



June 22, 1981

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matter of

NORTHERN INDIANA PUBLIC SERVICE
COMPANY

(Bailly Generating Station,
Nuclear-1)

}
Docket No. 50-367
(Construction Permit Extension)
}

NRC STAFF'S RESPONSE TO NIPSCO'S MOTION
FOR ESTABLISHMENT OF SCHEDULE

I. INTRODUCTION

On June 1, 1981, Northern Indiana Public Service Company ("NIPSCO") filed a "Motion for Establishment of Schedule" in this construction permit extension proceeding. The schedule proposed by NIPSCO calls for (1) completion of discovery (all responses filed and depositions taken) by July 31, 1981, (2) filing of testimony by August 31, 1981, and (3) commencement of hearing on September 15, 1981. The NRC Staff supports NIPSCO's motion for the reasons stated below.

II. DISCUSSION

As noted by NIPSCO,^{1/} contentions in this proceeding (with an exception discussed below) have been admitted for some ten months and discovery has been in process during that period. As to the admitted contentions, therefore, a discovery completion date of July 31, 1981,

^{1/} NIPSCO Motion, at 1.

seems completely reasonable.^{2/} The Staff now anticipates issuance of its Safety Evaluation Report ("SER") in sufficient time to allow a reasonable opportunity for such discovery as may be spawned by that document. The Staff also anticipates issuance of its environmental impact assessment ("EIA") concurrently with or shortly after issuance of the SER. Thereafter, the Board could rule upon the admission of those proposed contentions of PCCI and the State of Illinois asserting that the Staff is required to prepare an Environmental Impact Statement ("EIS"), which were deferred pending issuance of the EIA.^{3/} Since these proposed contentions^{4/} raise mainly legal issues susceptible of

2/ We note that the Porter County Chapter Intervenor ("PCCI") have noticed depositions of Staff and NIPSCO employees for various dates during August 1981. Porter County Chapter Intervenor's Notice of Depositions of Owen Thompson and E. L. Jordan (June 9, 1981); Porter County Chapter Intervenor's Notice of Deposition of J. W. Dunn (June 9, 1981). Before the depositions of the Staff witnesses may, however, be taken, the Board must rule in PCCI's favor on its "...Second Application Pursuant to 10 C.F.R. § 2.720(h)(2)(i)" (June 9, 1981). The Staff's time to respond to PCCI's Application runs through June 29, 1981. We believe that the period between now and July 31, 1981 provides sufficient time for the taking of Mr. Dunn's deposition and of the depositions of the named Staff witnesses, should the Board direct that such be taken.

3/ Northern Indiana Public Service Co. (Bailly Generating Station, Nuclear-1), LBP-80-22, 12 NRC 191, 222 (1980) and LBP-80-31, 12 NRC 699, 701 (1980).

4/ Joint Intervenor's First Supplement to Petition for Leave to Intervene (February 26, 1980), Proposed Contention 10, as revised by Porter County Chapter Petitioners' Objections to, Comments On, Requested Revisions of and Reworded Contentions in Response to Provisional Order Following Special Prehearing Conference (June 30, 1980), Reworded - Incorporated Proposed Contentions 10-12, 14, 15; Supplemental Petition of the State of Illinois (February 27, 1980), Proposed Contention 1.

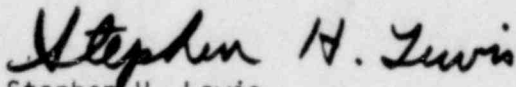
determination on briefs, there is no present reason to believe their resolution could not be accomplished within the schedule proposed by NIPSCO.

Based upon a discovery completion date of July 31, 1981, we also find the proposed testimony filing date of August 31, 1981, and the proposed hearing commencement date of September 15, 1981, to be reasonable.

III. CONCLUSION

For the reasons stated above, the NRC Staff supports the schedule proposed by NIPSCO.

Respectfully submitted,


Stephen H. Lewis
Counsel for NRC Staff

Dated at Bethesda, Maryland,
this 22nd day of June, 1981.

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CERTIFICATE OF SERVICE

I hereby certify that copies of "NRC STA.'S RESPONSE TO NIPSCO'S MOTION FOR ESTABLISHMENT OF SCHEDULE" in the above-captioned proceeding have been served on the following by deposit in the United States mail, first class or as indicated by an asterisk by deposit in the Nuclear Regulatory Commission internal mail system, this 22nd day of June, 1981:

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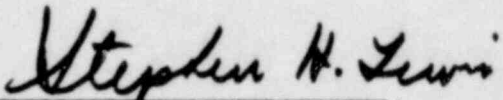
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Atomic Safety and Licensing Appeal
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