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NRC PUBLIC DOCUMENT ROOM



August 4, 1978

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U.S. Nuclear Regulatory Commission
Washington, D. C. 20555

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Gentlemen:

Attached to this letter is the Licensees' proposed agenda (Attachment A) for the Special Prehearing Conference scheduled for August 14, 1978. This agenda is furnished with a view toward providing advance notice of the matters which the Licensees believe the Licensing Board can address and resolve on that occasion.

Item 1., Licensees' "Motion for Prompt Consideration of Interim Operation of the Trojan Nuclear Plant." Although the Board has already stated that the issue of interim operation will be addressed first at the hearing to commence on September 6-8 (Notice of Evidentiary Hearing, p. 4), we believe that a ruling on this motion should be made promptly. The Motion was served by mail on July 21, 1978, and handed to all parties on July 24. Answers to the Motion should have been filed by other parties prior to the August 14 Conference. We know of no reason to conduct a "hearing" on the motion as some Intervenor suggested (Tr. 251-52). Should the Board wish to hear oral argument before making its decision on the Motion, however, we respectfully suggest that this argument be the first on the agenda and that the Board announce its decision at the August 14 Conference.

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Dr. Kenneth A. McCollom
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Item 2., "Status of Discovery." The Board's "Notice of Hearing on Order for Modification of License, and of Special Prehearing Conference" (July 28, 1978) directed the parties to report on the progress of discovery at the August 14 Conference. Licensees will be prepared to do so by updating the information contained in the letter dated August 3, 1978, to all intervenors. (Attachment B).

One point bears emphasis with regard to depositions. As originally indicated (Tr. 198), Licensee's offer is made on the condition that an appropriately experienced person, trained in administrative law proceedings as described in the Atomic Energy Act, would preside at the taking of depositions.

Item 3., "Schedule." We suggest that the Board and parties discuss at the August 14 conference the schedule for hearings and related activities following the designated commencement of the hearing on September 6-8.

Licensees are presently planning on the basis that the hearing will continue into the week of September 11 and thereafter if required to complete evidentiary consideration of the issue of interim operation. However, we also assume that the modifications to the Trojan Plant will not be taken up until subsequent sessions of the hearing. This assumption stems from the facts that design of the modifications will not be completed until September 1 and Staff review may not be completed until approximately September 15, 1978. (See June 30, 1978, letter Goodwin (PGE) to Case (NRC), Tab 18 of Control Building Docket Correspondence). For this reason, Licensees' testimony filed in advance of the September 6-8 hearing will address only matters related to the issue of interim operation. On August 14 we would expect to be able to suggest dates when the remainder of Licensees' testimony will be available and when the evidentiary sessions on the modifications might be convened.

Item 4., "Witnesses." On August 14, each party should identify the witnesses which it then proposes to sponsor in the hearing on interim operation. Licensees can state that they presently intend to sponsor as witnesses the following persons: George Katanics, Dr. William White and Theodore Johnson of Bechtel; Glen E. Bredemeier, Donald Broehl, Sam Christensen, John Frewing and Bart Withers of PGE; Hector

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Durocher of BPA. We suggest that all parties identify any additional witnesses no later than August 22, 1978.

Item 5., "Contentions." The Board previously indicated that it expected intervenors, no later than 15 days prior to the prehearing conference on August 14, to file supplements to petitions to intervene which include a list of the contentions which are sought to be litigated and the bases for each contention. We respectfully suggest that the present proceeding is an unusual case both with respect to the need for expeditious consideration, as recognized by the Commission and, as the Staff has emphasized (Tr. 223), in that the issues were narrowly defined in the Staff's May 26 Order. We agree that it may be helpful to the Board and parties if the intervenors try to be more specific regarding the particular questions which are of concern to them. However, in our opinion, greater specificity is not required either legally or practically. Under Section 2.718, the Board has broad powers to take appropriate action to avoid delay and to regulate the course of a hearing. In some instances this responsibility would best be discharged through identification and simplification of issues. However, such action is unnecessary where, as here, the issue is inherently narrow. Thus, dispensing with contentions is within the Board's discretion in the circumstances of this proceeding.

We acknowledge that the urgency may be somewhat less with regard to the issue of plant modifications and that that issue may be somewhat less well defined. Therefore, greater specificity in the form of contentions from intervenors regarding plant modifications should be encouraged.

Other Matters

There have been indications that a number of members of the public may seek to make limited appearances. The Board has been asked to schedule some sessions in a location closer to the Trojan Plant than Portland. To accommodate these requests while avoiding conflicts with the evidentiary hearing, the Board may wish to schedule limited appearances immediately following the prehearing conference on August 14 and 15, perhaps in St. Helens.

The Licensees would be pleased to arrange for the Board to tour the Trojan Control Building on a date convenient for the Board.

