

Docket

Section 2.740(c) of the Rules of
Session ("NRC"), Illinois
and West

1. Prairie Alliance in its Request seeks documents and other information* which could only be arguably relevant

02070565 830202
05000461
PDR

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

DOCKETED
NRC

'83 FEB -4 P2:23

IN THE MATTER OF)
ILLINOIS POWER COMPANY,)
SOYLAND POWER COOPERATIVE, INC.)
and WESTERN ILLINOIS POWER)
COOPERATIVE, INC.)

Docket No. 50-461 OL

(Operating License for Clinton)
Power Station, Unit 1))

MOTION OF APPLICANTS THAT DISCOVERY NOT BE HAD
WITH RESPECT TO PRAIRIE ALLIANCE'S REQUEST FOR
PRODUCTION OF DOCUMENTS OF JANUARY 28, 1983

Pursuant to Section 2.740(c) of the Rules of Practice of the Nuclear Regulatory Commission ("NRC"), Illinois Power Company, Soyland Power Cooperative, Inc., and Western Illinois Power Cooperative, Inc. ("Applicants") move for a protective order that discovery not be had with respect to Prairie Alliance's Request for Production of Documents of January 28, 1983 (the "Request"). In support of their Motion, Applicants state as follows:

1. Prairie Alliance in its Request seeks documents and other information* which could only be arguably relevant

*Although Prairie Alliance styles its Request as a request for production of documents pursuant to 10 C.F.R. § 2.741, three of the five numbered requests (Numbers 3, 4, and 5) are not requests for documents. Instead Request Numbers 3, 4, and 5 seek to have Applicants answer various questions concerning General Electric's nuclear business operations. Thus Request Numbers 3, 4, and 5 are in the form of interrogatories and cannot be considered requests for production of documents. If Prairie Alliance wants the information it seeks in Request Numbers 3, 4, and 5, it should comply with the proper rules.

to Contention VI (concerning General Electric's alleged withdrawal from the nuclear hardware market). Applicants find Prairie Alliance's Request curious, to say the least, since it partially duplicates Prairie Alliance's Motion to Compel Production of Documents to Applicants of January 5, 1983 ("Motion to Compel"). Request Number 1 of Prairie Alliance's Request seeks the same documents as Request Numbers 1 and 2 of Prairie Alliance's Motion to Compel and Request Number 2 of the Request seeks the same information as Request Number 3 of the Motion to Compel.

2. Applicants previously answered Prairie Alliance's Motion to Compel in their Answer of Applicants in Opposition to Prairie Alliance's Motion to Compel Production of Documents of January 17, 1983 (the "Answer"). In their Answer, Applicants gave three reasons why Prairie Alliance's Motion to Compel should be dismissed:

a. The Motion to Compel was procedurally incorrect because Applicants had not received the requisite request for production of documents;

b. The Motion to Compel was not signed by the designated representative of Prairie Alliance; and

c. Discovery proceedings with respect to Contention VI should be stayed until the Atomic Safety and Licensing Board (the "Board") has ruled on Applicants' Motion for Summary Disposition of Contention VI of January 17, 1983.

3. Prairie Alliance's Request seems designed to cure the two procedural deficiencies which Applicants noted in their Answer. The Request is a request for production of documents. Moreover, The Request was signed by Jean Foy, the designated representative of Prairie Alliance.*

4. Although the Request belatedly attempts to correct procedural deficiencies noted in Applicants' Answer, discovery on Contention VI should be stayed until the Board has ruled on Applicants' Motion for Summary Disposition of Contention VI. The Motion for Summary Disposition conclusively shows that no issue of fact remains with respect to Contention VI and that Applicants are entitled to summary disposition as a matter of law. Until such time as the Motion for Summary Disposition of Contention VI is ruled upon by the Board, any discovery proceedings, be they in the form of document requests, interrogatories, motions to compel, or other, should be stayed.

*Applicants note, however, that the Request was signed by both Randall L. Plant and Jean Foy as "representatives" of Prairie Alliance. Applicants previously understood that Jean Foy was the only designated representative of Prairie Alliance. As Applicants pointed out in their Answer of January 17, 1983, they find it difficult, if not impossible, to deal with Prairie Alliance when they do not know if the person signing on behalf of Prairie Alliance is in fact an authorized representative of Prairie Alliance. Answer, p. 2. If Randall Plant is an authorized representative of Prairie Alliance, Applicants, and presumably the Board as well, would appreciate proper notification of this fact.

