



UNITED STATES  
NUCLEAR REGULATORY COMMISSION  
WASHINGTON, D. C. 20555

March 11, 1982

Mr. Russell Jim  
Tribal Councilman  
Consolidated Tribes and Bands  
Yakima Indian Nation  
P.O. Box 151  
Toppenish, Washington 98948



In the Matter of  
Puget Sound Power & Light  
(Skagit/Hanford Nuclear Power Project,  
Units 1 and 2)  
Docket Nos. STN 50-522 & STN 50-523

Dear Mr. Jim:

It has come to my attention through a telephone conversation with Erline Reber that the Yakima Indian Nation wishes to intervene in the Skagit/Hanford proceeding before the U.S. Nuclear Regulatory Commission (NRC). This proceeding involves Puget Sound Power & Light Company's, et al. application for construction permits for two nuclear reactors at the Department of Energy's Hanford Reservation in Benton County, Washington. A copy of the Notice of Receipt of Amended Application and Notice of Hearing, which was published in the Federal Register on February 5, 1982 (47 Fed. Reg. 5554), was mailed to you on February 10, 1982. In case that copy escaped your attention, I am enclosing another one for your information.

You will notice that the Notice of Hearing provided that petitions to intervene were due to be filed by March 8, 1982. Since that date has passed, any petition to intervene submitted by the Yakima Indian Nation would be untimely. Untimely petitions to intervene can be filed, but they will not be entertained absent a determination by the Atomic Safety and Licensing Board that the petitioner has made a substantial showing of good cause for the granting of a late petition. That determination will be based upon a balancing of the factors specified in 10 C.F.R. § 2.714(a)(1)(i)-(v)) and § 2.714(d). A copy of 10 C.F.R. § 2.714 has also been enclosed for your convenience.

The NRC does not wish to either encourage or discourage your intervention in this proceeding. That is a legal consideration which should be decided by you after consultation with the Consolidated Tribes and your attorney. It is a question, however, which should be resolved as soon as possible in order that your untimely intervention petition, if filed, would be considered in a light most favorable to you. Since hearings on this application are scheduled to

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commence in mid-June, 1982, a substantial delay in the submission of a petition to intervene could result in a prejudice to you in your preparation for hearing as well as a prejudice to all other parties and, ultimately, might result in a denial of your intervention attempt.

Regardless of your decision on intervention in this proceeding, the NRC and the State of Washington believe it is very important to discuss with the Yakima Indian Nation the effect of the Skagit/Hanford application on the Consolidated Tribes. These effects would include public health and safety, economic, environmental and cultural. It is my understanding that meetings have been attempted in the past, but for some reason or another, they have never taken place. Please understand that we desire these discussions very much and we think it is crucial to our environmental and safety reviews that we understand your concerns and unique situation as a sovereign nation. It is certainly imperative that we be made aware of any treaty rights which might be affected by this application.

Any meeting with you should be scheduled as quickly as possible since reviews are nearing completion. I hope that you will take this opportunity to contact me directly (301-492-7806) so that discussions can commence and meetings be scheduled.

Sincerely,

Richard L. Black  
Counsel for NRC Staff

Enclosure

cc: Mrs. Erline Reber (w/enclosure)  
1010 Crest Acres Place  
Yakima, Wa. 98908

Mr. Nicholas D. Lewis, Chairman  
Energy Facility Site Evaluation Council  
820 East 5th Avenue  
Olympia, Washington 98504

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SURNAME	R. Black	E. Rejs	D. Miller				
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UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

7590-01

DOCKETED

In the Matter of Puget Sound Power &  
Light Company, Pacific Power and  
Light Company, The Washington Water  
Power Company, and Portland General  
Electric Company

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and STN 50-523

(Skagit/Hanford Nuclear Project,  
Units 1 and 2)

Formerly  
(Skagit Nuclear Power Project,  
Units 1 and 2)

