

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSIONBefore the Atomic Safety and Licensing Board

In the Matter of ) Docket Nos.:  
COMMONWEALTH EDISON COMPANY ) 50-237, 50-249, 50-254, 50-265  
(Dresden Station, Units 2 & 3, ) Amendments to Facility  
Quad Cities Station, Units 1&2) Operating License Nos.:  
   DPR-19, DPR-25, DPR-29, DPR-30

MEMORANDUM AND ORDER

On April 19, 1979, this Board invited the Natural Resources Defense Council and Citizens for a Better Environment, who have each petitioned for intervention in this proceeding, to file examples of materials which they distribute to their members. We asked for these materials in order to decide whether the petitioners should be presumed to represent the interest of their members with respect to this proceeding. More specifically, the materials were requested with a view toward deciding whether these petitioners should be accorded standing under the principles laid down in Houston Lighting & Power Company (Allens Creek Nuclear Generating Station, Unit 1), ALAB-535, 9NRC (April 4, 1979).

According to Allens Creek, it is necessary for an organization seeking to intervene to show that it is authorized to represent the interest of at least one of its members who would himself have standing. Such authorization can be presumed, however in some instances. The Allens Creek opinion cited, as an example of such an instance, the case where the organization's primary purpose "was to oppose nuclear power in general or the facility at bar in particular." (Slip op. at 37).

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The Natural Resources Defense Council has filed two publications specifically directed to nuclear power. Both publications describe NRDC's litigation efforts. They describe NRDC's intervention in NRC proceedings and NRDC's suits against NRC in the courts. The Board has also received NRDC's annual report, which also describes its litigation and other efforts in opposition to nuclear power. It is a matter of common knowledge that NRDC has been active in NRC proceedings for several years. Citizens for a Better Environment have also filed publications, principally in the form of the organization's periodical. All the issues submitted mentioned nuclear power. In the publication of October, 1977 is an article criticizing the disposal of nuclear waste. In the November, 1977 publication are items reporting on CBE's support of protestors against the reactor at Seabrook and CBE's testimony opposing nuclear power before the Wisconsin Public Service Commission. In the publication of February/March, 1979 are items reporting a study by CBE on planning for nuclear emergencies, a critical comment by CBE on nuclear waste management, and more details on CBE's testimony on "the poor reliability of nuclear plants" in hearings before the Wisconsin Public Service Commission. The publication of October, 1978 reported on a request by CBE that NRC issue an enforcement bulletin concerning a nuclear plant in which "CBE discovered that...the emergency core cooling system could be locked out of commission." This last publication also carried three feature articles on different aspects of nuclear power. The first was devoted to plant security and emergency planning, the second to the possible impact of nuclear power on civil liberties and the third to cracks in reactor piping.

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After reviewing the publications of NRDC and CBE, one concludes that the members of both these organizations receive a rather clear message on nuclear power. Each organization states to its members that it devotes substantial time and money to participation in nuclear regulation. Each organization challenges--usually if not always--the point of view of the nuclear industry. The organizations may also challenge the views of the governmental bodies which regulate that industry. It is difficult to imagine how any member could not be aware of the interest these groups have in nuclear power or of their position with respect to nuclear power.

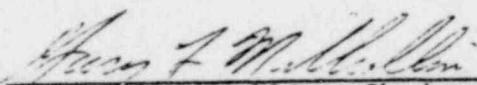
It is also true that each of these organizations is interested in matters other than nuclear power. NRDC's publications describe NRDC's efforts to facilitate the use of solar energy, improve energy conservation, oppose off-shore oil leases, and so forth. CBE's publications report on CBE's efforts in matters ranging from sulfur pollutants in coal to toxic chemicals in sludge used as fertilizer. In Allens Creek, supra, the Atomic Safety and Licensing Appeal Board gave, as examples of organizations for which authorization could be presumed, those whose "primary purpose" was to oppose nuclear power or the facility in question. Since that term, "primary purpose", was given by way of example only, it is our view that it is not the responsibility of this Board to insure itself that the overriding purpose of either CBE or NRDC is to oppose nuclear power. This would be an undertaking of some difficulty for the Board. We interpret Allens Creek to mean that in order to presume an authorization exists, an organization must show more than a passing interest in questions of nuclear power, that it need not be organized solely for the purpose of litigating questions of nuclear power, but that the organization must show that one of its continuing and primary

concerns is nuclear power and that its commitment to nuclear questions is large and well established enough to justify the assumption that its commitment is known to its members and approved by them. In the case of NRDC and CBE, there seems little doubt that the concern is clearly stated, the commitment is large and long-standing, and members are repeatedly told that their organization has opposed and will continue to oppose the nuclear industry before the various branches of government. It follows that NRDC and CBE should be presumed, under the language in Allens Creek, to be authorized to represent their members in this proceeding and that they therefore have standing. The other elements of the standing requirement for these petitioners have been discussed in the Board's Memorandum and Order of April 19, 1979, which followed the Special Prehearing Conference.

Mrs. Elizabeth B. Johnson dissents from this Memorandum and Order. Her views will be stated later in a separate opinion.

It is so ORDERED.

FOR THE ATOMIC SAFETY AND  
LICENSING BOARD

  
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Gary L. Milhollin, Chairman

Dated at Bethesda, Maryland

This 29th day of May 1979.

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