

DOCKETED  
USNRC

'82 APR -5 11:06

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

IN THE MATTER OF )  
ILLINOIS POWER COMPANY, )  
SOYLAND POWER COOPERATIVE, )  
INC. and WESTERN ILLINOIS )  
POWER COOPERATIVE, INC., )  
(Operating License for )  
Clinton Power Station, )  
Unit 1) )

Docket No. 50-461 OL

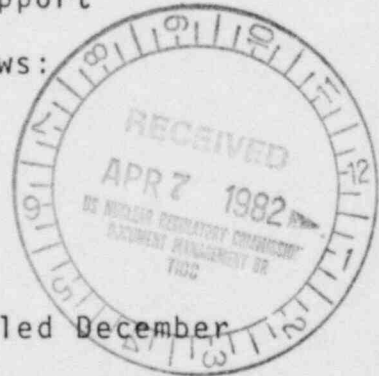
ILLINOIS' SUPPLEMENTAL MOTION TO COMPEL  
ANSWERS TO ITS SECOND REQUEST FOR  
PRODUCTION OF DOCUMENTS TO APPLICANTS

The State of Illinois (Illinois), by its attorney, TYRONE C. FAHNER, Attorney General of the State of Illinois, supplements its prior motion, pursuant to 10 C.F.R. § 2.740 (f), for an order further compelling applicants, Illinois Power Company, Soyland Power Company, and Western Illinois Power Cooperative, Inc. (IP), to produce documents. In support of this supplemental motion Illinois states as follows:

I.

Procedural History

As stated in Illinois' Motion to Compel filed December 31, 1981, IP on December 15, 1981 mailed its response to Illinois' Second Set of Interrogatories and Request for Production of Documents. In its response, in pertinent part, IP object to all of



DS03  
50/1

Illinois' document production requests, except for Request No. 1. IP therein posited two general objections to most of Illinois' requests, those being that the information sought had already been made available by IP in first round discovery and that it was not necessary for clarification of any matters raised in the first round.

In its oral ruling of February 16, 1982 on Illinois' Motion to Compel, the Board largely dismissed as groundless IP's general objections, and went on to order IP to answer several specific requests. However, the Board apparently neglected to rule upon the Motion in relation to the document requests.

## II.

### Argument

As the grounds asserted by IP in opposition to the document requests were virtually identical to those held invalid by the Board as to certain interrogatories, Illinois submits that IP must produce those documents, and herein expressly incorporates the arguments put forth in its earlier Motion. Indeed, Illinois by letter (Exhibit A, attached hereto) informed IP of its position and requested production of those documents. In its reply letter of March 16, 1982 (Exhibit B, attached hereto), IP indicated its willingness to produce

certain documents, but objected to others, again, on the basis that they were made available in the first round.

Without belaboring the point, Illinois submits that the Board's order of February 16, 1982 clearly covered the material sought. As informal attempts to resolve this matter have failed, Illinois requests the Board to specifically expand its previous order and require IP to fully respond to the following parts of its Second Request for Production of Documents:

Requests 4, 9, and 12-17.

WHEREFORE, for the reasons stated above Illinois prays that the Board order IP to fully respond to the Document Requests listed above.

Respectfully submitted,

TYRONE C. FAHNER  
ATTORNEY GENERAL  
STATE OF ILLINOIS

BY:

*Reed W. Neuman*  
Reed W. Neuman  
Assistant Attorney General  
Environmental Control Division  
500 South Second Street  
Springfield, IL 62706  
(217) 782-9031

OF COUNSEL:

Philip L. Willman  
Assistant Attorney General

DATED: March 31, 1982



TYRONE C. FAHNER

ATTORNEY GENERAL  
STATE OF ILLINOIS

160 NORTH LA SALLE STREET  
CHICAGO 60601

TELEPHONE  
793-3500

February 16, 1982

Mr. William Van Susteren  
Schiff, Hardin & Waite  
7200 Sears Tower  
233 South Wacker Drive  
Chicago, Illinois 60606

Re: Illinois Power Company, et al (Operating License for  
Clinton Power Station, Unit 1), 50-461 OL

Dear Bill:

After our telephone conference today I reviewed the Atomic Safety and Licensing Board's verbal ruling on Illinois' second motion to compel. The Board seems not to have ruled on a number of Illinois' discovery requests. Specifically, the Board did not rule on whether the Applicants must answer Interrogatories Nos. 5(a)-(c), 5(e), 9(a), 9(b), 34 and 40 to the extent the Applicants have not already answered. Nor did the Board state whether the Applicants must satisfy Illinois' Document Requests Nos. 2-17. In addition, the Board seems to have ruled both that the Applicants must answer Interrogatories Nos. 23 and 29, but also that the answers already provided are sufficient.