NOTICE OF RECEIPT OF AMENDED FEB-2 11:49  
APPLICATION FOR CONSTRUCTION PERMITS  
AND FACILITY LICENSES AND NOTICE OF  
HEARING ON AMENDED APPLICATION FOR  
CONSTRUCTION PERMITS

By an application dated September 18, 1974, Puget Sound Power & Light Company, acting for itself and as agent for Pacific Power and Light Company, The Washington Water Power Company, Idaho Power Company, and Washington Public Power Supply System applied for construction permits for two boiling water nuclear reactors designated as the Skagit Nuclear Power Project, Units 1 and 2, each of which was designed for operation at 3800 thermal megawatts with a net electrical output of approximately 1300 megawatts per unit. The proposed facilities were to be located at the applicants' site 5 miles northeast of Sedro Woolley in Skagit County, Washington. By an agreement dated January 23, 1977, ownership shares in the Skagit facility were reallocated. Idaho Power Company and Washington Public Power Supply System are no longer co-applicants, and Portland General Electric Company was added as a 30% owner and co-applicant. Hearings on the Skagit application have been convened pursuant to a Notice of Hearing published in the Federal Register on December 20, 1974 (39 FR 44065) and also pursuant to an Amended Notice of Hearing published in the Federal Register on March 1, 1977 (41 FR 8835).

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On September 26, 1981, Puget Sound Power & Light Company submitted Amendment 5 to the application which relocates the proposed nuclear facilities to the Department of Energy's Hanford Reservation in Benton County, Washington, and changes the name of the project from Skagit Nuclear Power Project to Skagit/Hanford Nuclear Project. The proposed facilities, designated Skagit/Hanford Nuclear Project, Units 1 and 2, will retain the same design boiling water reactors as the original application and will be located approximately 8 miles west of the Columbia River, 7 miles north of the Yakima River at Horn Rapids Dam, and 12 miles northwest of the city of North Richland in Benton County, Washington.

Pursuant to the Atomic Energy Act of 1954, as amended (the Act), and the regulations in Title 10, Code of Federal Regulations, Part 50, "Licensing of Production and Utilization Facilities", Part 51, "Licensing and Regulatory Policy and Procedures for Environmental Protection", and Part 2, "Rules of Practice for Domestic Licensing Proceedings", notice is hereby given that a hearing will be held at a time and place to be set by the Atomic Safety and Licensing Board (Board) previously designated to preside over the proceeding, to consider the application, as amended. Portions of this hearing may be held jointly between the U.S. Nuclear Regulatory Commission (NRC) and the Washington State Energy Facility Site Evaluation Council (EFSEC) on matters within their jurisdiction, particularly the National Environmental Policy Act of 1969 (NEPA) and the State Environmental Policy Act of 1971 (SEPA). The joint hearing will be governed by the Protocol for the Conduct of Joint Hearings which is set forth in an agreement between the NRC and EFSEC, dated July 31, 1981.

The NRC staff has completed part of its safety evaluation with respect to the Skagit/Hanford Project. These completed reviews are set forth in the staff Safety

Evaluation Reports (SERs) for the Skagit/Hanford Nuclear Project, Units 1 and 2 (formerly, Skagit Nuclear Power Project, Units 1 and 2): NUREG-0309 (September 1977); NUREG-0309, Supplement No. 1 (October 1978); and NUREG-0309, Supplement No. 2 (October 1981). Supplement No. 2 to the Skagit/Hanford SER addresses all the action items relative to the accident at Three Mile Island, Unit 2 that currently must be reviewed. Upon completion by the Commission's staff of the final supplement to the SER and an environmental review, and upon receipt of a report by the Advisory Committee on Reactor Safeguards, the Director of Nuclear Reactor Regulation will consider making affirmative findings on Items 1-3, a negative finding on Item 4, and an affirmative finding on Item 5 specified below as a basis for the issuance of construction permits to the applicants. In the event that a separate hearing is held with respect to a Limited Work Authorization, Item 6 below describes the matters for consideration.

