

August 24, 1982

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

DOCKETED
USNRC

Before the Atomic Safety and Licensing Board

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In the Matter of)
)
WISCONSIN ELECTRIC POWER COMPANY)
)
(Point Beach Nuclear Plant,)
Unit 1))

OFFICE OF SECRETARY)
DOCKETING)
Docket No. 50-266-OLA2

LICENSEE'S ANSWER TO DECADE'S PETITION
FOR LEAVE TO INTERVENE AND PETITION FOR HEARING

I. INTRODUCTION

On July 12, 1982, the Nuclear Regulatory Commission published a notice of opportunity for hearing on Licensee's May 27, 1982 application for a license amendment to permit repair of the Point Beach Nuclear Plant Unit 1 steam generators by replacement of major components. See 47 Fed. Reg. 30125-26 (July 12, 1982). By an August 10, 1982 "Petition For Leave To Intervene and Petition For Hearing," Wisconsin's Environmental Decade, Inc. ("Decade") petitions "for leave to intervene and for an opportunity to be heard" on Licensee's May 27, 1982 application. Licensee opposes the Decade petition.

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II. DISCUSSION

A. Decade's Failure to Demonstrate Standing To Intervene In This Proceeding

As explained in the Federal Register notice of opportunity for hearing, the Commission's regulations require that a petitioner for leave to intervene submit a written petition setting forth with particularity the petitioner's interest in the proceeding and how that interest may be affected by the results of the proceeding, including the reasons why the petitioner should be permitted to intervene. See 47 Fed. Reg. 30125-26 (July 12, 1982); 10 C.F.R. § 2.714(a)(2). The petitioner is required to make particular reference to the factors listed in 10 C.F.R. § 2.714(d):

(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.

Contemporaneous concepts of judicial standing are applied to determine whether a petitioner has made an adequate showing of interest to support intervention. To satisfy applicable standards, a petitioner must demonstrate (1) "injury in fact" and (2) that the interest is "arguably within the zone of interest[s]" protected by the relevant statutes -- in this

case, the Atomic Energy Act and the National Environmental Policy Act. Portland General Electric Co. (Pebble Springs Nuclear Plant, Units 1 and 2), CLI-76-27, 4 N.R.C. 610, 612-13 (1976). Accord, Public Service Company of Indiana (Marble Hill Nuclear Generating Station, Units 1 and 2), CLI-80-10, 11 N.R.C. 438, 439 (1980).

In its petition, Decade asserts that it is a "corporation organized * * * to protect and enhance the quality of the human environment against, among other things, the hazards of nuclear power." Petition, at 1. However, such assertions are insufficient to clothe an organization such as Decade with independent standing to intervene in an NRC licensing proceeding. Similar allegations were rejected as a basis for intervention in Allied-General Nuclear Services (Barnwell Fuel Receiving and Storage Station), ALAB-328, 3 N.R.C. 420, 421-23 (1976) and Houston Lighting and Power Co. (Allens Creek Nuclear Generating Station, Unit 1), ALAB-535, 9 N.R.C. 377, 390-95 (1979), both of which rest on the holdings of Sierra Club v. Morton, 405 U.S. 727 (1972).

In Sierra Club, the Supreme Court held that the Sierra Club could not predicate its standing to seek to enjoin Federal agency approval of the commercial development of a portion of a national game refuge upon its asserted "special interest in the conservation and the sound maintenance of the national parks, game refuges, and forests of the country." As the Court noted:

[A] mere "interest in a problem," no matter how longstanding the interest and no matter how qualified the organization is in evaluating the problem, is not sufficient by itself to render the organization "adversely affected" or "aggrieved" * * * [I]f a "special interest" in this subject were enough to entitle the Sierra Club to commence this litigation, there would appear to be no objective basis upon which to disallow a suit by any other bona fide "special interest" organization, however small or short-lived. And if any group with a bona fide "special interest" could initiate such litigation, it is difficult to perceive why any individual citizen with the same bona fide special interest would not also be entitled to do so.