It is Illinois' position that the applicants must answer these discovery requests, in light of the Board's decision to disallow the Applicants' two general grounds for objection. Please let me know within a week whether you agree with this position. If not I would like to ask the Board for a clarification as to these discovery requests.

I look forward to your reply.

Yours truly,

PHILIP L. WILMER  
Assistant Attorney General  
Environmental Control Division  
165 West Randolph, Suite 2001  
Chicago, Illinois 60601  
(312) 793-2 91

PLW:es

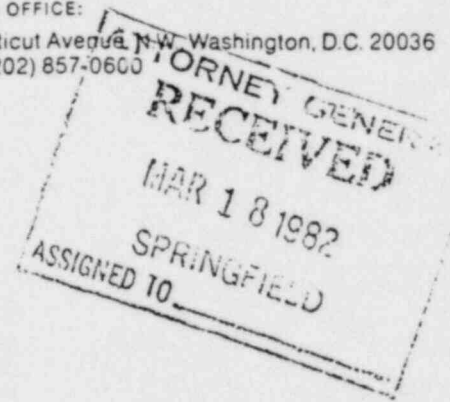
EXHIBIT A

# SCHIFF HARDIN & WAITE

7200 Sears Tower, 233 South Wacker Drive, Chicago, Illinois 60606  
Telephone (312) 876-1000 Twx 910-221-2463

WASHINGTON OFFICE:  
1101 Connecticut Avenue, N.W., Washington, D.C. 20036  
Telephone (202) 857-0600

March 16, 1982



Mr. Philip L. Willman  
Assistant Attorney General  
Environmental Control Division  
188 West Randolph Street  
Suite 2315  
Chicago, Illinois 60601

Re: Illinois Power Company, et al., (Operating  
License for Clinton Power Station, Unit 1  
50-461 OL

Dear Phil:

In your letter to me of February 16, 1982, you pointed out that the Board, in our conference call of February 16, did not specifically rule on certain interrogatories and document requests covered by the State's motion to compel. You took the position that Applicants must answer Interrogatory Nos. 5(a)-(c), 5(e), 9(a), 9(b), 28, 29, 34, and 40, to the extent not already answered, and that Applicants must produce the documents requested in item Nos. 2-17 of the State's request for production. The basis for your position was "the Board's decision to disallow the Applicants' two general grounds for objection."

The Board ordered the Applicants to answer certain second round interrogatories because these interrogatories were more narrowly focused than the State's general first round requests. Although much of the information requested was available to the State in the first round, it was available only because it was contained in the thousands of documents produced in response to the State's extraordinarily broad first round requests. Since the State's second round interrogatories asked for specific information that could be drawn from the documents and presented in a more coherent form, the Board rejected Applicants' general objections.

Following the reasoning of the Board's order, Applicants are willing to answer the State's interrogatories not specifically addressed by that order. Interrogatory Nos. 5(a)-(c), 5(e), and 9(a)-(b) were fully answered in Applicants' initial response to second round discovery. Interrogatory Nos. 34 and 40 are answered in Applicants' response filed today.



Mr. Philip L. Willman  
Page Two  
March 16, 1982

Two of the State's document requests are just as broad as the first round "shotgun" requests, and they ask for documents already produced in the first round. Six others specifically request groups of documents that were clearly segregated and marked for the State's review in first round document production. There is nothing in the Board's order to suggest that Applicants must repeat first round production. To the extent that the State's second round document requests identify particular documents, however, Applicants are willing to respond in accordance with the reasoning of the Board's February 26 order.