Issues Pursuant to the Atomic Energy Act of 1954, as Amended

1. Whether in accordance with the provisions of 10 CFR §50.35(a):

- (a) The applicant has described the proposed design of the facilities including, but not limited to, the principal architectural and engineering criteria for the design, and has identified the major features or components incorporated therein for the protection of the health and safety of the public;
- (b) Such further technical or design information as may be required to complete the safety analysis and which can reasonably be left for later consideration, will be supplied in the final safety analysis report;
- (c) Safety features or components, if any, which require research and development have been described by the applicant and the applicant has identified, and there will be conducted a research and development program reasonably designed to resolve any safety questions associated with such features or components; and

- (d) On the basis of the foregoing, there is reasonable assurance that (i) such safety questions will be satisfactorily resolved at or before the latest date stated in the application for completion of construction of the proposed facilities, and (ii) taking into consideration the site criteria contained in 10 CFR Part 100, the proposed facilities can be constructed and operated at the proposed location without undue risk to the health and safety of the public.
2. Whether the applicant is technically qualified to design and construct the proposed facilities;
  3. Whether the applicant is financially qualified to design and construct the proposed facilities; and
  4. Whether the issuance of permits for construction of the facilities will be inimical to the common defense and security or to the health and safety of the public.

Issue Pursuant to National Environmental Policy Act of 1969 (NEPA)

5. Whether, in accordance with the requirements of 10 CFR Part 51, the construction permits should be issued as proposed.

Issues Pursuant to 10 CFR § 2.761a (Limited Work Authorization)

6. Pursuant to 10 CFR § 2.761a, a separate hearing and partial decision by the Board on issues pursuant to NEPA and general site suitability and certain other possible issues may be held and issued prior to and separate from the hearing and decision on other issues. In the event the Board, after the separate hearing, makes favorable findings on such issues, the Director of Nuclear Reactor Regulation may, pursuant to 10 CFR § 50.10(e) authorize the applicants to conduct certain onsite work entirely at their own risk prior to completion of the remainder of the proceeding.



In the event that this proceeding is not a contested proceeding, as defined by 10 CFR 2.4(n), the Board will determine without conducting a de novo evaluation of the application: (1) whether the application and the record of the proceeding contain sufficient information, the review of the application by the Commission's staff has been adequate to support the proposed findings to be made by the Director of Nuclear Reactor Regulation on Items 1-4 above, and to support, insofar as the Commission's licensing requirements under the Act are concerned, the issuance of the construction permits proposed by the Director of Nuclear Reactor Regulation; and (2) whether the NEPA review conducted by the Commission's staff has been adequate.

In the event that this proceeding becomes a contested proceeding, the Board will consider and initially decide, as issues in this proceeding, Items 1-5 above as a basis for determining whether construction permits should be issued to the applicant.

With respect to the Commission's responsibilities under NEPA, and regardless of whether the proceeding is contested or uncontested, the Board will, in accordance with 10 CFR §1.52(c): (1) determine whether the requirements of Section 102(2)(A), (C), and (E) of NEPA and 10 CFR Part 51 have been complied with in this proceeding; (2) independently consider the final balance among conflicting factors contained in the record of the proceeding for the permits with a view to determining the appropriate action to be taken; and (3) determine after weighing the environmental, economic, technical and other benefits against environmental and other costs, and considering available alternatives whether construction permits should be issued, denied, or appropriately conditioned to protect environmental values.

The Board will convene a prehearing conference of the parties, of their counsel, to be held subsequent to any required special prehearing conference, and within sixty

(60) days after discovery has been completed or at such other time as the Board may specify, for the purpose of dealing with the matters specified in 10 CFR §2.752.

The Board will set the time and place for any special prehearing conference, prehearing conference and evidentiary hearing, and the respective notices will be published in the FEDERAL REGISTER.

