

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING APPEAL BOARD

In the Matter of	)		
	)		
PUGET SOUND POWER & LIGHT	)	DOCKET NOS.	STN 50-522
COMPANY, et al.,	)		50-523
	)		
(Skagit Nuclear Power Project,	)		
Units 1 and 2)	)		
	)		
_____	)		



INTERVENOR'S MEMORANDUM REGARDING STATUS OF NEED  
FOR POWER ISSUE UNDER STATE LAW

The State of Washington regulates nuclear sites and projects under Ch. 80.50 RCW.

The legislative policy is declared in RCW 80.50.010. This policy does not, in any sense, amount to an absolute declaration that all proposed nuclear power plants are determined to be necessary. Nor does the statute, by its terms, authorize the Energy Facility Site Evaluation Council, created under it, to determine, whether or not a proposed energy facility is "needed", let alone prepare a forecast.

The statute itself enunciates no standards or criteria to be applied by the council in reaching decisions regarding proposed energy facility sites. It is clear from a review of the statute that the legislature did not empower the siting

council to determine conclusively, as far as the state of Washington is concerned, whether or not the need for power justifies a proposed site. Rather the concern of the legislature which is manifest in the statute, is to insure that the least environmentally harmful sites are chosen, and that the greatest possible care is taken, in connection with the development of a site, to protect and enhance the environment.

The legislature says, in RCW 80.50.010, as a preliminary to declaring the energy policy of the state:

"It is the policy of the state of Washington to recognize the pressing need for increased energy facilities, and to insure through available and reasonable methods, that the location and operation of such facilities will produce minimal adverse effects on the environment, ecology of the land and its wildlife, and the ecology of state waters and their aquatic life.

It is the intent to seek courses of action that will balance the increasing demands for energy facility location and operation in conjunction with the broad interests of the public. Such action would be based on these premises:

- (1) To assure Washington State citizens that, where applicable, operational safeguards are at least as stringent as the criteria established by the federal government and are technically sufficient for their welfare and protection.
- (2) To preserve and protect the quality of the environment; to enhance the public's opportunity to enjoy the aesthetic and recreational benefits of the air, water, and land resources; to promote air cleanliness; and to pursue beneficial changes in the environment.
- (3) To provide abundant energy at reasonable cost."

While the above language mentions the "need" for energy facilities, no particular type of facility is specified. Thus the legislature must be understood to have contemplated that there were many possible solutions to the "need" for energy, including, undoubtedly, conservation, and other "soft" technology solutions, as well as alternative energy forms, such as solar, co-generation, wind, and geothermal power. Moreover, the mention of "need" for power must be read in conjunction with the clearcut recognition, in the following sentence, that "demands" for energy facilities must be balanced against the broad public interest, particularly the public's interest in providing energy at reasonable cost, and the public's interest in preserving and protecting the quality of the environment.

The Energy Facility Site Evaluation Council, (formerly the Thermal Power Plant Site Evaluation Council), has never made any effort to determine whether the energy to be produced by the proposed Skagit plants would be available at "reasonable cost". Indeed, the site evaluation council has laid down no standards to even allow it to determine what "reasonable cost" might mean.

There is, therefore, no definitive statement in Washington law, respecting the proposed Skagit Nuclear Project, purporting to declare expressly a "need" for the power to

be produced by the project. Moreover, the Energy Facility Site Evaluation Council is not empowered to pronounce upon that question on behalf of the state of Washington, nor to conduct its own need forecasts.

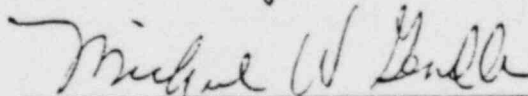
The need for power issue is one that is properly dealt with by the Nuclear Regulatory Commission in connection with its licensing activities. The National Environmental Policy Act, in requiring the Nuclear Regulatory Commission to balance the costs and benefits of a proposed nuclear project, implicitly imposes upon the commission the duty to consider whether the power to be produced by a nuclear project is indeed necessary. Such consideration of need for power involves not only receiving evidence concerning projections of demand and supply, but also evidence of factors bearing upon demand, including price, availability of substitute sources and forms of energy, and the potential of measures, including government action, to promote conservation to address any "need" which might be found. The need for power issue is thus an extremely important aspect of the analysis required by NEPA, and one which may not be passed over, even if a state agency has purported to address the same question. See Calvert Cliffs Coordinating Committee v. Atomic Energy Commission, 449 F.2d 1109 (D.C. Cir. 1971).

It is instructive to note that intervenors are seeking to introduce to the record by their pending motion to reopen the most recent energy forecasts of the Oregon Department of Energy, which is empowered by state law to address the need for power on behalf of the state of Oregon. These forecasts relate directly to the applicants who own 40% of the project, and if the Board is interested in official projections, this evidence should be received. So, too, should the Northwest Energy Policy Project's recently completed four-state forecast, which is also embraced in intervenor's motion, and which represents an "official" study of need for power in this region.

#### CONCLUSION

This board is required, by NEPA, to address the need for power question in connection with its review of the compatibility of the proposed licensing action with the standards of the National Environmental Policy Act. This review must precede, not follow, a decision on the LWA. Whether the legislature of the state of Washington, or an agency in the state of Washington, has, or has not, addressed the need for power issue, in no way affects the obligations of this board to deal with the question.

DATED this 8<sup>th</sup> day of February, 1979.

  
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ROGER M. LEED

by MWG

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CERTIFICATE OF SERVICE

I hereby certify that copies of:

INTERVENOR'S MEMORANDUM REGARDING STATUS OF NEED  
FOR POWER UNDER STATE LAW

have been served on the following by depositing the same in  
the United States mail, postage prepaid, on this 3<sup>rd</sup> day of  
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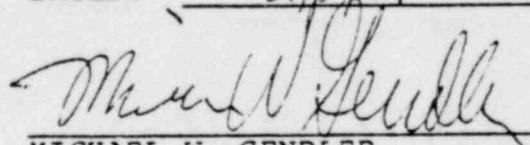
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