

27 August, 1980

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD (ASLB)

In the Matter of
PUERTO RICO ELECTRIC POWER
AUTHORITY (POWER COMPANY)
Applicant

GONZALO FERNOS, PRO SE, ET AL.
Intervenors

*
*
*
*
*
*
*
*
*
*

DOCKET NO. 50-376

Proposed North Coast
Nuclear Plant (Unit 1)
Isote Ward, Arecibo, Puerto Rico



MOTION TO REQUEST LEGAL ASSISTANCE

TO THE HONORABLE BOARD :

● COMES NOW the undersigned Intervenor, Pro Se, and in representation of Members of Citizens for the Conservation of Natural Resources, Inc. (CCNR), and respectfully states, alleges and prays :

● 1.- Intervenors' Petition of April 30, 1980, requested, inter alia, to impose upon Applicant " costs and a damage sum of \$10,000.00 on behalf of Intervenors for compelling us to litigate for five years a meaningless application." By Order of May 29, 1980, the ASLB denied such costs and damage sum statting that " such a claim is clearly precluded by the Commission's determination not to provide funding for intervenors."

● 2.- In the pleading of their Memorandum of July 18, 1980, to the Appeal Board, Intervenors prayed to be " treated in forma pauperis, providing them with the legal counsel of their choice, including counsel's travel for and lodging expenses during hearings."

● 3.- In their Memorandum of August 4, 1980, to the Appeal Board, Intervenors prayed to be granted " the means to obtain funds for retaining legal assistance..." In pleading so, Intervenors stated :

DSa3
50/1

8009040233

" Intervenors wish to emphasize the need for legal assistance by means of providing Intervenors with funds which can be used 'to retain counsel in this Docket and its subsequent legal followings and procedures, redresses and remedies.' It is to be noted that although in Quanicasse, supra, the Commission did not reach the point of resolving on the merits the petitioners' request for attorney's fee, neither did the Commission rule out that the Rules of Practice and the Atomic Energy Act of 1954, as amended, preclude the Commission from granting legal funds to intervenors. Such preclusion was not raised, naturally, because there is no such prohibitory disposition in the statutes and regulations. Intervenors need not to stress again the urgency for such legal assistance and thus rely on the Appeal Board's broad judgment to oversee that parties in an ongoing proceeding be properly represented."

● 4.- In the Appeal Board MEMORANDUM AND ORDER of August 11, 1980, (ALAB-605) by way of footnote the Appeal Board ruled on the above as follows :

" In their July 18, 1980 submission to us (at pp. 7-8) * the intervenors ask that we give certain procedural instructions to the Licensing Board. We decline to do so. Whether they are entitled to the relief which is sought on that score also is more appropriately left to the Board below."

However, the Licensing Board ORDER of August 19, 1980. is silent about ruling on the above.

* The full text of the requested procedural instructions states as follows : " In the event that evidentiary hearings are conducted in Puerto Rico in the very near future to enable the Licensing Board to inquire whether or not Applicant has abandoned its intention to construct the North Coast Nuclear Plant facility, it would be in order for the Appeal Board to advise the Licensing Board to treat Intervenors in forma pauperis and thus authorize payments from NRC or Applicant's funds of fees and travel expenses of a legal counsel for Intervenors chosen by the latter. No doubt that the Appeal Board is fully cognizant of the fact that the undersigned Intervenor is not a lawyer and that his personal clashes with counsel for Applicant, if recurred, may not contribute to maintaining the prospective hearings free of further personal clashes which could obstruct the conduct of the proceedings. In view of this undesirable situation and in consideration of the constitutional provisions guaranteeing due process and equal protection of the law, Intervenors pray the Honorable Appeal Board to recommend to the ASLB that they institute the means to provide legal counsel for Intervenors during hearings including travel expenses from Washington, D.C. or New York and lodging in Puerto Rico."

● WHEREFORE, Intervenors pray the Honorable Licensing Board to rule on the above matter so as to grant Intervenors the relief sought, that is, legal assistance during hearings, including round trip travel and lodging expensed for counsel from Washington, D.C.

In San Juan, Puerto Rico, this 27th day of August, 1980.



Gonzalo Fernós, Pro Se, and
representing Members of CCNR
503 Barbé Street
Santurce, Puerto Rico 00912
Tels. (809) 727-0087 / 727-2287

CERTIFICATE OF SERVICE BY MAIL

● I HEREBY CERTIFY : That on this same date original and 2 copies of the above motion entitled : MOTION TO REQUEST LEGAL ASSISTANCE have been filed by First Class U.S. Mail with the Nuclear Regulatory Commission, Docketing and Service Section ; one copy served by First Class or Air Mail on each of the following : Alan S. Rosenthal, Esq., Chairman, ASLAB ; Dr. John H. Buck, Member, ASLAB ; Michael C. Farrar, Esq., Member, ASLAB ; Sheldon J. Wolfe, Esq., Chairman, ASLB ; Dr. Richard F. Cole, Member, ASLB ; Mr. Gustave A. Linenberger, Member, ASLB ; Edwin J. Reis, Esq., Counsel for NRC Staff (All the above bearing same address as follows : United States Nuclear Regulatory Commission, Washington, D.C. 20555) ; Maurice Axelrad, Esq., Lowenstein, Newman, Axelrad & Toll, 1025 Connecticut Avenue, N.W., Washington, D.C. 20036 ; José F. Irizarry, Esq., Legal Counsel for Applicant, Puerto Rico Electric Power Authority, GPO Box 4267, San Juan, Puerto Rico 00936 ; Eng. Alberto Bruno Vega, Executive Director, Puerto Rico Electric Power Authority, GPO Box 4267, San Juan, Puerto Rico 00936.

Gonzalo Fernós