Any person who does not wish, or is not qualified, to become a party to this proceeding may request permission to make a limited appearance pursuant to the provisions of 10 CFR §2.715. A person making a limited appearance may make an oral or written statement of position on the issues. A limited appearance may be made at any session of the hearing or at any prehearing conference subject to such limits and conditions as may be imposed by the Board. Persons desiring to make a limited appearance are requested to inform the Board by APR 6 1982

Any person whose interest may be affected by the proceeding, who wishes to participate as a party in the proceeding must file a written petition under oath or affirmation for leave to intervene in accordance with the provisions of 10 CFR §2.714. A petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) the nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding, and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or



who has been admitted as a party may amend a petition, but such an amended petition must satisfy the specificity requirements described above. A petition that sets forth contentions relating only to matters outside the jurisdiction of the Commission will be denied.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, the petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter, and the bases for each contention set forth with reasonable specificity. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to present evidence and cross-examine witnesses.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Atomic Safety and Licensing Board that the petitioner has made a substantial showing of good cause for the granting of a late petition and/or request. That determination will be based upon a balancing of the factors specified in 10 CFR §2.714(a)(1)(i)-(v)) and §2.714d.

With respect to the application, as amended, for construction permits for the Skagit/Hanford Nuclear Project, Units 1 and 2, all persons previously admitted as intervenors in this proceeding who wish to further participate with respect to the amended application, shall submit an amended petition for leave to intervene that

conforms to the requirements described above. Such amended petitions shall be filed within the time period for the filing of a petition to intervene.

An answer to this notice, pursuant to the provisions of 10 CFR §2.705 must be filed by the applicant by MAR 1 1982

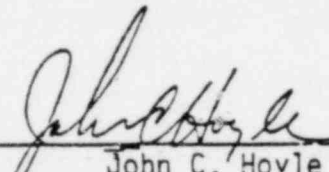
A request for a hearing or a petition or amended petition for leave to intervene shall be filed by MAR 8 1982 with the Secretary of the Commission, United States Nuclear Regulatory Commission, Washington, D. C. 20555, Attention: Docketing and Service Branch, or may be delivered to the Commission's Public Document Room, 1717 H Street, N.W., Washington, D. C. by the above date. A copy of the petition should also be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D. C. 20555, and to Mr. F. Theodore Thomsen, Perkins, Coie, Stone, Olsen & Williams, 1900 Washington Building, Seattle, Washington 98101, attorney for the applicant. Pending further order of the Board, parties are required to file, pursuant to the provisions of 10 CFR 2.708, an original and two (2) conformed copies of each such paper with the Commission. Any questions or requests for additional information regarding the content of this notice should be addressed to the Chief Hearing Counsel, Office of the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D. C. 20555.

For further details, see the application for construction permits dated September 18, 1974, including site suitability information and the applicant's environmental report, along with any amendments or supplements thereto, which are or will be available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D. C., between the hours of 8:30 a.m. and 5:00 p.m. on weekdays. Copies of these documents will be available at the Richland Public Library, Swift and Northgate Streets, Richland, Washington 99352 between the hours of 10:30 a.m. and

9:00 p.m. on Monday thru Thursday, 5:00 p.m. and 9:00 p.m. on Friday, 10:30 a.m. and 5:30 p.m. on Saturday, and between 1:00 p.m. and 5:00 p.m. on Sundays during the school year only. As they become available, a copy of the safety evaluation report by the Commission's staff, the draft and final environmental statements, the report of the Advisory Committee on Reactor Safeguards (ACRS), the proposed construction permits, the transcripts of the prehearing conferences and of the hearing, and other relevant documents, will also be available at the above locations. Copies of the proposed construction permits and the ACRS report may be obtained, when available, by request to the Director, Division of Licensing, U.S. Nuclear Regulatory Commission, Washington, D. C. 20555. Copies of the Commission's staff safety evaluation reports and final environmental statement, when available, may be purchased at current rates, from the National Technical Information Service, Department of Commerce, 5285 Port Royal Road, Springfield, Virginia 22161.

