

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

COMMISSIONERS:

Victor Gilinsky  
Richard T. Kennedy  
Joseph M. Hendrie  
Peter A. Bradford



In the Matter of

PUGET SOUND POWER & LIGHT CO., et al.

(Skagit Nuclear Power Project,  
Units 1 and 2)

Docket Nos. STN 50-522  
STN 50-523

ORDER

The proceeding now before the Commission involves the efforts of three Indian tribes, the Upper Skagit, the Sauk-Suiattle, and the Swinomish Tribes, to intervene as a party to the Skagit construction permit hearings. The administrative proceeding on this intervention petition has been protracted, due to litigation concerning the petitioners' status and interests and the extraordinary lateness with which they filed their petition with the Nuclear Regulatory Commission. In ALAB-559, an Appeal Board majority denied their petition under 10 CFR 2.714. 10 NRC \_\_\_\_ (August 31, 1979). The Tribes have petitioned for review of that decision, their instant petition being a supplement to an already-filed petition to review an earlier Appeal Board ruling. See ALAB-523, 9 NRC 58 (1979).

After consideration of the majority and the dissenting opinions in ALAB-559 and the petitions for review and answers thereto, the Commission is of the opinion that this case presents a unique and important issue involving the

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Commission's responsibility to provide a meaningful public process on applications to construct nuclear power reactors and the policy of avoiding administrative delay. The question of the Tribes' late intervention is a close one and one that turns on the exercise of the Commission's discretion in exploring the various factors and circumstances for and against it. Although the majority opinion is "balanced, measured, and thoughtful," the Commission is persuaded that the dispute outlined by the Dissent presents a narrow issue involving significant policy and procedural questions which warrant Commission attention. Therefore, the Commission has decided to review one issue arising out of ALAB-559:

Whether petitioner's status (American Indian tribes), separate from or in conjunction with the particular other facts and circumstances of and surrounding this case, gives rise to sufficient cause to excuse the extraordinary tardiness of the filing of the Tribes' petition to intervene.

The exercise of review is undertaken solely as a matter of Commission authority pursuant to 10 CFR 2.786(a); the petitions to review are therefore denied, to the extent inconsistent with this Order. See generally Public Service Company of New Hampshire (Seabrook Station, Units 1 and 2), CLI-78-11, 7 NRC 735 (1978); id., CLI-77-22, 6 NRC 451 (1977).

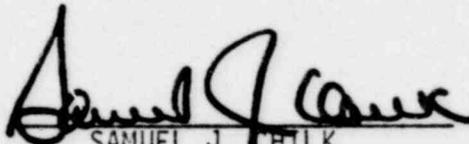
Accordingly, the parties to this proceeding and the Tribes are directed to file written briefs on this issue no later than thirty days after the date of this Order. In addition, the NRC staff is directed to invite the Department of the Interior to express its views as an amicus curiae on this issue before the

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Commission. If the Commission desires reply briefs and/or oral argument, they will be the subject of a subsequent order.

It is so ORDERED.

For the Commission.

  
SAMUEL J. CHILK  
Secretary of the Commission

Dated at Washington, DC,  
this 16<sup>th</sup> day of January 1980.

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