



filed before January 15, 1979.<sup>2/</sup> On January 15, 1979 Applicant filed a Motion To Strike the aforementioned Motions of Atlantic County and of Ocean County.<sup>3/</sup> The Intervenors did not respond. Ultimately, on January 23, 1979, Atlantic County filed its Brief in support of its Motion of December 29, 1978. Applicant filed its Brief in Opposition on February 8, 1979 and on

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Footnote 1/ continued:

4. That an Order be entered precluding the Applicant from filing a substantially similar application for the next ten (10) years or such other reasonable period of time.

5. That an Order be entered precluding the Applicant from filing an application to site a floating nuclear power plant or plants in the coastal or bay waters of New Jersey for the next 10 years or such other reasonable period of time.

6. For such other relief as may be just and appropriate.

2/ On January 9, 1979, the Ocean County Board of Chosen Freeholders filed a motion substantially similar to that previously filed by Atlantic County except that Ocean County deleted the fifth term or condition. Therein, Ocean County stated it would rely upon the brief to be filed by Atlantic County. Since Ocean County indicated that it would rely upon the brief to be filed by Atlantic County, we will consider the motions as being a Joint Motion.

3/ Therein, inter alia, Applicant argued that, contrary to 10 C.F.R. § 2.730(b), the two intervenors had failed to "state with particularity the grounds" for the motions. The Motion To Strike is mooted because, hereinafter, we recognize the validity of Applicant's argument and utilize it as one of the reasons for denying the Intervenors' Joint Motion.

February 12, 1979, the NRC Staff filed a Response opposing the imposition of the terms and conditions.

The Joint Motion of the two intervenors is denied. In the first place, Intervenor did not comply with 10 C.F.R. § 2.730(b) in failing to submit briefs at the time the Notices of Motion To Impose Terms And Conditions were filed and therein to "state with particularity the grounds" in support of their motions. Neither Intervenor filed a motion for leave to file a brief by January 15, 1979 and, in fact, the brief was not filed until January 23, 1979. Parties must comply with our Rules of Practice. Second, except for discussing in the brief the payment of attorney's fees, the Intervenor do not "state with particularity the grounds" relied upon in support of the imposition of the balance of the terms and conditions.<sup>4/</sup> We conclude that the Intervenor have abandoned all requests for terms and conditions except for the imposition of attorney fees. We must deny the remaining request for attorney's fees because there is no statutory authorization for ordering such payment and because said fees cannot be imposed on the basis of a party's participation as a private attorney general. See

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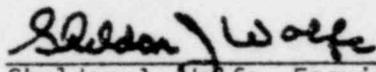
<sup>4/</sup> At page 2 of its brief, Atlantic County states that "The narrow scope of this brief will be focused on the power and propriety of the NRC to impose attorney fees as a condition of withdrawal of an application".

Alyeska Pipeline Service Company v. The Wilderness Society, et. al.,  
421 U.S. 24) (1975).

In a separate Order being issued this day, pursuant to 10 C.F.R.  
§ 2.107, we are dismissing the instant proceeding.

IT IS SO ORDERED.

FOR THE ATOMIC SAFETY AND  
LICENSING BOARD

  
Sheldon J. Wolfe, Esquire  
Chairman

Dated at Bethesda, Maryland  
this 15th day of February, 1979.