The requirement that a party seeking review must allege facts showing that he is himself adversely affected * * * serve[s] as at least a rough attempt to put the decision as to whether review will be sought in the hands of those who have a direct stake in the outcome. That goal would be undermined were we * * * to authorize judicial review at the behest of organizations or individuals who seek to do no more than vindicate their own value preference through the judicial process.

405 U.S. at 739-40. Thus, Decade cannot predicate a claim to standing on its broad interests in the protection of the "human environment" and its general philosophical opposition to nuclear power.

Nor has Decade asserted any cognizable injury to itself, as an organization, as a basis for standing.^{1/}

^{1/} Where an organization seeks standing on its own behalf, it must establish that it may itself be injured and that the

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Certainly no such basis can be implied from its "residence" at its "principal office" in Madison, Wisconsin, approximately 125 miles from the Point Beach site near the Town of Two Creeks, Wisconsin. While the Commission and the Appeal Board have declined to "lay down any inflexible standard" with respect to residence as a basis for standing, Northern States Power Co. (Prairie Island Nuclear Generating Plant, Units 1 and 2), ALAB-107, 6 A.E.C. 188, 190 (1973), the Commission and the Appeal Board have required that a petitioner's allegations of personal injury increase in specificity and substantiality the farther from the site a petitioner resides. See, e.g., Dairyland Power Cooperative (LaCrosse Boiling Water Reactor), ALAB-497, 8 N.R.C. 312 (1978) (residence more than 75 miles from facility insufficient basis for standing); Duquesne Light Co. (Beaver Valley Power Station, Unit 1), ALAB-109, 6 A.E.C. 243 (1973) (concern about effects of facility operation on food, milk, water supply and air insufficient to confer standing on individual residing more than 100 miles from site). Decade's "residence" in Madison is thus too geographically remote from Point Beach to constitute a basis for independent standing to intervene in this proceeding.^{2/}

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asserted injury is not a generalized grievance shared in substantially equal measure by all or a large class of citizens. Ten Applications For Low-Enriched Uranium Exports To EURATOM Member Nations, CLI-77-24, 6 N.R.C. 525, 531 (1977).

^{2/} Decade's allegations of "district offices" in Milwaukee and Appleton, Wisconsin are similarly unavailing. Milwaukee is

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Decade's invocations, on its own behalf, of "its interest * * * in adequate protection against imprudent financial expenditures that will not provide commensurate value in service" and its "recognized financial interest * * * in that the proposed modifications will raise rates" (Petition, at 2, 3) are also to no avail. It is settled Commission law that status as a ratepayer does not confer standing to intervene in an N.R.C. licensing proceeding. See, e.g., Portland General Electric Co. (Pebble Springs Nuclear Plant, Units 1 and 2), CLI-76-27, 4 N.R.C. 610, 614 (1976); Houston Lighting and Power Co. (Allens Creek Nuclear Generating Station, Unit 1), ALAB-582, 11 N.R.C. 239, 243 n.8 (1980).

In this context, any standing which Decade might possess would be wholly derivative in character. "It must

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approximately 90 miles from the Point Beach facility and thus, as discussed above, clearly too geographically remote to constitute a basis for the organization's independent standing under applicable Commission law. Appleton is 45 miles from Point Beach, at the extreme outer boundary of the traditional geographical "zone of interest" in NRC licensing proceedings. However, as noted in Prairie Island, supra, a petitioner's allegations of injury must increase in specificity and substantiality the farther from the site the petitioner resides. Here, Decade's bare allegation of the existence of a "district office" in Appleton is grossly insufficient to confer standing to invoke the hearing process, absent specific particularized assertions of injury to itself, as an organization, which might result from the proposed licensing action. See Prairie Island, supra, 6 A.E.C. at 190; Tennessee Valley Authority (Watts Bar Nuclear Plant, Units 1 and 2), ALAB-413, 5 N.R.C. 1418, 1421 n.4 (1977).

appear that at least one of the persons it purports to represent does in fact have an interest which might be affected by the licensing action being sought." Houston Lighting and Power Co. (Allens Creek Nuclear Generating Station, Unit 1), ALAB-535, 9 N.R.C. 377, 390 (1979). Decade's petition alleges that the organization has approximately 64,000 members throughout the state of Wisconsin and asserts that its membership includes named individuals in Whitelaw, Two Rivers and Milwaukee, Wisconsin. Petition, at 2.

