

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

THE ATOMIC SAFETY AND LICENSING BOARD

Sheldon J. Wolfe, Esquire, Chairman
Dr. Richard F. Cole, Member
Gustave A. Linenberger, Jr., Member



In the Matter of)
)
PUERTO RICO ELECTRIC POWER AUTHORITY)
)
(North Coast Nuclear Plant, Unit 1))

Docket No. 50-375 CP

ORDER
(September 8, 1980)

1. On August 27, 1980, Gonzalo Fernos, for himself and on behalf of members of Citizens for the Conservation of Natural Resources, Inc. (Intervenors) filed a Motion To Request Legal Assistance. Therein, in part, Intervenors, for the first time, ^{1/} directly request that we authorize payments from the Nuclear Regulatory Commission's funds of fees and travel expenses of their legal counsel to be chosen by them. In Metropolitan Edison Company (Three Mile Island Nuclear Station, Unit No. 1), CLI-80-19, 11 NRC 700 (1980), while noting that it favors funding, the Commission stated that it would not provide funding to intervenors in that case because Congress had precluded financial assistance being granted out of fiscal year 1980 appropriations. Accordingly, this part of the instant Motion is denied at this time. ^{2/} For fiscal year 1981 Congress may or may not authorize the use of appropriated funds to provide financial assistance to intervenors in NRC proceedings.

^{1/} In the past the Intervenors had only requested funding for past participation. The Order of May 29, 1980 denied that request.

^{2/} We deny with prejudice that part of the Motion requesting that we authorize payments from Applicant's funds to assist the Intervenors. This Board has no authority to assess Applicant or to attach its funds in order to provide financial assistance to the Intervenors.

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2. On August 27, 1980, the Intervenor^{3/}s filed a Motion Of Clarification. Therein they request that the Board advise whether it would admit and consider indirect, circumstantial evidence regarding whether Applicant has abandoned any intention to build the North Coast Nuclear Plant, Unit 1. The Motion is denied because we will not make advance rulings in a void upon the admissibility of evidence nor advise what evidence we will consider in deciding this sole issue. However, the Intervenor^{3/}s are advised that, pursuant to 10 C.F.R. §§ 2.743(c) and 2.760(c), only relevant, material and reliable evidence which is not unduly repetitious will be admitted, and our decision will be based upon the whole record and supported by reliable, probative and substantial evidence. We additionally advise, although not requested to do so by the Intervenor^{3/}s, that we will weigh the credibility of any witness presented by any party to testify.

IT IS SO ORDERED.

FOR THE ATOMIC SAFETY AND
LICENSING BOARD

Sheldon J. Wolfe
Sheldon J. Wolfe, Esquire
Chairman

Dated at Bethesda, Maryland
this 8th day of September, 1980.

^{3/} For some reason, Intervenor^{3/}s misunderstand the clear wording at page 2 of our Order dated August 19, 1980. Therein, we stated that the Mr. Fernos may request for himself, as the Intervenor^{3/}s' representative, the procedural assistance provided for in §§ 2.712 and 2.750, as amended. To date, Mr. Fernos has not so requested.