Marshall E. Miller, Esq.
Dr. Kenneth A. McCollom
Dr. Hugh C. Paxton

Finally, it may be appropriate to reserve the first two hours of the hearing beginning September 6-8 for a prehearing conference if necessary in order to arrange the order of presentation of witnesses and of cross-examination and other procedural matters.

Very truly yours,

Robert Lowenstein
Robert Lowenstein *RLS*

RL:rl

Attachments

D R A F T

PREHEARING CONFERENCE AGENDA

(August 14, 1978)

Item

1. Licensees' "Motion for Prompt Consideration of Interim Operation of the Trojan Nuclear Plant"
2. Status of Discovery
3. Schedule
4. Witnesses
5. Contentions



Portland General Electric Company

August 4, 1978

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215 S.E. 9th
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David B. McCoy
348 Hussey Lane
Grants Pass, Oregon

Steve Willingham
555 N. Tomahawk Drive
Portland, Oregon

Re: Docket No. 50-344 (Control Building Proceeding),
Portland General Electric Company, et al.
(Trojan Nuclear Plant)

Dear Intervenors:

This letter will confirm steps being taken by PGE pursuant to the direction of the Licensing Board at the Special Prehearing Conference on July 25, 1978, that the parties voluntarily expedite discovery in this proceeding.

1. As represented at the Special Prehearing Conference on July 25, 1978, effective July 27, PGE established a document room at its Portland offices containing documents relevant to the control building proceeding. Instructions for utilization of the document room were forwarded to you on July 28. We urge you to avail yourself of these documents at your earliest convenience. The document room at PGE will remain available until further notice.

2. The control building tour requested by Intervenors remains scheduled for Friday, August 4.

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3. The Board's August 1, 1978, Notice of Evidentiary Hearing provides for the hearing to begin September 6-8, 1978, and requires service of proposed written testimony by the parties 15 days in advance of the hearing session at which the testimony is to be presented. Licensees construe this to mean that written testimony must be served by August 22, 1978, 15 calendar days in advance of the September 6 date on which the first hearing session will begin. PGE undertakes the following efforts to facilitate discovery on a schedule consistent with those dates.

a. Subject to the Board's designation of an officer to preside at such depositions, Licensees renew their offer to attempt to make the following witnesses available for oral deposition during the period August 16-19 inclusive at specific times to be arranged with intervenors:

Bechtel -- George Katanica, Chief Civil Engineer
Dr. William White
Theodore Johnson

PGE -- Glen E. Bredemeier
Donald Broehl
Sam Christensen
John Frewing
Bart Withers

EPA -- Hector Durocher

Licensees request that Intervenors notify Licensees, if possible, prior to the August 14 Special Prehearing Conference of Intervenors' desire to depose specific witnesses.

b. Licensees will undertake voluntarily to answer written interrogatories received through August 16, 1978, which are germane to the preliminary issue of interim operation as identified by the Board in its August 1, Notice of Evidentiary Hearing. To ensure receipt of such interrogatories by August 16, Intervenors may deliver them directly to

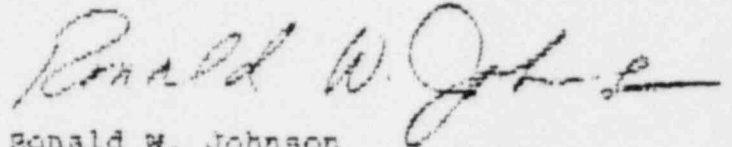
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To the extent possible, answers to interrogatories regarding interim operation received by August 15 will be completed and served by August 19.

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If you have questions regarding discovery matters or items discussed in this letter, please contact me by telephone at (501) 226-3379, or at the address noted above.

Sincerely,

A handwritten signature in cursive script that reads "Ronald W. Johnson". The signature is written in dark ink and is positioned above the typed name.

Ronald W. Johnson
Corporate Attorney

RWJ:jh

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matter of)
)
PORTLAND GENERAL ELECTRIC COMPANY,) Docket No. 50-344
 et al.)
) (Control Building Proceeding)
(Trojan Nuclear Plant))
)

CERTIFICATE OF SERVICE

I hereby certify that on August 4, 1978, a letter of the same date from Robert Lowenstein to the members of the Atomic Safety and Licensing Board with attached proposed agenda for prehearing conference in the above-captioned proceeding has been served upon the persons listed below by depositing copies thereof in the United States mail with proper postage affixed for first class mail.

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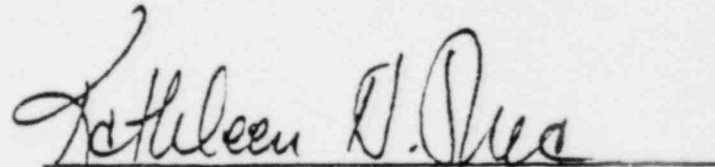
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Dated: August 4, 1978


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