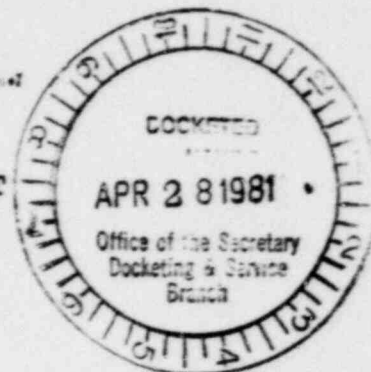


DOCKET NUMBER  
PROD. & UTIL. FAC. 50-367

IN THE  
UNITED STATES COURT OF APPEALS  
FOR THE DISTRICT OF COLUMBIA CIRCUIT



CITY OF GARY, INDIANA, et al., )  
 )  
 Petitioners, )  
 )  
 v. )  
 )  
 NUCLEAR REGULATORY COMMISSION, )  
 )  
 Respondent. )

No. 81-1429



MOTION TO INTERVENE AS RESPONDENT

Northern Indiana Public Service Company (NIPSCO), an Indiana corporation, moves the Court, pursuant to 28 U.S.C. §2348 and Rule 15(d) of the Federal Rules of Appellate Procedure, for leave to intervene as a respondent in this action. This motion is being made within 30 days from the date of the filing of the petition for review.

In support of this motion, NIPSCO states that:

1. It is a public utility duly organized and existing under the laws of the State of Indiana with charter authority to furnish electrical energy and gas to the cities, towns and public in general of the State of Indiana.

2. On August 27, 1970, in furtherance of its corporate purposes, NIPSCO filed an application with the Atomic Energy Commission (now the Nuclear Regulatory

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Commission (NRC)), for a permit to construct a nuclear-powered electrical generating plant at its Bailly Generating Station, Porter County, Indiana, which application was assigned Docket No. 50-367.

3. On April 5, 1974, after extensive hearings before the Atomic Safety and Licensing Board (Licensing Board), the Atomic Energy Commission through the Licensing Board authorized the issuance of a construction permit to NIPSCO for its proposed plant (7 A.E.C. 557), and the construction permit was issued on May 1, 1974.

4. On August 29, 1974, the AEC's Atomic Safety and Licensing Appeal Board (Appeal Board) affirmed the decision of the Licensing Board and denied a request for a stay, and for a remand to the Licensing Board as requested by various intervenors.

5. On review of the Appeal Board's decision in the United States Court of Appeals for the Seventh Circuit the decision of the Appeal Board was reversed and a stay granted (Porter County Chapter of the Izaak Walton League of America, et al. v. Atomic Energy Commission, et al., 515 F.2d 513), but that decision was summarily reversed by the Supreme Court (423 U.S. 12), and on remand the decision of the AEC was affirmed (533 F.2d 1011) and a petition for a writ of certiorari was denied (429 U.S. 945).

6. In the same month that the writ of certiorari was denied, many of the same parties now petitioners in the instant proceeding petitioned the NRC to suspend and revoke the construction permit and requested a hearing to review alleged changes in factual circumstances since the original issuance of the permit. After detailed review, the request was denied by the staff of the Commission, and its action was upheld by the Commission. 7 N.R.C. 429 (1978). On review of that decision by this Court, the decision was affirmed (Porter County Chapter of the Izaak Walton League of America, et al. v. The Nuclear Regulatory Commission, et al., 606 F.2d 1363 (1979)).

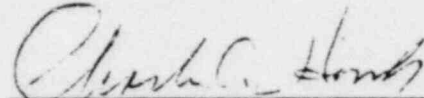
7. While the prior proceeding was pending decision, a further petition for review was filed in this Court (People of the State of Illinois, et al. v. The Nuclear Regulatory Commission and the United States of America, No. 80-1163. The case was argued orally on April 9, 1981.

3. The instant proceeding challenges the decision by the Commission's Appeal Board refusing to permit intervention by petitioners in a proceeding involving extension of the time within which to complete construction of the proposed plant.

9. The interests of NIPSCO as holder of the construction permit will be affected by the order of

judgment of this Court with respect to the petition filed herein.

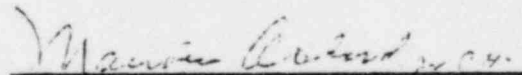
Respectfully submitted,



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Dated: April 24, 1981

IN THE  
UNITED STATES COURT OF APPEALS  
FOR THE DISTRICT OF COLUMBIA CIRCUIT

CITY OF GARY, INDIANA, <u>et al.</u> ,	)	
	)	
<u>Petitioners,</u>	)	
	)	
v.	)	No. 81-1429
	)	
NUCLEAR REGULATORY COMMISSION,	)	
	)	
<u>Respondent.</u>	)	

CERTIFICATE OF SERVICE

I hereby certify, this 24th day of April, 1981,  
that copies of the motion for leave to intervene were served  
by mail, first class and postage prepaid, upon the following:

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