FOR THE U. S. NUCLEAR REGULATORY COMMISSION

By

  
John C. Hoyle  
Acting Secretary of the Commission

Dated at Bethesda, Maryland,

this 1<sup>st</sup> day of February, 1982.

(3) Anyone disciplined pursuant to this section may within ten (10) days after issuance of the order file an appeal with the Atomic Safety and Licensing Appeal Board or the Commission, as appropriate. The appeal shall be in writing and state concisely, with supporting argument, why the appellant believes the order was erroneous, either as a matter of fact or law. The Appeal Board or Commission, as appropriate, shall consider each appeal on the merits, including appeals in cases in which the suspension period has already run. If necessary for a full and fair consideration of the facts, the Appeal Board or Commission, as appropriate, may conduct further evidentiary hearings, or may refer the matter to another presiding officer for development of a record. In the latter event, unless the Appeal Board or the Commission, as appropriate, provides specific directions to the presiding officer, that officer shall determine the procedure to be followed and who shall present evidence, subject to applicable provisions of law. Such hearing shall commence as soon as possible. In the case of an attorney, if no appeal is taken of a suspension, or, if the suspension is upheld at the conclusion of the appeal, the presiding officer, the Appeal Board, or the Commission, as appropriate, shall notify the state bar(s) to which the attorney is admitted. Such notification shall include copies of the order of suspension, and, if an appeal was taken, briefs of the parties, and the decision of the Appeal Board or Commission.

(4) A suspension exceeding 1 day shall not be effective for 72 hours from the date the suspension order is issued. Within this time a suspended individual may request a stay of the sanction from the appropriate reviewing tribunal pending appeal. No responses to the stay request from other parties will be entertained. If a timely stay request is filed, the suspension shall be stayed until the reviewing tribunal rules on the motion. The stay request shall be in writing and contain the information specified in §§ 2.788(b)(1), (2) and (4) of this part. The Appeal Board or Commission, as appropriate, shall rule on the stay request within 10 days after the filing of the motion. The Appeal Board or Commission shall consider the factors specified in §§ 2.788(e)(1) and (e)(2) of this part in determining whether to grant or deny a stay application.

#### § 2.714 Intervention.

(a)(1) Any person whose interest may be affected by a proceeding and who desires to participate as a party shall file a written petition for leave to intervene. In a proceeding noticed pursuant to § 2.105, any person whose interest may be affected may also request a hearing. The petition and/or request shall be filed not later than the time specified in the notice of hearing, or as provided by the Commission, the presiding officer or the atomic safety and licensing board designated to rule on the petition and/or request, or as provided in § 2.102(d)(3). Nontimely filings will not be entertained absent a determination by the Commission, the presiding officer or the atomic safety and licensing board designated to rule on the petition and/or request, that the petition and/or request should be granted based upon a balancing of the following factors in addition to those set out in paragraph (d) of this section:

(i) Good cause, if any, for failure to file on time.

(ii) The availability of other means whereby the petitioner's interest will be protected.

(iii) The extent to which the petitioner's participation may reasonably be expected to assist in developing a sound record.

(iv) The extent to which the petitioner's interest will be represented by existing parties.

(v) The extent to which the petitioner's participation will broaden the issues or delay the proceeding.

(2) The petition shall set forth with particularity the interest of the petitioner in the proceeding, how that interest may be affected by the results of the proceeding, including the reasons why petitioner should be permitted to intervene, with particular reference to the factors in paragraph (d) of this section, and the specific aspect or aspects of the subject matter of the proceeding as to which petitioner wishes to intervene.

