UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

In the Matter of	:	
	:	
WESTINGHOUSE ELECTRIC CORPORATION	:	Docket No. XSNMO-1471
	:	
(Nuclear Fuel Export License for the Philippines)	:	

ANSWER OF APPLICANT WESTINGHOUSE ELECTRIC CORPORATION TO MOTION TO AMEND PETITION FOR LEAVE TO INTERVENE AND REQUEST FOR HEARING

On October 8, 1979, Westinghouse Electric Corporation ("Westinghouse" or "Applicant") received a copy of the Motion to Amend Petition for Leave to Intervene and Request for Hearing (the "Motion") filed by the Movement for a Free Philippines ("MFP") under date of October 3, 1979, seeking intervention status in the above-captioned proceeding. Applicant objects to the Motion on the grounds that it is untimely and fails to satisfy the intervention prerequisites set forth in Section 110.82 (10 C.F.R. § 110.82) of the Commission's Regulations. Furthermore, if it should be determined that MFP has any legally cognizable interest in this proceeding, that interest is similar to the interests voiced by the three other prospective intervenors which filed timely intervention petitions. Thus, if the Commission allows any

intervention, the MFP interest can be represented by those intervenors.

On March 6, 1979, Applicant applied to the Nuclear Regulatory Commission ("NRC") for a license to export nuclear fuel to the Republic of the Philippines for use in a nuclear reactor currently under construction by the National Power Corporation ("NPC") of the Philippine Government. Notice of the Application was published in the Federal Register on March 20, 1979 (44 Fed. Reg. 16987). In accordance with NRC Regulations, any individuals or entities seeking to intervene in the proceeding were to file intervention petitions no later than April 19, 1979. Three persons or entities did file a timely intervention petition in this nuclear fuel export license proceeding: The Center for Development Policy ("CDP"), the Philippine Movement for Environmental Protection ("PMEP"), and Jesus Nicanor P. Perlas, III ("Perlas"). Those intervention petitions are currently pending before the Commission.

On May 23, 1979, Westinghouse filed its Answer of Applicant Westinghouse to Petition for Leave to Intervene and Request for Hearing (the "Answer"). In this Answer, Applicant discussed the numerous reasons why CDP, PMEP, and Perlas should not be permitted to intervene in this proceeding. All those reasons are equally applicable to MFP and

mandate that its Motion be denied. Applicant has attached a copy of the aforesaid Answer hereto as Attachment 1. In summary, the reasons set forth in the Answer which preclude the granting of the intervention requests of CDP, PMEP, Perlas, and MFP are as follows:

1. None of the petitioners have standing to intervene in this proceeding;
2. The petitioners seek to raise questions outside the jurisdiction of the NRC in export licensing proceedings; and
3. The petitioners have failed to demonstrate that the requested hearing would be in the public interest or that petitioners would assist the Commission's making the statutory determination required by the Atomic Energy Act.

There are two additional reasons why the MFP Motion should be denied. First, the NRC Regulations in 10 C.F.R. § 110.84(c) provide that an untimely intervention petition may be denied unless good cause for failure to file on time is established. The MFP Motion wholly fails to establish good cause for its failure to file its intervention petition in a timely manner. In an effort to overcome this failure, MFP has denominated its request for

intervenor status as a motion to amend the earlier filed CDP, PMEP. Perlas intervention petition rather than as a separate, untimely, intervention petition of its own. The Commission should not sanction this device of purported petition amendment as a means for curing an untimely intervention petition.

