity for Hearing.

Dr. Schultz identifies no interest which may be affected by a proceeding to determine whether good cause exists for extending the Bailly construction completion date for a reasonable period of time. His expressed general concerns for health and safety and adequate evacuation plans, if properly pleaded, may be appropriate to support a petition to intervene at the operating license stage, but as we have previously dis-

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cussed, an interest which may be affected by plant operation is insufficient, by itself, for standing to intervene in a proceeding to extend a construction permit. Furthermore, a petitioner can only assert his own rights not those of others such as prison inmates. (Tennessee Valley Authority (Watts Bar Nuclear Plant, Units 1 and 2) ALAB-413,5 NRC 1418 (1977).) The petition should be denied.

All of the above discussed letters set forth reasons why, in the authors' judgment, the Bailly facility should not be built which, we assume, are intended to be matters for consideration by the Board in any hearing which may be ordered. However, all of the petitions are silent with respect to how such matters fall within the scope of the issues set forth in the Notice for Opportunity for Hearing, i.e., whether good cause has been shown for extension of the completion date for Construction Permit CPPR-104 for a reasonable period of time. In fact, these matters are beyond the scope of the issues as defined in the Notice and therefore beyond the jurisdiction of the Board.

Since the Petitioners have not identified any interest which may be affected by this proceeding and have not established their ability to contribute to this proceeding, there are no factors weighing in favor of granting discretionary intervention. (See discussion of discretionary intervention in NIPSCO's

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Response to Petitions Filed in Response to Notice of Opportunity
for Hearing, Section II.C.)

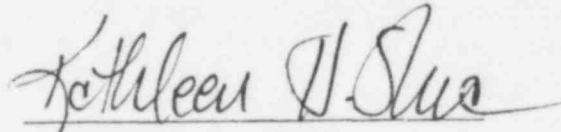
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