However, for reasons discussed above, Thomas Van Alyea's residence in Milwaukee -- approximately 90 miles from the Point Beach site -- is too geographically remote to afford him standing to assert health and safety interests in this proceeding, and his status as a ratepayer of Licensee cannot confer standing upon him. The residence of Joseph and Lavinia Dworak in Whitelaw is geographically more proximate -- approximately 18 miles from the facility, and Ann and Paul Kortens allegedly reside in Two Rivers, approximately 12 miles from Point Beach. However, as the Allens Creek Appeal Board noted:

To be sure, persons who live in close proximity to a reactor site are presumed to have a cognizable interest in licensing proceedings involving that reactor. Virginia Electric & Power Company (North Anna Nuclear Power Station, Units 1 and 2), ALAB-522, 9 NRC 54, 56 (January 26, 1979). But there is no like presumption that every individual so situated will deem himself potentially aggrieved by the outcome of the proceeding (an essential ingredient

of standing). Some may and some may not. Because of this consideration, the petitioner organization in North Anna did not and could not content itself with the simple assertion that it had members living in the shadow of the facility there in question. To establish its representational standing, it additionally supplied the statement of one of those members, which explicitly identified the nature of the invasion of her personal interest which might flow from the proposed licensing action [in the case here at bar, the replacement of certain steam generator components].

Houston Lighting and Power Co. (Allens Creek Nuclear Generating Station, Unit 1), ALAB-535, 9 N.R.C. 377, 393 (1979) [emphasis supplied; footnote omitted]. In the instant case, Decade has failed to supply the requisite statement of an identified member, and thus has failed to establish even its derivative standing to intervene in this proceeding.

Accordingly, Decade has established neither independent standing to intervene representing its own organizational interests nor derivative standing to intervene representing the personal interests of at least one of its members. Decade's petition for leave to intervene should therefore be denied.^{3/}

^{3/} Decade's Petition is signed by Peter Anderson, as a "Co-Director" of Decade. However, Decade's professional staff includes Director of Legal Affairs, Ms. Kathleen Falk, an attorney. See letterhead of Letter, Peter Anderson to H.R. Denton (June 22, 1982), in this docket. Further, petitions drawn by persons experienced in NRC practice must exhibit a high degree of specificity. Kansas Gas & Electric Co. (Wolf Creek Generating Station), ALAB-279, 1 N.R.C. 559, 576-77 (1975). As this Board knows, both Mr. Anderson and Ms. Falk

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B. Decade's Failure to Specify Aspects
of the Subject Matter of The Proceeding
As to Which Intervention Is Sought

As explained in the Federal Register notice of opportunity for hearing, in addition to demonstrating an "interest" which may be affected by the outcome of the proceeding, a petitioner for intervention in an NRC licensing proceeding must also set forth "the specific aspect or aspects of the subject matter of the proceeding as to which petitioner wishes to intervene." See 10 C.F.R. § 2.714(a)(2); 47 Fed. Reg. 30125 (July 12, 1982). The "aspects" requirement is intended to provide some notice to other participants of the issues likely to be litigated and, thus, of the scope of the