Second, Section 110.84(c)(1) provides that in reviewing untimely intervention petitions, the Commission will consider "The availability of other means by which the . . . petitioner's interest, if any, will be protected or represented by other participants . . . ." In this regard it is clear from the Motion that the purported interests of MFP and CDP are one and the same. In its Motion MFP acknowledges that it has "placed great reliance and worked closely with . . . CDP" and that "CDP has supplied MFP with the technical and scientific knowledge necessary to understand the effect of this reactor upon MFP's members." Thus, it is readily apparent from the Motion itself that any MFP interest, if legally cognizable, can be represented by CDP. Of course, for all the reasons discussed in its Answer (Attachment 1 hereto) to CDP's intervention petition, Applicant submits that the Commission should deny the intervention

request of CDP,[1] PMEP and Perlas as well. Thus, under Section 110.84(c)(1), the Commission should not accord separate intervention status to MFP.

WHEREFORE, Applicant, for the foregoing reasons, respectfully requests the Commission to deny the untimely Motion by MFP seeking to intervene in this nuclear fuels export license proceeding.

Respectfully submitted,

/s/ Barton Z. Cowan
Barton Z. Cowan

/s/ Thomas M. Daugherty/BZC
Thomas M. Daugherty

Counsel for Applicant
Westinghouse Electric Corporation

Dated: October 9, 1979

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[1] On October 8, 1979, Applicant also received a pleading from CDP entitled Supplemental Memorandum of the Center for Development Policy in Support of Petition to Intervene and Request for Hearing ("Supplemental Memorandum"). None of the matters discussed by CDP in that Supplemental Memorandum refute the arguments made by the Applicant and the NRC Staff in their answers to CDP's original intervention petition, arguments which compel denial of the CDP intervention request.

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ANSWER OF APPLICANT WESTINGHOUSE ELECTRIC CORPORATION TO PETITION FOR LEAVE TO INTERVENE AND REQUEST FOR HEARING

On March 6, 1979, Westinghouse Electric Corporation ("Westinghouse" or "Applicant") applied to the Nuclear Regulatory Commission ("NRC" or "Commission") for a license to export nuclear fuel to the Republic of the Philippines for use in a nuclear reactor currently under construction by the National Power Corporation of the Philippine Government ("NPC"). Notice of the Application was published in the Federal Register on March 20, 1979 (44 Fed. Reg. 16987). On April 19, 1979, a "Petition for Leave to Intervene and Request for Hearing" (the "Petition to Intervene") was filed on behalf of the Center for Development Policy ("CDP"), Jesus Nicanor P. Perlas, III ("Perlas"), and the Philippine Movement for Environmental Protection ("PMEP") (hereinafter

collectively referred to as "Petitioners"). This Answer is filed by Westinghouse in opposition to the petition to intervene and the request for hearing.

I. Petitioners' Attempt to Intervene in Longstanding Export License Application Proceedings Relating to Facility Equipment And Components Is Untimely.

On November 18, 1976, Westinghouse applied for a license to export to the Republic of the Philippines a production or utilization facility consisting of a nuclear steam supply system and related equipment. This application, No. XR-120, was assigned Docket No. 50-574 and was noticed in the Federal Register on December 30, 1976 (41 Fed. Reg. 56895). Subsequently, on August 3, 1978, Westinghouse filed an application for a license to export certain components to be used in the construction of the nuclear plant for which the facility export license had been sought. This application was assigned Application No. XCOM-0013. The facility export license and component license applications are currently pending before the Commission.

Under Commission rules of practice, a petition to intervene or a request for hearing is timely only if filed within thirty days after notice of an application appears

in the Federal Register. 10 C.F.R. § 110.82(c). Clearly, Petitioners did not meet this requirement.

In an effort to overcome their failure to file a timely petition to intervene in the proceedings relating to the proposed export of a nuclear facility and components to the Republic of the Philippines, Petitioners attempt to "bootstrap" onto their filing of a Petition to Intervene in the proceeding relating to the Westinghouse application for a license to export nuclear fuel. Thus Petitioners, obviously recognizing that the time to seek intervention in the facility and components applications proceedings has long since expired, request that the NRC "consolidate all the pending license applications" (Petition to Intervene, p. 17). Westinghouse submits that such consolidation should not be allowed, and that the Petition to Intervene should be treated solely as a petition relating to the nuclear fuel export license application.

