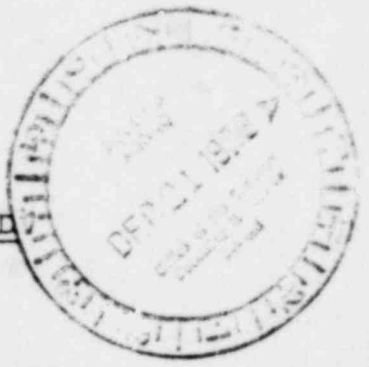
December 19, 1978

NRC PUBLIC DOCUMENT ROOM



UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matter of	)	
	)	
NORTHERN STATES POWER COMPANY, ET AL.	)	Docket No. STN 50-484
	)	
	)	
(Tyrone Energy Park, Unit 1)	)	

PERMITTEES' MOTION TO DISMISS
NORTHERN THUNDER CONTENTIONS
ON TECHNICAL QUALIFICATIONS

Permittees move the Atomic Safety and Licensing Board to dismiss Northern Thunder's contentions on technical qualifications (Contentions 3.A and 3.B). The grounds for this motion are as follows.

In its Memorandum and Order Concerning Northern Thunder's Contentions on Remanded Matters, dated July 28, 1978, the Board admitted three contentions proferred by Northern Thunder as issues in this proceeding. Two of the contentions, 3.A and 3.B, dealt with the technical qualifications of Northern States Power Company (Wisconsin) to design and construct the Tyrone facility. Pursuant to the schedule established by the Board, Permittees on August 25, 1978, submitted interrogatories to Northern Thunder. Following receipt of Northern Thunder's responses, Permittees on October 3, 1978, filed a motion to compel on the grounds that several of Northern Thunder's responses, including those to

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interrogatories 2a and b on the technical qualifications issue, were evasive and incomplete. Northern Thunder failed to respond to the motion.

In its Memorandum and Order Ruling on Motions to Compel Discovery, dated November 17, 1978, the Board stated that Northern Thunder's responses to interrogatories 2a and b raised the question "whether Northern Thunder seriously supports its technical qualifications contention or whether the Board erred in admitting the contention without a basis." To assist the Board in making this determination, Northern Thunder was ordered to answer interrogatories 2a and b within fourteen days of service of the order.

The time period fixed by the Board has now elapsed.[1/] Northern Thunder has submitted no response to the Board's directive. Northern Thunder has not even requested an extension of time in which to file a response.[2/] Based upon this failure to comply with the Board's order and Northern Thunder's initial responses

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1/ The Memorandum and Order was served on November 18, 1978. The fourteen day period expired on December 1, 1978. Allowing five days for mailing (10 CFR §2.710), Northern Thunder's answer should have been filed on December 6, 1978.

2/ Although the hearings before the Wisconsin Public Service Commission on the Tyrone facility are now in progress, these hearings did not start until December 11, 1978, five days after the due date for Northern Thunder's filing.

to interrogatories 2a and b, it should be clear that Northern Thunder's technical qualifications contentions lack any basis and that Northern Thunder is unlikely to make any contribution to the record on this issue. Therefore, Contentions 3.A and 3.B should be dismissed.

Respectfully submitted,

SHAW, PITTMAN, POTTS & TROWBRIDGE

By _____

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Dated: December 19, 1978

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NUCLEAR REGULATORY COMMISSION

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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing "Permittees' Motion to Dismiss Northern Thunder Contentions on Technical Qualifications", dated December 19, 1978, has been served upon each of the persons listed on the attached service list by deposit in the mail, postage prepaid, first class, this 19th day of December, 1978.

Jay E. Silberg
Counsel for Permittees

Dated: December 19, 1978

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	)	
(Tyrone Energy Park, Unit 1)	)	

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