WHEREFORE, Applicants renew the request made in their Answer that discovery not be had with respect to Contention VI and request that the Board enter a protective order pursuant to 10 C.F.R. § 2.740(c) to that effect.

Respectfully submitted,

Charles D. Fox IV
One of the Attorneys for
Applicants

Sheldon A. Zabel
Charles D. Fox IV
SCHIFF HARDIN & WAITE
7200 Sears Tower
233 South Wacker Drive
Chicago, Illinois 60606
(312) 876-1000

Dated: February 2, 1983

CERTIFICATE OF SERVICE

I hereby certify that an original and two con-
formed copies of the foregoing document were served upon
the following:

Secretary of the Commission
United States Nuclear Regulatory Commission
Washington, D.C. 20555
Attention: Docketing and Service Branch

and that one copy of the foregoing document was served upon
each of the following:

Hugh K. Clark, Esq., Chairman
P.O. Box 127A
Kennedyville, Maryland 21645

Dr. George A. Ferguson
School of Engineering
Howard University
2300 Sixth Street, N.W.
Washington, D.C.

Dr. Oscar H. Paris
Atomic Safety and Licensing Board
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

Executive Legal Director
United States Nuclear Regulatory Commission
Washington, D.C. 20555

Philip L. Willman
Assistant Attorney General
Environmental Control Division
188 West Randolph Street
Suite 2315
Chicago, Illinois 60610

Jean Foy
511 W. Nevada
Urbana, Illinois 61808

Prairie Alliance
Box 2424
Station A
Champaign, Illinois 61820

Herbert H. Livermore
U.S. Nuclear Regulatory Commission
RR 3, Box 229A
Clinton, Illinois 61727

Atomic Safety and Licensing Board Panel
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

Atomic Safety and Licensing
Appeal Board Panel
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

in each case by deposit in the United States Mail, postage
prepaid on February 2, 1983.

Sheldon A. Zabel

One of the Attorneys for
Applicants

Sheldon A. Zabel
Charles D. Fox IV
SCHIFF HARDIN & WAITE
7200 Sears Tower
233 South Wacker Drive
Chicago, Illinois 60606
(312) 876-1000

DOCKETED
USNRC

'83 FEB -4 P1:19

OFFICE OF SECRETARY
NUCLEAR REGULATORY COMMISSION
SEARCH

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

IN THE MATTER OF)
ILLINOIS POWER COMPANY,)
SOYLAND POWER COOPERATIVE, INC.)
and WESTERN ILLINOIS POWER)
COOPERATIVE, INC.) Docket No. 50-461 OL
(Operating License for Clinton)
Power Station, Unit 1))

NOTICE

TO: Hugh K. Clark, Esq., Chairman
P.O. Box 127A
Kennedyville, Maryland 21645

Dr. George A. Ferguson
School of Engineering
Howard University
2300 Sixth Street, N.W.
Washington, D.C. 20059

Dr. Oscar H. Paris
Atomic Safety and Licensing Board
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

Executive Legal Director
United States Nuclear Regulatory Commission
Washington, D.C. 20555

Philip L. Willman
Assistant Attorney General
Environmental Control Division
188 West Randolph Street
Suite 2315
Chicago, Illinois 60610

Jean Foy
511 W. Nevada
Urbana, Illinois 61808

Prairie Alliance
Box 2424
Station A
Champaign, Illinois 61820

Herbert H. Livermore
U.S. Nuclear Regulatory Commission
Clinton Nuclear Power Station
RR 3, Box 229A
Clinton, Illinois 61727

Atomic Safety and Licensing Board Panel
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

Atomic Safety and Licensing
Appeal Board Panel
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

PLEASE TAKE NOTICE that I have filed with the Secretary of the United States Nuclear Regulatory Commission MOTION OF APPLICANTS THAT DISCOVERY NOT BE HAD WITH RESPECT TO PRAIRIE ALLIANCE'S REQUEST FOR PRODUCTION OF DOCUMENTS OF JANUARY 28, 1983 in the above-captioned matter. A copy of this document is attached hereto and hereby served upon you.

Charles D. Fox IV
One of the Attorneys for
Applicants

Sheldon A. Zabel
Charles D. Fox IV
SCHIFF HARDIN & WAITE
7200 Sears Tower
233 South Wacker Drive
Chicago, Illinois 60606
(312) 876-1000

Dated: February 2, 1983