Consolidation should not be used as a device for curing an untimely intervention petition. In passing the Nuclear Non-Proliferation Act of 1978 ("NNPA"), Congress emphasized that a factor vital to the success of United States' non-proliferation policy is our ability to assure other nations that the United States is a reliable supplier

of nuclear material and equipment. One method of providing such assurance is to demonstrate that applications for export licenses will be processed in a timely fashion. The NNPA thus stresses the need ' action on license applications in a timely manner. See Atomic Energy Act of 1954, as amended, § 126. In the present situation, the action of the Petitioners is inconsistent with this policy. For the Commission to rescue the untimely petition by allowing consolidation of the various licensing proceedings here in issue would establish an undesirable precedent whereby those seeking to delay and oppose nuclear exports could withhold their opposition until a very late stage with the knowledge that they would not thereby adversely affect their opportunity to intervene.

In an apparent attempt to cure its late filing, Petitioners claim that there is "newly disclosed information concerning the Reactor's potential dangers" (Petition to Intervene, p. 11) which Petitioners are in the process of gathering. However, Petitioner CDP claims that it "monitors the flow of resources to developing nations" and "is particularly focussing on the nuclear power plant proposed for Morong, the Philippines" (Petition to Intervene, p. 2). Petitioner Perlas claims to be a Philippine citizen with a residence sixty-five miles from the reactor site. In November, 1978 he submitted a letter to the Commission outlining areas of concern similar

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to those now sought to be raised in the Petition to Intervene. Petitioner PMEP claims to be comprised primarily of Philippine citizens, most of whom reside within ten miles of the reactor site. In light of these assertions Petitioners' claim of newly disclosed information is incredulous. Even assuming that Petitioners were unaware until recently of the existence of the facility and components applications and geologic questions concerning the plant site, Petitioners cannot prevail on this argument since the "newly disclosed information" is, in fact, not newly disclosed. Rather, such information has been in the public domain for a considerable period of time and was widely reported in 1976 and 1977. The most that Petitioners can allege is that their personal knowledge regarding such information was deficient. This is not the type of newly discovered information which allows for untimely filing.

II. Petitioners Lack Standing to Intervene.

A. None of the Three Petitioners Has Standing to Intervene in the Present Case.

The leading case regarding standing to intervene in export license proceedings is In the Matter of Edlow

International Company (Agent for the Government of India on Application to Export Special Nuclear Material), CLI-76-6, 3 NRC 563 (1976). In that case, the Commission denied petitions for leave to intervene on the basis, inter alia, that petitioners lacked standing to do so. In so ruling, the Commission laid down the following general rules:

1. "[A]s a general proposition, the Commission relies principally on judicial precedents in deciding issues of standing to intervene." (3 NRC at 569)

2. "[A]s a matter of policy . . . an expansive rule of standing would be undesirable in the export licensing context . . . ." (3 NRC at 570)

3. "Congress has not granted an express right of action to citizens who can claim an undifferentiated risk to themselves in the context of export license proceedings." (3 NRC at 571)

The Commission reaffirmed these principles in Ten Applications for Low-Enriched Uranium Exports to EURATOM Member Nations, (Transnuclear, Inc. et al.), CLI-77-24, 6 NRC 525, 530, 531 (1977). Since the Commission established these principles, the NNPA was passed. In § 304(b)(2) of that Act, the NRC was directed to establish regulations ". . . for public participation in nuclear export licensing proceedings when the Commission finds that such participation will be in the public interest and will assist the Commission in making the statutory determinations required by the 1954 Act . . . ." The legislative history of this provision gives some guidance indicating that the above-

quoted language was "not in any way intended to expand upon the provisions of the legislation designed to provide careful but prompt consideration of all export license applications." (123 Cong. Rec. H9832, September 22, 1977). Accordingly, although the Commission is required to allow for public participation when such participation is in the public interest and will assist the Commission in fulfilling its statutory responsibilities, the language of the NNPA does not mandate a departure by the Commission from the principles regarding standing which it previously enunciated in Edlow.