(3) Any person who has filed a petition for leave to intervene or who has been admitted as a party pursuant to this section may amend his petition for leave to intervene. A petition may be amended without prior approval of the presiding officer at any time up to fifteen (15) days prior to the holding of the special prehearing conference pursuant to § 2.751a, or where no special prehearing conference is held, fifteen (15) days prior to the holding of the first prehearing conference. After this time a petition may be amended only with approval of the presiding officer, based on a balancing of the factors specified in paragraph (a)(1) of this section. Such an amended petition for leave to intervene must satisfy the requirements of this paragraph (a) of this section pertaining to specificity.

(b) Not later than fifteen (15) days prior to the holding of the special prehearing conference pursuant to § 2.751a, or where no special prehearing conference is held, fifteen (15) days prior to the holding of the first prehearing conference, the petitioner shall file a supplement to his petition to intervene which must include a list of the contentions which petitioner seeks to have litigated in the matter, and the bases for each contention set forth with reasonable specificity. A petitioner who fails to file such a supplement which satisfies the requirements of this paragraph with respect to at least one contention will not be permitted to participate as a party. Additional time for filing the supplement may be granted based upon a balancing of the factors in paragraph (a)(1) of this section.

(c) Any party to a proceeding may file an answer to a petition for leave to intervene within ten (10) days after service of the petition, with particular reference to the factors set forth in paragraph (d) of this section. However, the staff may file such an answer within fifteen (15) days after service of the petition.

(d) The Commission, the presiding officer or the atomic safety and licensing board designated to rule on petitions to intervene and/or requests for hearing shall, in ruling on a petition for leave to intervene, consider the following factors, among other things:

(1) The nature of the petitioner's right under the Act to be made a party to the proceeding.

(2) The nature and extent of the petitioner's property, financial, or other interest in the proceeding.

(3) The possible effect of any order which may be entered in the proceeding on the petitioner's interest.

(e) An order permitting intervention and/or directing a hearing may be conditioned on such terms as the Commission, presiding officer or the designated atomic safety and licensing board may direct in the interests of: (1) Restricting irrelevant, duplicative, or repetitive evidence and argument, (2) having common interests represented by a spokesman, and (3) retaining authority to determine priorities and control the compass of the hearing.

(f) In any case in which, after consideration of the factors set forth in paragraph (d) of this section, the Commission or the presiding officer finds that the petitioner's interest is limited to one or more of the issues involved in the proceeding, any order allowing intervention



shall limit his participation accordingly.

(g) A person permitted to intervene becomes a party to the proceeding, subject to any limitations imposed pursuant to paragraph (f) of this section.

(h) Unless otherwise expressly provided in the order allowing intervention, the granting of a petition for leave to intervene does not change or enlarge the issues specified in the notice of hearing.

#### § 2.714a Appeals from certain rulings on petitions for leave to intervene and/or requests for hearing.

(a) Notwithstanding the provisions of § 2.730(f), an order of the presiding officer or the atomic safety and licensing board designated to rule on petitions for leave to intervene and/or requests for hearing may be appealed, in accordance with the provisions of this section, to the Atomic Safety and Licensing Appeal Board within ten (10)† days after service of the order. The appeal shall be asserted by the filing of a notice of appeal and accompanying supporting brief. Any other party may file a brief in support of or in opposition to the appeal within ten (10)† days after service of the appeal. No other appeals from rulings on petitions and/or requests for hearing shall be allowed.

(b) An order wholly denying a petition for leave to intervene and/or request for a hearing is appealable by the petitioner on the question whether the petition and/or hearing request should have been granted in whole or in part.

(c) An order granting a petition for leave to intervene and/or request for a hearing is appealable by a party other than the petitioner on the question whether the petition and/or the request for a hearing should have been wholly denied.

#### § 2.715 Participation by a person not a party.

(a) A person who is not a party may, in the discretion of the presiding officer, be permitted to make a limited appearance by making oral or written statement of his position on the issues at any session of the hearing or any prehearing conference; within such limits and on such conditions as may be fixed by the presiding officer, but he may not otherwise participate in the proceeding.

