

12/08/81

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD



In the Matter of

PUBLIC SERVICE COMPANY OF OKLAHOMA,  
ASSOCIATED ELECTRIC COOPERATIVE, INC.  
AND  
WESTERN FARMERS ELECTRIC COOPERATIVE, INC.  
(Black Fox Station, Units 1 and 2)

Docket Nos. STN 50-556  
STN 50-557

RESPONSE OF NRC STAFF TO INTERVENORS'  
SUPPLEMENT TO MOTION TO REOPEN

On November 20, 1981, Citizens' Action for Safe Energy, Laurence Burrell, and Ilene Younghein ("Intervenors") moved to supplement<sup>1/</sup> their previous Motion to Reopen the Radiological and Safety Hearings.<sup>2/</sup> Essentially, Intervenors wish to have considered the testimony of Mr. William R. Stratton, Senior Vice President, Finance, Public Service Company of Oklahoma,<sup>3/</sup> in connection with Intervenors' motion to reopen

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- 1/ Intervenors' Supplement to Motion to Reopen, November 20, 1981. (Intervenors' "Supplement")
- 2/ Dated November 5, 1981.
- 3/ Testimony of William R. Stratton, attached to letter to Licensing Board from Joseph Gallo, November 13, 1981.

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the record on the issue of financial qualifications. Mr. Stratton's testimony was presented on November 9 and 10, 1981 before the Oklahoma Corporation Commission on a pending rate request.<sup>4/</sup> Intervenors argue that "the testimony provides additional insight into the financial condition of Applicant, Public Service Company of Oklahoma, and the effect of Black Fox Station on its future financial viability."<sup>5/</sup>

NRC Staff does not oppose Intervenors' motion to supplement their previous filing. However, beyond a conclusory assertion that the testimony provides "insight" into the effect of Black Fox on the "future financial viability" of Public Service Company of Oklahoma ("PSO"), Intervenors' motion as supplemented continues to fall short of the standards<sup>6/</sup> required for reopening the record on the issue of financial qualifications. To support reopening a closed evidentiary record, Intervenors must do more than merely point to a portion of Mr. Stratton's testimony which admits that the upcoming period represents a "time of financial stress for PSO." As the Commission noted in its Seabrook

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<sup>4/</sup> Letter to Joseph Gallo from W. R. Stratton, November 12, 1981, attached to letter to Licensing Board from Joseph Gallo November 13, 1981.

<sup>5/</sup> Intervenors' Supplement, supra, at 2.

<sup>6/</sup> These standards are discussed in "Response of NRC Staff to Intervenors' Motion to Reopen the Radiological and Safety Hearings and to Intervenors' Proposed Contentions for the Reopened Hearings," dated November 20, 1981, at 5 et seq.

decision, reasonable assurance of obtaining the necessary funds -- the standard of 10 C.F.R. §50.33(f) --

"does not mean a demonstration of near certainty that an applicant will never be pressed for funds in the course of construction. It does mean that the applicant must have a reasonable financing plan in the light of the relevant circumstances." 7/

Because Intervenor's in their motions have failed to specify any new information which challenges the reasonableness of Applicants' financing plan in the circumstances, they have failed to present the requisite new information which might affect the outcome of the proceeding.<sup>8/</sup> As such, the Licensing Board should deny Intervenor's motion to reopen on the issue of financial qualifications.

Respectfully submitted,

*James H. Thessin*

James H. Thessin  
Counsel for NRC Staff

Dated at Bethesda, Maryland  
this 8th day of December, 1981

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7/ Public Service Co. of New Hampshire (Seabrook, Units 1 and 2), CLI-78-1, 7 NRC 1, 18 (1978), affd. sub nom. New England Coalition on Nuclear Pollution v. NRC, 582 F.2d 87 (1st Cir. 1981).

8/ Public Service Co. of Oklahoma (Black Fox, Units 1 and 2), ALAB-573, 10 NRC 775, 804 (1979).