Indeed, Commission regulations recognize this fact. The regulatory regime established in 10 C.F.R. § 110.82 and § 110.84 clearly contemplates that where a petitioner purports to assert an interest which may be affected, he is to do so with particularity under traditional principles.[1]

B. The Standing of Petitioner CDP.

Petitioner CDP alleges that it is a project of The International Center, a District of Columbia non-profit corporation. It does not purport to be a membership organization. Whether or not officers are elected and whether or not such officers serve in a representative capacity is not stated. Whether or not the membership exercises a

[1]The Commission should not allow intervention in the present case as a matter of discretion. See, infra, pp. 16-21.

substantial degree of control over the conduct of the organization's activities is not discussed. It must be concluded, therefore, that CDP is an organizational shell with no real members in interest. The District Court for the District of Columbia in a recent unreported case, Health Research Group v. Kennedy, C.A. No. 77-0734, _____ F. Supp. _____ (D. D.C. 1979), concluded that such non-membership organizations lack the requisite standing to assert a public interest. The court relied on a recent Supreme Court decision, Hunt v. Washington Apple Advertising Commission, 432 U.S. 333 (1977), where the question of an organization's claim to associational standing on behalf of parties who were not formally its members was discussed. The Supreme Court found standing in Hunt because the individuals sought to be represented by the Commission, a state agency, possessed all indicia of membership in the organization to which they belonged although their membership status was mandatory and not voluntary. Under those circumstances, the court held that for all practical purposes the Commission was the equivalent of a traditional trade association.

In the instant case based on the Petition to Intervene, CDP does not bear a remote resemblance to a membership organization. CDP thus lacks the necessary relationship to any injured party to permit a conclusion that CDP is a true

representative of such a party. The District Court in Kennedy explained the legal inadequacy of such a non-membership organization for purposes of standing in the following language:

> "So long as the courts insist on some sort of substantial nexus between the injured party and the organizational plaintiff - a nexus normally to be provided by actual membership or its functional equivalent measured in terms of control - it can reasonably be presumed that, in effect, it is the injured party who is himself seeking review. . . . Ultimately, unless an organization truly represents an injured party, its position will not be meaningfully different from that of the environmental organization in Sierra Club v. Morton which sought standing as a 'representative of the public.' 405 U.S. 727, 736 (1972). And as the Court there held: 'A mere "interest in a problem," no matter how longstanding the interest and no matter how qualified the organization is in evaluating the problem, is not sufficient by itself to [confer standing].'" _____ F. Supp. at _____.

CDP, therefore, fails to assert an interest which confers standing.

C. The Standing of Petitioner Perlas.

Petitioner Perlas alleges Philippine citizenship and current residency in the United States of America. He claims a Philippine residence approximately sixty-five miles from the reactor construction site, and authorship of unspecified articles, lectures, and conferences apparently opposing the Philippine reactor. Petitioner's academic qualifications are alleged to concern agriculture

and botany. On these facts Petitioner Perlas fails to state a particular interest which would differentiate him from other citizens who reside approximately sixty-five miles from the reactor site, and fails to state an injury or harm to his interest which would be different from that allegedly suffered by the general populace within sixty-five miles of the reactor site. As the Commission stated in the Transnuclear case, supra, at 531:

> ". . . a claim will not normally be entertained if the 'asserted harm is a "generalized grievance" shared in substantially equal measure by all or a large class of citizens . . . .'"

Just as the status of a rate payer or tax payer does not accord an individual the requisite standing, so too, a professional interest "in research, analysis and public education pertaining to the risks of the proposed reactor" and an interest in assuring that those risks are thoroughly ventilated (Petition to Intervene, pp. 5-6) do not accord Petitioner Perlas standing. See In the Matter of Portland General Electric Company (Pebble Springs Nuclear Plant, Units 1 and 2), CLI-76-27, 4 NRC 610, 613 (1976).

