

RELATED CORRESPONDENCE



UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matter of)

ARIZONA PUBLIC SERVICE)
COMPANY, et al.)

(Palo Verde Nuclear)
Generating Station,)
Units 1, 2 and 3))

DOCKET NOS. STN 50-528
STN 50-529
STN 50-530

JOINT APPLICANTS' MOTION TO COMPEL INTERVENOR
TO ANSWER SECOND SET OF INTERROGATORIES

Pursuant to 10 CFR § 2.740(f), Joint Applicants Arizona Public Service Company, Salt River Project Agricultural Improvement and Power District, Southern California Edison Company, El Paso Electric Company, and Public Service Company of New Mexico ("Joint Applicants") hereby move the Atomic Safety and Licensing Board ("Board") for an order compelling Intervenor Patricia Lee Hourihan ("Intervenor") to answer "Joint Applicants' Second Set of Interrogatories and Requests for Production of Documents to Intervenor," dated July 21, 1981 ("Second Set of Interrogatories").

In its Memorandum and Order of April 16, 1981, this Board approved the "Stipulation of Parties Regarding Contentions and Discovery," dated December 12, 1980. Pursuant to such stipulation, on May 22, 1981, Intervenor, the

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NRC Staff, and Joint Applicants each served their respective first set of interrogatories. Shortly thereafter, on June 4, 1981, Intervenor and Joint Applicants conferred and entered into the "Stipulation Regarding Answers to Intervenor's and Joint Applicants' First Set of Interrogatories" ("Stipulation"). Such Stipulation, together with Joint Applicants' letter to counsel for Intervenor dated June 8, 1981, were forwarded to this Board by letter dated June 9, 1981.

As noted in Joint Applicants' letter to counsel for Intervenor of June 8, 1981, the underlying basis of the Stipulation was that parties to this proceeding would have the opportunity to serve a second set of written interrogatories, although it was noted that a schedule for such second set of interrogatories had not yet been established.

Joint Applicants served their answers to Intervenor's first set of interrogatories on June 22, 1981; Intervenor served her answers to Joint Applicants' and the NRC Staff's respective first set of interrogatories on June 26, 1981. On or about June 23, 1981, Joint Applicants and Intervenor orally agreed to a schedule for a second set of interrogatories which provided for service of such interrogatories on or before July 21, 1981, and service of answers to such interrogatories on or before August 20, 1981. Counsel for the NRC Staff was informed of such schedule and orally agreed to it.

On July 20, 1981, Bruce Meyerson, counsel for Intervenor, withdrew from the proceeding. In a telephone conversation with counsel for Joint Applicants, Mr. Meyerson acknowledged the prior oral agreement respecting the schedule for a second set of interrogatories.

On July 21, 1981, Joint Applicants and the NRC Staff served their respective second set of interrogatories. On the same date, counsel for Joint Applicants contacted Ms. Hourihan by telephone to inquire whether she would be serving a second set of interrogatories. Ms. Hourihan acknowledged the prior oral agreement among the parties, but stated that she would not be serving a second set of interrogatories by the scheduled date.

To date, Intervenor has not answered Joint Applicants' Second Set of Interrogatories. As already noted, answers were due on August 20, 1981. Furthermore, Joint Applicants have received no communication from Intervenor respecting when her answers will be forthcoming.

In filing this motion, Joint Applicants note that Intervenor did not file an answer to "Joint Applicants' Motion to Compel Intervenor to Answer Interrogatories," dated July 6, 1981, even though this Board's Memorandum and Order of August 3, 1981, granted Intervenor additional time beyond that provided by Section 2.730(c) of the Commission's Rules in which to file an answer. The Board noted in its Order that it was affording Intervenor additional time in


view of the fact that Intervenor's counsel had recently withdrawn from the proceeding. Because Intervenor has now had ample opportunity in which to secure substitute counsel, Joint Applicants would urge this Board to apply the requirements of Section 2.730(c) to Intervenor as to the instant motion to compel and to issue its ruling thereon, even if Intervenor fails to answer within ten days after service of this motion.

WHEREFORE, Joint Applicants move this Board for an immediate order compelling Intervenor to answer Joint Applicants' Second Set of Interrogatories.

Dated: August 28, 1981.

Respectfully submitted,

By


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CERTIFICATE OF SERVICE

I hereby certify that copies of "Joint Applicants' Motion to Compel Intervenor to Answer Second Set of Interrogatories" have been served upon the following listed persons by deposit in the United States mail, properly addressed and with postage prepaid, this 28th day of August, 1981.

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