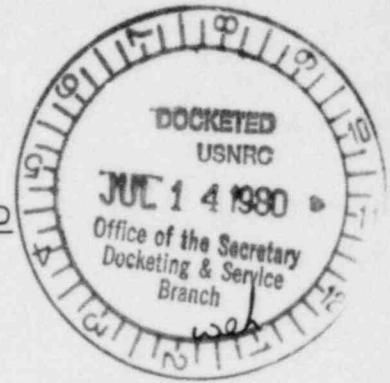


7/11/80

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD



In the Matter of	§	
	§	
HOUSTON LIGHTING & POWER	§	
COMPANY	§	Docket No. 50-466
	§	
(Allens Creek Nuclear	§	
Generating Station, Unit	§	
No. 1)	§	

APPLICANT'S RESPONSE TO INTERVENOR JOHN F. DOHERTY'S  
MOTION FOR FINANCIAL ASSISTANCE FROM NRC FUNDS  
THROUGH THE BOARD

On June 27, 1980, Intervenor John F. Doherty filed a motion in which he requests the Atomic Safety and Licensing Board to appropriate NRC funds through "reimbursement or lump sum" payment by Staff counsel to finance his participation in this proceeding. Alleging indigence, Intervenor asserts that his participation "can be expected to contribute substantially to a full and fair determination of the issues" (pp.2-3). As support for his request, Intervenor has attached a G.A.O. decision dated January 25, 1980, relating to the issue of financial assistance to intervenors in NRC proceedings.

Applicant submits that the above motion should be denied for the following reasons:

First, the Licensing Board's authority in this proceeding, as set forth in the Commission's rules and regulations and in the Notice of Hearing published in this proceeding (38 Fed. Reg.), does not extend to ordering the appropriation of Nuclear Regulatory Commission funds to an intervenor. That authority, which lies with the Commission itself, has not been delegated to this Board.

Second, no basis exists in the motion or elsewhere for the Board to certify that question of intervenor funding to the Commission. The Commission in the past has refused to provide funding to intervenors in NRC proceedings.<sup>1/</sup> In a recent decision, the Commission, taking into consideration the G.A.O. decision cited in Intervenor's motion as well as the presently governing legislation and its legislative history, "decline[d] to consider such funding."<sup>2/</sup>

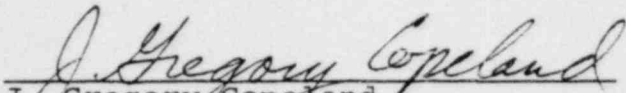
For the foregoing reasons, Intervenor's motion should be denied.

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1/ Financial Assistance to Participants in Commission Proceedings, 4 NRC 494 (1975); Cf., Transnuclear, Inc., CLI-77-31, 6 NRC 849, 853 (1977).

2/ Metropolitan Edison Company (Three Mile Island Station, Unit No. 1), Memorandum and Order (CLI-80-19) Slip Op. at 5 (May 16, 1980). This decision rested in large part upon the appropriations act for the fiscal year which expires September 30, 1980. Appropriations for the fiscal year beginning October 1, 1980, have not yet been enacted. However, on June 25, 1980, the House passed HR 7590 which would make such appropriations. 126 Cong. Rec. H5614, H5657 (June 25, 1980, daily ed.). Section 502 of HR 7590 as passed by the House provides that none of the funds appropriated shall be used to compensate "parties intervening in regulatory or adjudicatory proceedings funded in this Act." See also H. Rept. 96-1093, 96 Cong., 2nd Sess., p. 148.

Respectfully submitted,

  
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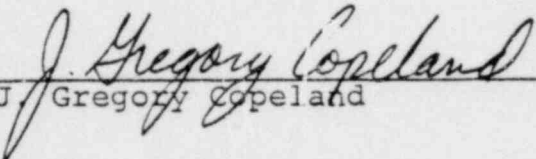
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