With regard to allegations concerning the health and safety of Petitioner Perlas, matters of the public health and safety are not appropriate for consideration in

export licensing proceedings (see discussion below) and cannot give rise to standing. Further, even if this were not the case, Petitioner Perlas's residence in Washington, D. C., and his Philippine residence approximately sixty-five miles from the reactor site do not afford sufficient proximity to give rise to standing. See In the Matter of Tennessee Valley Authority (Watts Bar Plant, Units 1 and 2), ALAB 413, 5 NRC 1418 (1977); Edlow, supra, at 571.

D. The Standing of Petitioner PMEP.

Petitioner PMEP claims to be an unincorporated association composed primarily of Philippine citizens with several members in the United States. It also claims to serve as a loose collection of organizations in the Philippines concerned with environmental protection in general and the reactor in particular. Such a claim does not accord PMEP standing.

Insofar as PMEP is a loose collection of organizations, the principles discussed above concerning the lack of standing for such non-membership organizations are fully applicable. Additionally, the fact that PMEP may have several members in the United States whose citizenship is undisclosed and whose individual interests are not asserted cannot provide a basis for standing since, even assuming United States citizenship, such persons would be

too far removed from the site to be properly accorded standing. Further, while some individual members of PMEP may be Philippine citizens living in close proximity to the reactor site (although no identification of such members is given), their standing cannot be created by raising issues which the NRC has no legal competence to decide. In Edlow, supra, the NRC specifically held that standing cannot be premised on matters involving the health and safety aspects of the Tarapur atomic power station "as they may affect persons who reside in or travel to India" since foreign health and safety matters are beyond the jurisdictional authority of the NRC. 3 NRC at 575 (emphasis supplied). See In the Matter of Westinghouse Electric Corporation (Application for the Export of Pressurized Water Reactor to Association Nuclear ASCO II, Barcelona, Spain), CLI-76-9, 3 NRC 739 (1976).

Insofar as the Petition to Intervene may be read to assert claims on behalf of "the United State [sic], the Philippines, their citizens, and particularly the U.S. citizens who are or may be stationed at Clark Air Force Base and/or Subic Bay Naval Station, the Philippines" (Petition to Intervene, p. 7), such claims cannot give rise to standing on the part of Petitioners here. As noted by the Atomic Safety and Licensing Appeal Board in the Watts Bar case, supra, "the general rule is that a 'litigant may only assert

its own constitutional rights or immunities' . . . . The same rule comes into play where, as here, the right asserted is not of constitutional dimension." (5 NRC at 1421).

III. Petitioners Seek to Raise Questions Outside the Jurisdiction of the NRC In Export Licensing Proceedings.

The Commission has clearly held in the context of nuclear export licensing proceedings that matters affecting the health and safety in foreign countries are outside the jurisdiction of the Commission. Edlow, supra, at 523; ASCO II, supra, at 754. The phrase "health and safety of the public" consistently has been interpreted as referring to the health and safety effects upon the public within the territorial limits of the United States and not as mandating an analysis of possible health effects on an export either on the foreign public who might reside near the site of an export facility or on the foreign territory where the facility might be located. Thus, in the Federal Register notice for the facility license application the following phrase was included:

> "In its review of applications solely to authorize the export of production or utilization facilities, the Nuclear Regulatory Commission does not evaluate the health and safety characteristics of the facility to be exported." (41 Fed. Reg. 56895)

The attempt by Petitioners in the instant Petition to Intervene to raise such matters as the alleged seismic and geologic risks and dangers to the health and safety of persons residing near the plant in the Philippines is directly contrary to, and not permitted by, the law or Commission policy.

