

SIMONDS, WINSLOW, WILLIS & ABBOTT
A PROFESSIONAL ASSOCIATION
ATTORNEYS AT LAW
50 CONGRESS STREET
BOSTON, MASSACHUSETTS 02109

WILLIAM S. ABBOTT

AREA CODE 617 523-5520

January 25, 1979

Edward Luton, Esquire
Atomic Safety and Licensing Board
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

Dr. A. Dixon Callahan
Union Carbide Corporation
P.O. Box Y
Oak Ridge, Tennessee 37830

Dr. Richard F. Cole
Atomic Safety and Licensing Board
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555



RE: In the Matter of
Boston Edison Company, et al
(Pilgrim Nuclear Generating Station, Unit 2)
Docket No. 50-471

Gentlemen:

As counsel to Alan and Marion Cleeton, a party in the referenced proceeding, I wish to comment upon the NRC Staff's statement of outstanding matters dated January 16, 1979 which was circulated to the various parties. For your convenience I have organized my comments with respect to each of the remaining issues in this case.

1. Alternative Sites

The Staff has proposed to modify the normal NEPA procedure for recirculation of the new alternative site evaluation. We believe that the particular abbreviated procedure as proposed by the Staff is improper and fails to meet the legal requirements of NEPA and the Commission's adjudicatory decisions regarding the matter of recirculation of FES supplements. Such a truncated procedure, particularly with respect to this critical issue of site analysis which is at the heart of the NEPA process, would not be in the public interest nor would it demonstrate a serious NRC commitment to the Congressional mandate to implement the policies of NEPA "to

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the fullest extent." The last opportunity for public comment in this case was in 1974, and since then a variety of factors have undergone substantial change with respect to the proposed Pilgrim 2 site, not the least of which is the substantial change in the population of Plymouth. Further, for the reasons stated in my letter of December 29, 1978 to Mr. Denton of the NRC, a copy of which was earlier furnished to you, the various time constraint factors existing outside this NRC permit case with respect to Pilgrim 2 remove any potential financial advantages of an earlier construction authorization which might otherwise flow from an abbreviated recirculation process. We have informed the Council on Environmental Quality of our strong feelings on this matter. If the NRC Staff, in fact, adopts the position of a truncated NEPA recirculation of the FES site analysis supplement, we will move to stay the Board hearing until the normal NEPA procedures have been followed in this case.

2. Financial Qualifications

As you know, the Massachusetts Department of Public Utilities is presently holding hearings on the capacity needs of Boston Edison Company and the reasonableness of the construction program required to meet such needs (D.P.U. #19494). The Department indicated in its last rate decision involving Boston Edison (D.P.U. #19300 issued February 28, 1978) that in the event Edison was unable to justify the construction of Pilgrim 2 in the successor proceeding DPU #19494 the Department would not approve future capital financings by Edison which would be required to finance Pilgrim 2. At the conclusion of Phase I of D.P.U. proceeding #19494 the Massachusetts Energy Facilities Siting Council, which was holding hearings jointly with the D.P.U., found that Edison's forecast of its capacity needs was insufficient to justify its construction program (E.F.S.C. #78-12, issued October 24, 1978). This decision was forwarded to you by Laurie Burt, Massachusetts Assistant Attorney General, by letter of December 5, 1978. The hearings are now about to commence as to Phase II, which are on the reasonableness of the specific Boston Edison construction program, consisting almost entirely of the proposed Pilgrim 2, to meet the level of need for power established in Phase I. In that the final D.P.U. decision regarding Pilgrim 2 will directly and conclusively determine whether in fact Boston Edison will be able to finance the construction of Pilgrim 2 through some combination of rate relief, capital financing or otherwise, any Board hearing now on this issue is premature. Accordingly, we herewith file Motion #1 (attached hereto), that the Board hearing with respect to this issue of financial qualifications be held in abeyance until such time as the Massachusetts Department of Public Utilities issues a final decision in the D.P.U. proceeding #19494.

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On a separate point, and still under this issue of "financial qualifications," I have sought repeatedly since last July to obtain from Boston Edison counsel copies of certain information submitted during 1978 to the NRC Staff by Boston Edison Company on the issue of financial qualifications. Despite the fact that I clearly identified such material in my several letters to counsel, my request has been repeatedly ignored or met with the response that counsel was too busy to compile and/or copy such information for my client. In addition to the matter in the preceding paragraph, we are not prepared to go forward with the Board hearing on financial qualifications until we have had an adequate opportunity to study the materials requested from Edison. Further, we herewith file Motion #2 (attached hereto) to compel Boston Edison to make such information promptly available to the Cleetons who are a full party in this proceeding.

3. Need for Power

The Staff noted in its letter of January 16, 1979, that the Commonwealth's motion to supplement the hearing record on the issue of need for power was still pending. As stated above, the Massachusetts Energy Facilities Siting Council in its most recent decision regarding the December, 1977 Boston Edison long-range forecast of electric power needs and requirements (E.F.S.C. #78-12, issued October 24, 1978) declared that it "[could] not accept the forecasted electrical consumption or demand growth rates of this year's [Boston Edison] supplement [forecast] for purposes of justifying generating capacity expansion or proposed transmission facilities." The Siting Council is the Massachusetts agency, officially convened pursuant to a statute enacted in 1974, charged with the public responsibility of approving or disapproving each annual power need forecast by Boston Edison and planning for and confirming (or denying) the need for new electric generating facilities. The record in this NRC construction permit proceeding on the need for power was closed on July 1, 1977, and relies upon witness testimony that is now obviously outdated and incorrect and which does not take into account the several important factors cited by the Council in its recent E.F.S.C. #78-12 decision. Accordingly, we herewith file Motion #3 requesting the Board to reopen the hearing record in this case as to the issue of need for power, and to order that the Applicant and NRC Staff be directed to file testimony with respect to this issue which updates the testimony and forecasts previously filed.

4. NRC Reactor Safety Study (Wash-1400)

As you know the NRC has announced its withdrawal of support as to certain aspects of the 1975 Reactor Safety Study (Wash-1400).

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and further indicated that certain regulatory decisions based upon the conclusions set forth in this study would be re-examined. Accordingly, we hereby file Motion #4 requesting the Board to direct the NRC Staff to prepare a detailed evaluation of the NRC's recent decision regarding the 1975 Reactor Safety Study and how such decision impacts on Commission regulations and upon the various licensing criteria and specific safety issues (e.g., radiological risks from possible transportation accidents) of the present Pilgrim 2 case.

Very truly yours,



William S. Abbott
Counsel for
Alan and Marion Cleeton

WSA:bat

cc: Pilgrim Unit 2 Service List (attached)

PILGRIM UNIT 2 SERVICE LIST

George H. Lewald, Esquire
Ropes & Gray
225 Franklin Street
Boston, Massachusetts 02110

Dale G. Stoodley, Esquire
Boston Edison Company
800 Boylston Street
Boston, Massachusetts 02199

Henry Herrmann, Esquire
151 Tremont Street, 27K
Boston, Massachusetts 02111

Mr. Daniel F. Ford
c/o Union of Concerned Scientists
1208 Massachusetts Avenue
Cambridge, Massachusetts 02138

Mr. and Mrs. Alan R. Cleeton
22 MacKintosh Street
Franklin, Massachusetts 02038

The Honorable Charles Corkin, II
Assistant Attorney General
Environmental Protection Division
One Ashburton Place, 19th Floor
Boston, Massachusetts 02108

Barry H. Smith, Esquire
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

Office of the Secretary
Docketing and Service Section
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

