

January 23, 1981

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

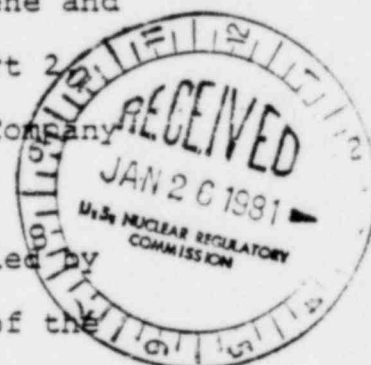


In the Matter of)
)
UNION ELECTRIC COMPANY)
)
(Callaway Plant, Unit 1))

Docket No. STN 50-483 OL

APPLICANT'S ANSWER TO THE PETITION FOR
INTERVENTION FILED BY JOAN BOTWINICK

On November 14, 1980, the NRC issued "Clarification of Notice of Receipt of Application for Facility Operating Licenses; Notice of Consideration of Issuance of Facility Operating Licenses and Notice of Opportunity for Hearing." See 45 Fed. Reg. 77208 (November 21, 1980).^{1/} The November notice provided, among other things, that by December 22, 1980, any person whose interest may be affected by this proceeding may file a petition for leave to intervene and request a hearing, in accordance with 10 C.F.R. Part 2 with respect to the application by Union Electric Company for a license to operate Callaway Plant, Unit 1.



A petition dated December 8, 1980 was filed by Ms. Joan Botwinick ("Petitioner") with the Office of the Secretary, U.S. Nuclear Regulatory Commission. Ms. Botwinick requests a hearing, and seeks to intervene in this proceeding.

^{1/} The November 14, 1980 notice superseded an earlier notice of "Receipt of Application for Facility Operating Licenses; Consideration of Issuance of Facility Operating Licenses and Notice of Opportunity for Hearing," published at 45 Fed. Reg. 56956 (August 26, 1980).

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A copy of the Botwinick petition was received by counsel to Applicant Union Electric Company on January 15, 1981. Applicant submits this answer to the Botwinick petition.

Applicant opposes the granting of intervention status to Ms. Botwinick and the ordering of a hearing in this proceeding on the basis of Ms. Botwinick's December 8, 1980 petition. While the petition at this stage need not list the contentions which a petitioner seeks to litigate or the bases therefore,^{2/} it must meet the criteria set forth in 10 C.F.R. § 2.714. Subsections (a)(2) and (d) of that section provide:

2.714(a)(2). The petition shall set forth with particularity the interest of the petitioner in the proceeding, how that interest may be affected by the results of the proceeding, including the reasons why petitioner should be permitted to intervene, with particular reference to the factors in paragraph (d) of this section, and the specific aspect or aspects of the subject matter of the proceeding as to which petitioner wishes to intervene.

* * *

(d). The Commission, the presiding officer, or the atomic safety and licensing board designated to rule on petitions to intervene and/or requests for hearing shall, in ruling on a petition for leave to intervene, consider the following factors, among other things:

(1) The nature of the petitioner's right under the Act to be made a party to the proceeding.

(2) The nature and extent of the petitioner's property, financial, or other interest in the proceeding.

^{2/} The first prehearing conference has not yet been scheduled, and supplements to petitions, in accordance with 10 C.F.R. § 2.714(b), may be filed at any time up to 15 days before such conference.

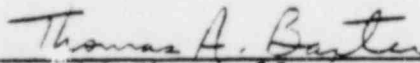
(3) The possible effect of any order which may be entered in the proceeding on the petitioner's interest.

Ms. Botwinick's petition fails to establish her particular interest or standing to intervene in the proceeding. In order to acquire standing, a petitioner must allege some injury in fact, i.e., a cognizable interest, arguably within the zone of interests protected by a relevant statute, which might be adversely affected if the proceeding has one outcome rather than another. Public Service Company of Indiana (Marble Hill Nuclear Generating Station, Units 1 and 2), CLI-80-10, 11 N.R.C. 438, 439 (1980); Portland General Electric Company (Pebble Springs Nuclear Plant, Units 1 and 2), CLI-76-27, 4 N.R.C. 610, 613 (1976); Nuclear Engineering Company (Sheffield Low-Level Radioactive Waste Disposal Site), ALAB-473, 7 N.R.C. 737, 743 (1978). While it is clear that Petitioner is concerned about emissions from the Callaway Plant, Unit 1 polluting her drinking water, Ms. Botwinick has not specified her proximity to the Callaway site. Consequently, it is not possible to determine whether Petitioner asserts a remote and "'generalized grievance' shared in substantially equal measure by all or a large class of citizens," or a concern on the bases of which her health and safety, along with her property interests, may be particularly affected by the outcome of this proceeding. See Transnuclear Inc. et al. (Ten

Applications for Low-Enriched Uranium Exports to Euratom
Member Nations), CLI-77-24, 6 N.R.C. 525, 531 (1977), citing
Warth v. Seldin, 422 U.S. 490, 499 (1975). Applicant therefore
opposes the Botwinick petition.

Respectfully submitted,

SHAW, PITTMAN, POTTS & TROWBRIDGE



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Dated: January 23, 1981

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CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing "Applicant's Answer to the Petition for Intervention Filed by Joan Botwinick" were served this 23rd day of January, 1981, by deposit in the U.S. mail, first class, postage prepaid, upon the following:

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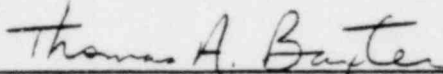
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