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are seasoned veterans of NRC practice, representing Decade as the sole intervenor on Licensee's application for authorization to repair degraded steam generator tubes by "sleeving," now pending before the Board in a separate proceeding. And even a pro se litigant is required to familiarize himself with the Commission's Rules of Practice. Pennsylvania Power & Light Co. (Susquehanna Steam Electric Station, Units 1 & 2), ALAB-563, 10 N.R.C. 449, 450 n.1 (1979). In fact, Decade has been served by the Secretary of the Commission with a personal copy of the Commission's Rules of Practice, for Decade's use in proceedings before the Commission. See Letter, Samuel J. Chilk to Kathleen M. Falk (January 5, 1982), in Wisconsin Electric Power Co. (Point Beach Nuclear Plant, Units 1 and 2), Docket Nos. 50-266, 50-301. In any event, a totally deficient petition such as Decade's must be rejected, even where tendered by an inexperienced intervenor without benefit of counsel -- a description which by no means accurately reflects the status of the organization here in question. See Public Service Electric & Gas Co. (Salem Nuclear Generating Station, Units 1 & 2), ALAB-136, 6 A.E.C. 487, 489 (1973).

contested subject matter of the requested hearing. That subject matter must, of course, be within the scope of the proceeding as set forth in the notice of hearing. The requirement for specificity in the identification of "aspects" ensures that submittals relating to the "aspects" of concern to the petitioner are not so broad or so vague as to defeat any genuine notice to the other parties regarding issues of particular concern. See Metropolitan Edison Co. (Three Mile Island Nuclear Station, Unit 1), Licensing Board "Memorandum and Order Ruling On Petitions and Setting Special Prehearing Conference" (September 21, 1979), slip op. at 6 (excerpt attached); Consumers Power Co. (Midland Plant, Units 1 and 2), LBP-78-27, 8 N.R.C. 275, 278 (1978); Virginia Electric & Power Co. (North Anna Power Station, Units 1 and 2), ALAB-146, 6 A.E.C. 631, 633 (1973).

In the instant case, despite the explicit instructions of the Federal Register notice, Decade has completely failed to identify the "specific aspect[s]" of the subject matter of the proceeding as to which intervention is sought.^{4/} Decade's broad assertions of concern about the effect on public health and safety of "primary-to-secondary or secondary-to-primary leakage through ruptured steam generator tubes" are

^{4/} In contrast, Decade explicitly outlined its arguments on standing, captioning the three sections of its petition to parallel the three factors of 10 C.F.R. § 2.714(d).

insufficiently specific to satisfy the Commission's regulations. Of even greater significance, Decade's broad assertions of concern are beyond the scope of the proceeding as set forth in the notice of hearing. As explained in the notice, the requested amendment is limited to replacement of major steam generator components in accordance with original design specifications, as modified. See 47 Fed. Reg. 30125 (July 12, 1982); Licensee's May 27, 1982 Application. Thus, the instant proceeding is not a forum to litigate the adequacy of the steam generator design generally (which was approved at the operating license stage), as Decade apparently seeks to do.

Accordingly, having failed to identify the "specific aspect[s]" of the subject matter of the proceeding as to which intervention is sought, as required by the Commission's regulations, and having expressed an interest only in matters beyond the scope of the requested license amendment, Decade's petition for leave to intervene should be denied.

III. CONCLUSION

In a proceeding for an operating license or an operating license amendment -- unlike a construction permit proceeding -- a hearing is not mandatory. There is, accordingly, especially strong reason in a proceeding such as this for the exercise of "utmost care" to ensure that a petition for intervention clearly demonstrates a "real stake" in the

proceeding. Cincinnati Gas & Electric Co. (Zimmer Nuclear Power Station), ALAB-305, 3 N.R.C. 8, 12 (1976). Accord, Houston Lighting and Power Co. (Allens Creek Nuclear Generating Station, Unit 1), ALAB-547, 9 N.R.C. 644, 649 (1979).

In the instant case, Decade has failed to establish either independent standing to intervene representing its own organizational interests or derivative standing to intervene representing the interests of at least one of its members. Decade has also failed to identify the "specific aspect[s]" of the subject matter of the proceeding as to which intervention is sought, as required by the Commission's regulations. For all the foregoing reasons, Licensee opposes Decade's petition for intervention in this proceeding, and requests that it be denied.