Specifically, Applicants are willing to produce the documents requested in Nos. 2, 3, 5, 6, 7, 8, 10, and 11, and the documents specifically identified in 4(a)-(d) and 9. The other documents requested in No. 4, "all Baldwin Associates Quality Control or Quality Assurance audit reports," and in No. 9, "all documents related to NRC's Systematic Assessment of License Performance Review," were available in response to first round requests. There is no greater specificity in the second round requests that would warrant their production again.

The documents requested in Nos. 12-17 were available in the first round, clearly segregated and marked according to the subject matter identified in each request. In fact, these requests were obviously drawn by the State directly from an index to Illinois Power files that was furnished to the State in first round discovery. For each request in Nos. 12-17, the corresponding file number and description is listed below:

[12. All documents related to meetings held between IP and NRC.]

M40: Meetings, NRC

[13. All documents related to meetings held between IP and GE.]

M37: Meeting Notes from Meetings held at General Electric

[14. All documents related to meetings held between IP and BA.]

M38: Meeting Notes from Meetings held at BA.

SCHIFF HARDIN & WAITE

Mr. Philip L. Willman  
Page Three  
March 16, 1982

[15. All documents related to meetings held  
between IP and Sargent and Lundy.]

M36: Meeting Notes from Meetings  
held at S & L

[16. All documents related to IP's Commitment  
Control Program.]

M65: Program, Commitment Control  
General

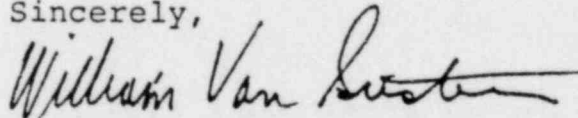
M65-1: Commitment Control Verification

[17. All documents related to IP's NRC  
Regulatory Guide Compliance Program.]

M67: NRC Regulatory Guide Compliance  
Program

Since these documents were produced in the first  
round, clearly identified to the subjects specified by the  
State, there is nothing in the Board's order of February  
26 to suggest that they must be produced again.

Sincerely,



William Van Susteren

WVS/cr

cc: Hugh K. Clark, Esq.  
Dr. George A. Ferguson  
Dr. Oscar H. Paris  
Richard Goddard, Esq.  
Jay Gutierrez, Esq.  
Reed Neuman, Esq.  
Jan L. Kodner, Esq.

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

IN THE MATTER OF )  
ILLINOIS POWER COMPANY, )  
SOYLAND POWER COOPERATIVE, )  
INC. and WESTERN ILLINOIS )  
POWER COOPERATIVE, INC. )  
(Operating License for Clinton )  
Power Station, Unit 1) )

Docket No. 50-461 OL

N O T I C E

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

Richard J. Goddard  
Office of the Executive Legal Director  
United States Nuclear Regulatory Commission  
Washington, D.C. 20555

Sheldon Zabel  
Schiff, Hardin & Waite  
7200 Sears Tower  
233 South Wacker Drive  
Chicago, Illinois 60606

Jan L. Kodner  
Tutt and Kodner  
173 W. Madison St.  
Suite 1004  
Chicago, Illinois 60602



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 today mailed for filing with the Secretary, United States Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Chief, Docketing and Service Section, one original and two conformed copies of Illinois' Supplemental Motion To Compel Answers To Its Second Request For Production Of Documents To Illinois Power Company. A copy of this document is attached and served upon you.

*Reed W. Neuman*  
REED W. NEUMAN  
Assistant Attorney General  
Environmental Control Division  
500 South Second Street  
Springfield, Illinois 62706  
(217) 782-9031

DATED: March 31, 1982

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

IN THE MATTER OF )  
ILLINOIS POWER COMPANY, )  
SOYLAND POWER COOPERATIVE, )  
INC. and WESTERN ILLINOIS )  
POWER COOPERATIVE, INC. )  
(Operating License for Clinton )  
Power Station, Unit 1) )

Docket No. 50-461 OL

CERTIFICATE OF SERVICE

I hereby certify that I served copies of Illinois' Supplemental Motion To Compel Answers To Its Second Request For Production Of Documents To Illinois Power Company on the persons listed on the attached Notice by causing same to be deposited in the United States Mail, first class, postage prepaid, on this 31st day of March, 1982.

Reed W. Neuman  
REED W. NEUMAN