

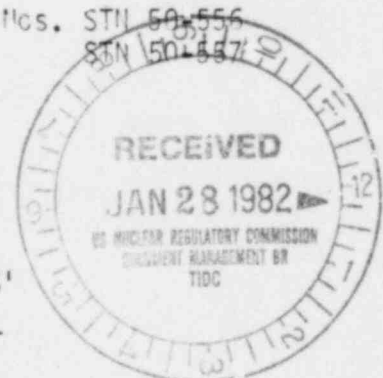
1/27/82

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  
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RESPONSE OF NRC STAFF TO INTERVENORS'  
MOTION TO ABATE PROCEEDINGS

On January 20, 1982, Citizens Action for Safe Energy, Lawrence Burrell and Ilene Younghein ("Intervenors") filed a motion to abate the construction permit proceeding for Black Fox for 30 days from and after January 15, 1982.<sup>1/</sup> The basis for the motion was a January 15, 1982 Order of the Oklahoma Corporation Commission (OCC), which stated OCC's views with respect to financing the Black Fox plant. Intervenors argue that this Order makes likely the cancellation of Black Fox. They consequently wish to defer any further proceedings before the Nuclear Regulatory Commission until February 15 in expectation that the Applicants may by then decide whether or not to cancel the plant.

<sup>1/</sup> By a telephone call the Licensing Board asked the Staff to file its response to Intervenors' Motion no later than January 27.

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Certified By *Jim Thessin*

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The NRC Staff opposes this motion to abate proceedings. As long as Applicants are actively seeking a construction permit for the Black Fox facility, there is no basis for the NRC to abate a licensing proceeding on the sole grounds that Applicants may in the future change their position on obtaining a construction permit.

Intervenors understandably do not wish to shoulder any additional financial burden for this proceeding if cancellation of the plant is imminent. Applicants, in response, have asserted that alternatives to cancellation are viable considerations.<sup>2/</sup> In addition, the proceeding is now at a stage where the burden of proceeding rests principally on the NRC Staff and the Applicants. By the terms of the Board's scheduling order of October 14, 1981, Intervenors have until February 1, this coming Monday, to file any additional contentions based upon the Safety Evaluation Report, Supplement No. 3 which was issued on December 31, 1981. The process of drafting these contentions is no doubt well along at this late date. Thus, the burden of filing those contentions in a timely manner would not serve as good cause for suspending this proceeding.

In addition, Intervenors, the Applicants and the NRC Staff have agreed to continue until the end of February discovery on matters admitted by the Board at the December 17, 1981 prehearing conference. In essence, this means that the depositions which the Applicants intend to take of the Intervenors' witnesses would be held at some time after

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<sup>2/</sup> Reply in Opposition to Intervenors' Motion to Abate Proceedings, dated January 25, 1982, at 2.

February 15. Because Intervenor's experts can be deposed at one time both on matters admitted at the December 17 prehearing conference and on any matters newly posed by Intervenor in their forthcoming filing of contentions, this change in the schedule would serve to reduce for all parties the travel burden involved in deposing witnesses in California without delaying the proceeding.<sup>3/</sup> In light of this change in the timing of depositions, the NRC Staff has already informed the Intervenor that they should defer responding to interrogatories filed on January 15 by the Staff until after the depositions are taken. This was done because the answers to these interrogatories, for the most part, can be obtained as efficiently by deposition as by written answer. Thus, the discovery burden upon the Intervenor would be minimal as the proceeding continues during this time period of proposed abatement.

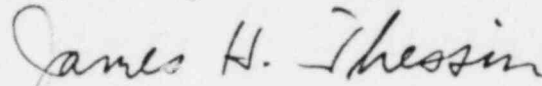
The process of defining the issues in this proceeding--a cornerstone of any licensing proceeding -- is nearly complete. In light of the Commission's expectation that the licensing process will move along at an

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<sup>3/</sup> Intervenor has indicated to the Staff that they intend to file additional contentions on the Safety Evaluation Report as scheduled, if the proceeding is not abated. By the terms of the October 14 scheduling order a prehearing conference would be held in the beginning of March on these contentions relating to the Safety Evaluation Report. That prehearing conference must precede second round discovery and motions for summary disposition. Thus, continued discovery on admitted contentions prior to that prehearing conference causes no delay in the Board's schedule.

expeditious pace once it begins,<sup>4/</sup> it is imperative that this process be concluded as scheduled. Moreover, because of the minimal burden upon the Intervenors of proceeding during this period of proposed abatement, it would be inappropriate for the Licensing Board to suspend the proceeding at this time.

Respectfully submitted,

A handwritten signature in cursive script that reads "James H. Thessin".

James H. Thessin  
Counsel for NRC Staff

Dated at Bethesda, Maryland  
this 27th day of January, 1982

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<sup>4/</sup> Statement of Policy on the Conduct of Licensing Proceedings, published May 27, 1981 (46 Fed. Reg. 28533).

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

Docket Nos. STN 50-556  
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CERTIFICATE OF SERVICE

I hereby certify that copies of "RESPONSE OF NRC STAFF TO INTERVENORS' MOTION TO ABATE PROCEEDINGS" in the above-captioned proceeding have been served on the following by deposit in the United States mail, first class, or, as indicated by an asterisk through deposit in the Nuclear Regulatory Commission's internal mail system, this 27th day of January, 1982:

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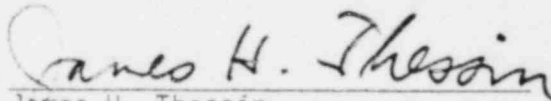
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