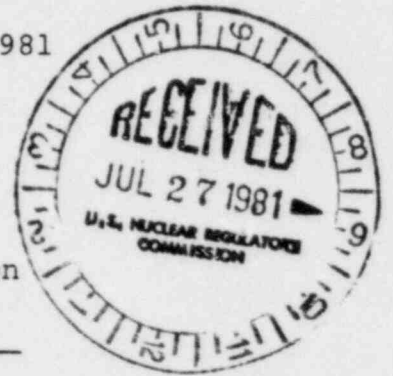


UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD



In the Matter of)
)
NORTHERN INDIANA PUBLIC SERVICE) (Docket No. 50-367
COMPANY) (Construction Permit
) (Extension)
)
(Bailly Generating Station,)
Nuclear-1) July 23, 1981



Northern Indiana Public Service
Company's Response in Opposition
to PCCI Motion to Compel Production
of Documents Pursuant to PCCI's
Fourth Request

Porter County Chapter Intervenors (PCCI) filed their Fourth Request to NIPSCO for Production of Documents on May 19, 1981. Northern Indiana Public Service Company (NIPSCO) responded on June 23, objecting to certain requests and stating that it was withholding some documents from production. On July 8, PCCI filed a Motion to Compel Production (Motion) to which NIPSCO now responds. In our view the Motion to compel production of additional documents in response to Paragraphs 2, 3, 4, 12 and 13 of the Fourth Request is without merit and should be denied forthwith.*

* As noted below, NIPSCO will make specified "original files" available for inspection. We note that the documents in those files are not all "originals."

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Paragraphs 2. and 3.

These requests for "[a]ll minutes of all meetings of NIPSCO's Board of Directors" and "[a]ll records of corporate action" are impermissibly overbroad. The parties have previously stated their arguments on that point and the permissibility of "editing." See PCCI's Motion to Compel Production of Documents by NIPSCO Pursuant to PCCI's Third Request to NIPSCO for Production of Documents (May 11, 1981); NIPSCO's Response to PCCI Motion to Compel Production of Documents Dated May 11, 1981 (May 26, 1981). In the Motion to Compel, PCCI again asserts that that discovery need only be reasonably calculated to lead to the discovery of admissible evidence and fails utterly to acknowledge that the scope of permissible discovery is limited to admitted contentions. 10 C.F.R. § 2.740(b)(1). Contrary to its assertion (Motion to Compel, p. 2), PCCI has not "previously demonstrated that such editing is improper" The Motion with respect to these paragraphs must be denied.

Paragraph 4.

PCCI requested updating of responses to its earlier discovery requests. NIPSCO objected on the ground that the request was, in effect, an attempt to obtain reconsideration of an earlier Board ruling which denied a similar PCCI request. This point has now been rendered moot by the Board's "Order

(Closing Discovery)" dated July 10, 1981, which directs "[t]hat all responses to discovery be updated by August 31, 1981". NIPSCO will, of course, comply with that direction.

Paragraphs 12. and 13.

Two documents* are involved in these requests. The arguments regarding their status have previously been made. See, e.g., NIPSCO's Response to PCCI's Motion to Compel NIPSCO to Physically Produce Documents (June 8, 1981) and General Electric Company's Answer in Opposition to PCCI Motion to Compel Production of Documents and Motion for a Protective Order (June 22, 1981). They need not be repeated here. The Motion to compel production must be denied.

Original files.

Copies rather than "originals" of certain files were furnished in response to PCCI Fourth Request for production of documents because of the long period of time required for PCCI to complete its inspection and return of documents furnished in response to prior discovery requests. (For example, documents furnished on September 26, 1980, in response to PCCI's First Request for production of documents were not returned

* The documents are the letter from William H. Eichhorn to J. K. McClusky of April 29, 1974, and the contract between NIPSCO and GE dated September 5, 1969 (Draft 1/27/72).

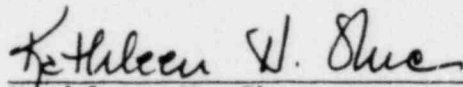
until June 23, 1981.*) NIPSCO's normal day to day operations would be hampered if PCCI removed NIPSCO's "original files" to its own office for inspection and copying. For this reason, NIPSCO provided photo copies of certain "original files." The copies were reviewed before they were delivered to PCCI to ascertain that legible copies were furnished. NIPSCO has retained a copy of the documents furnished in response to PCCI's Fourth Request and has again reviewed those copies to ascertain the legibility of each. Of the more than 500 pages of documents produced from the files, approximately 10 pages contain handwriting which is somewhat less legible than the documents in the "original files." If PCCI would care to examine the "original files," they will be available for inspection at the offices of Eichhorn, Eichhorn, and Link when PCCI representative(s) come to inspect the GE contracts.

PCCI also complains that they are unable "to tell which documents go together or are attached to one another." The documents produced were separated into groups according to the file from which they were produced. Documents from each file were banded together and the title of the file from which they were produced was noted on a yellow sheet of paper attached to each group of documents. If PCCI representatives believe a

* See letter from Mr. Vollen to Mr. Eichhorn dated June 23, 1980.

better understanding of the documents could be obtained by inspection of the original files, they may conduct that inspection at the offices of Eichhorn, Eichhorn & Link when they come to inspect the GE contracts.

Respectfully submitted,



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