Similarly, the Commission has clearly held in the context of nuclear export license proceedings that matters relating to environmental effects in foreign countries are outside the jurisdiction of the Commission. Edlow, supra, at 585; In the Matter of Babcock & Wilcox (Application for Consideration of Facility Export License), CLI-77-18, 5 NRC 1332, 1346-48 (1977). This position of the Commission is based on a careful examination of the applicable statutes and the policy behind those statutes, as well as recognition of the foreign policy goals of the Executive Branch of the Government.

The recent Executive Order 12114, Environmental Effects Abroad of Major Federal Actions (January 4, 1979), 44 Fed. Reg. 1957 (January 9, 1979), does not change this position insofar as it applies to the matter here under consideration. As noted above, the Petitioners seek to intervene in connection with the nuclear fuel license application, and clearly are untimely with regard to intervention as to the facility and components licenses.

However, under Executive Order 12114, the export of nuclear fuel is exempt from those export activities where an environmental analysis must be undertaken. Further, even as to the facility and component exported, there is some considerable question as to whether the NRC, as an independent regulatory agency, is bound by the Executive Order. Even if the NRC were bound by the Order, it is noteworthy that the mechanisms for complying with the Executive Order are not to be developed until later this year, and the lead role for implementing the Order has been given to the Department of State and not to the Commission. Finally, 42 U.S.C. § 2153e-1, enacted into law on November 10, 1978, specifically provides that:

> "No environmental rule, regulation, or procedure shall become effective with regard to exports subject to the provisions of the Nuclear Non-Proliferation Act of 1978, until such time as the President has reported to Congress on the progress achieved pursuant to section 407 of the Act entitled 'Protection of the Environment' which requires the President to seek to provide, in agreements required under the Act, for cooperation between the parties in protecting the environment from radioactive, chemical or thermal contaminations arising from peaceful nuclear activities." Pub.L. 95-630, Title XIX, § 1913, [illegible]. 10, 1978, 92 Stat. 3727."

To date, the President has not reported to Congress on the progress achieved pursuant to Section 407 of the Act and, accordingly, any new environmental rule, regulation or procedure pursuant to Executive Order 12114 could not be effective with respect to the facility and components license applications or the nuclear fuel license application.

IV. Petitioners Fail to Demonstrate the Hearing Would be in the Public Interest Or That Petitioners Would Assist the Commission's Making the Statutory Determinations Required by the Atomic Energy Act.

In determining whether the Commission as a matter of discretion should grant the intervention petition or a hearing, the Commission under its regulations and the statutes must determine whether a hearing would be in the public interest and would assist the Commission in making the statutory determinations required by the Atomic Energy Act. Nothing in the Petition to Intervene here at issue suggests how granting the Petition to Intervene and permitting a hearing would lead to such assistance to the Commission.

In determining whether a hearing would be in the public interest, it is necessary to consider whether further delay in the export license applications could have adverse

foreign policy implications. The facility export license application has been pending since November, 1976. Construction is now under way in the Philippines on the facility and the materials which are subject to the facility and components license applications are needed so that construction will not be halted. Such construction cannot proceed without shipment of the components on the schedule necessary to meet the contractual obligation for completion of the facility in 1983. As noted in the Executive Branch analysis dated November 3, 1978 covering the component license application, the "components are required to allow continued construction of the power plant in an orderly manner and to prevent costly delays. . . ." It would be disruptive to the relationship between the United States of America and the Government of the Philippines for construction on a much needed power facility to be halted while the NRC conducts a public hearing on matters which the NRC in the past has held to be beyond its jurisdiction.[2]

In achieving the goals of the NNPA, it is essential that the United States be seen as a reliable supplier

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[2]This is especially true where, as here, the State Department has advised the Commission that the Philippines is a party to the Treaty on the Non-Proliferation of Nuclear Weapons ("NPT"), has entered into the International Atomic Energy Agency ("IAEA") Safeguards Agreement pursuant to the NPT, is committed not to develop or use nuclear explosive devices for any purpose and has given assurance that imported nuclear facilities will not be retransferred. See Executive Branch analysis on component application, November 3, 1978.