(b) The Secretary will give notice of a hearing to any person who requests it prior to the issuance of the notice of hearing, and will furnish a copy of the notice of hearing to any person who re-

quests it thereafter. When a communication bears more than one signature, the Commission will give the notice to the person first signing unless the communication clearly indicates otherwise.

(c) The presiding officer will afford representatives of an interested State, county, municipality, and/or agencies thereof, a reasonable opportunity to participate and to introduce evidence, interrogate witnesses, and advise the Commission without requiring the representative to take a position with respect to the issue. Such participants may also file proposed findings and exceptions pursuant to §§ 2.754 and 2.762 and petitions for review by the Commission pursuant to § 2.786. The presiding officer may require such representative to indicate with reasonable specificity, in advance of the hearing, the subject matters on which he desires to participate.

(d) If a matter is taken up by the Appeal Board on appeal or sua sponte or by the Commission pursuant to § 2.786 or sua sponte, a person who is not a party may, in the discretion of the Appeal Board or the Commission, respectively, be permitted to file a brief "amicus curiae". A person who is not a party and desires to file a brief must submit a motion for leave to do so which identifies the interest of the person and states the reasons why a brief is desirable. Except as otherwise provided by the Commission or the Appeal Board, such brief must be filed within the time allowed to the party whose position the brief will support. A motion of a person who is not a party to participate in oral argument before an Appeal Board or the Commission will be granted at the discretion of the Appeal Board or the Commission.

#### § 2.715a Consolidation of parties in construction permit or operating license proceedings.

On motion or on its or his own initiative, the Commission or the presiding officer may order any parties in a proceeding for the issuance of a construction permit or an operating license for a production or utilization facility who have substantially the same interest that may be affected by the proceeding and who raise substantially the same questions, to consolidate their presentation of evidence, cross-examination, briefs, proposed findings of fact, and conclusions of law and argument. However, it may not order any consolidation that would prejudice the rights of any party. A consolidation under this section may be for all purposes of the proceeding, all of the issues of the proceeding, or with respect to any one or more issues thereof.

#### § 2.716 Consolidation of proceedings.

On motion and for good cause shown or on its own initiative, the Commission or the presiding officers of each affected proceeding may consolidate for hearing or for other purposes two or more proceedings, or may hold joint hearings with interested States and/or other federal agencies on matters of concurrent jurisdiction, if it is found that such action will be conducive to the proper dispatch of its business and to the ends of justice and will be conducted in accordance with the other provisions of this subpart.

#### § 2.717 Commencement and termination of jurisdiction of presiding officer.

(a) Unless otherwise ordered by the Commission, the jurisdiction of the presiding officer designated to conduct a hearing over the proceeding, including motions and procedural matters, commences when the proceeding commences. If no presiding officer has been designated, the Chief Administrative Law Judge† has such jurisdiction or, if he is unavailable, another hearing examiner has such jurisdiction.

A proceeding is deemed to commence when a notice of hearing or a notice of proposed action pursuant to § 2.105 is issued.

When a notice of hearing provides that the presiding officer is to be a hearing examiner, the Chief Administrative Law Judge† will designate by order the hearing examiner who is to preside. The presiding officer's jurisdiction in each proceeding will terminate upon the expiration of the period within which the Commission may direct that the record be certified to it for final decision, or when the Commission renders a final decision, or when the presiding officer shall have withdrawn himself from the case upon considering himself disqualified, whichever is earliest.

(b) The Director of Nuclear Reactor Regulation or Director of Nuclear Material Safety and Safeguards, as appropriate may issue an order and take any otherwise proper administrative action with respect to a licensee who is a party to a pending proceeding. Any order related to the subject matter of the pending proceeding may be modified by the presiding officer as appropriate for the purpose of the proceeding.

†Amended 43 FR 17798.

†Amended by 38 FR 2330.