of nuclear materials and components. This was made clear by the Executive and by the Congress in the discussion of the NNPA legislation. Senator John Glenn, one of the leading proponents of the NNPA, in a letter which formed part of the Congressional history of the Act, stated as follows:

> "[A] vital factor in the success of any non-proliferation policy must be the need to assure other nations that we are a reliable supplier of nuclear technology and fuel." (Cong. Rec. S1318, February 7, 1978)

Thus, the hearing sought by the Petitioners could serve to embarrass rather than assist the United States in its foreign policy objectives. The legal and practical difficulties in conducting safety and environmental reviews for a foreign reactor site and the potential damage to our foreign policy and national security interest which may come from further delays should lead the Commission to determine that a hearing would not be in the public interest and should not be held. See B & W, supra, at 1349.

Further, nothing stated in the Petition to Intervene shows how the Commission would be assisted in making the statutory determinations required by the Atomic Energy Act. The export licensing criteria pursuant to which license applications are reviewed are directed to furtherance of the non-proliferation goals of this country. See 10 C.F.R. § 110.42. Issuance or denial of licenses under 10 C.F.R.

§ 110.44 turns upon whether the applicable export licensing criteria are met. Nowhere in the Petition to Intervene is there any claim that the export licensing criteria will not be met in the present case. Indeed, the Petition to Intervene does not even mention nuclear non-proliferation or reference the criteria which govern the application review. Thus, there is no claim that IAEA safeguards will not be applied, that the facilities may be used for production of nuclear explosive devices, that adequate physical security will not be maintained to prevent diversion of the nuclear materials or that any of the other specific criteria will not be met. In light of this, it is impossible to determine any basis on which the Commission will be assisted in making its statutory determinations.

Further, even assuming that matters of health and safety were proper items to be considered in connection with the export license proceeding, the vague allegations of Petitioners that "there has been growing concern that the Reactor's construction might pose extraordinary risks to public health and safety and the common defense and security" (Petition to Intervene, p. 12) do not suggest with any specificity the nature of those alleged risks or how the Petitioners can bring to bear any expertise with regard to those risks.

With respect to seismic and geologic risks, Petitioners' only claim is that the reactor site is "in a seismically active area and it is not clear that the Reactor's seismic design is sufficient to withstand to [sic] likely earthquakes and/or volcanic eruptions" (Petition to Intervene, p. 12). No indication whatever is given as to the basis for Petitioners' claim or how Petitioners can help make things clearer. Petitioners talk in terms of the possibility of additional issues and the possibility that issues may warrant a hearing or specific attention, but in essence Petitioners' plea falls short of establishing any basis whatever for such possibilities.

Accordingly, even were the Commission to consider health and safety or environmental effects of the export here involved, the Petition to Intervene should be denied because there is no showing that Petitioners would assist the Commission in making the statutory determinations required by the Atomic Energy Act or that the hearing would be in the public interest.

WHEREFORE, Applicant, Westinghouse Electric Corporation, respectfully urges the Nuclear Regulatory Commission to treat the Petition for Leave to Intervene and Request for Hearing solely as relating to the nuclear fuel

export license application, and not allow consolidation with respect to the components and facility export license applications. Further, Westinghouse respectfully urges denial of the Petition for Leave to Intervene and Request for Hearing.

Respectfully submitted,

/s/ Barton Z. Cowan

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Dated: May 23, 1979

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CERTIFICATE OF SERVICE

I hereby certify that copies of the Answer of Westinghouse Electric Corporation to Motion to Amend Petition for Leave to Intervene and Request for Hearing were served upon the persons listed on Attachment 1 to this Certificate of Service by deposit in the United States Mail (First Class), postage prepaid, this 9th day of October, 1979.

/s/ Barton Z. Cowan
Barton Z. Cowan
Counsel for Applicant
Westinghouse Electric Corporation

ATTACHMENT 1

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