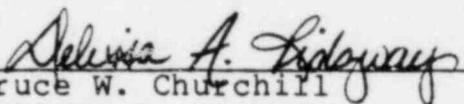
The activity which would be authorized by the requested amendment is presently scheduled for October 1, 1983, when Unit 1 will be shutdown for refueling. The multiplicity of pre-hearing and post-hearing events which would attend a hearing (should one be ordered in this proceeding), would require immediate commencement and efficient conduct of the hearing process in order for the Board to issue an Initial Decision prior to that date. Accordingly, Licensee respectfully requests a prompt ruling on the adequacy of Decade's petition with respect to requirements of standing and the identification of "specific aspects" of the subject matter of

the proceeding as to which intervention is sought. A Board ruling denying Decade's petition -- either for failure to demonstrate standing or for failure to identify the "specific aspects" as to which intervention is sought -- would obviate the need for a special prehearing conference and the submittal of proposed contentions. However, should the Board find that Decade has demonstrated standing and has identified the requisite "specific aspects," Licensee further requests that the special prehearing conference called for by 10 C.F.R. § 2.751a be convened at the earliest possible date.

Respectfully submitted,

SHAW, PITTMAN, POTTS & TROWBRIDGE

By:


Bruce W. Churchill
Delissa A. Ridgway

Counsel for Licensee

1800 M Street, N.W.
Washington, D.C. 20036
(202) 822-1000

Dated: August 24, 1982

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

ATOMIC SAFETY AND LICENSING BOARD

September 21, 1979

Ivan W. Smith, Chairman
Dr. Walter H. Jordan
Dr. Linda W. Little

SERVED SEP 24 1979

In the Matter of
METROPOLITAN EDISON COMPANY
(Three Mile Island Nuclear
Station, Unit No. 1)

Docket No. 50-289
(Restart)



MEMORANDUM AND ORDER RULING ON PETITIONS AND
SETTING SPECIAL PREHEARING CONFERENCE

The purpose of this order is to rule upon petitions to intervene and petitions to participate by government agencies, and to set a schedule for the special prehearing conference.

Petitions of Government Agencies

The Commonwealth of Pennsylvania by Governor Dick Thornburg (Commonwealth) and the County of Dauphin by the Dauphin County Commissioners (Dauphin County) have each filed petitions under 10 CFR §2.715(c) and are clearly entitled to participate in the proceeding respectively as an interested state and county pursuant to that section.^{1/} Neither the licensee nor the NRC staff

^{1/} 10 CFR §2.715(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
(footnote continued)

oppose their participation. The Commonwealth and Dauphin County shall each indicate the subject matters on which it desires to participate by filing a statement on or before the date provided below for supplemental petitions to intervene.

Representing the general economic interests of Pennsylvania's consumers, the Consumer Advocate, Department of Justice, Commonwealth of Pennsylvania (Consumer Advocate) has also petitioned to participate under 10 CFR §2.715(c). Neither the licensee nor the NRC staff oppose his participation, but the staff questions whether the economic interests represented by the Consumer Advocate fall within the zone of interests sought to be protected by the Atomic Energy Act and the National Environmental Policy Act. The staff sees no basis presented in the Consumer Advocate's petition which now justifies his participation either as a matter of right or as a matter of board discretion.

The Consumer Advocate asserts as his grounds for participation the interests of consumers as rate payers. This subject matter is not within the zone of interests cognizable in NRC proceedings where that interest is asserted by an intervening party under §2.714. Portland General Electric Co. (Pebble Springs Nuclear Plant, Units 1 and 2), ALAB-333, 3 NRC 804, 806 (1976). Tennessee Valley Authority (Watts Bar Nuclear Plant, 1 and 2), ALAB-413, 5 NRC 1418 (1977).

1/ continued:
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.

It is not clear from Commission precedents that a state or an agency of a state must demonstrate the same interest required of an intervenor under §2.714. The language of §2.715(c) requires a presiding officer to afford an agency of an interested state an opportunity to participate. The Consumer Advocate and his office is apparently such an agency. But the state agency's participation may not, of course, be on matters beyond the scope of the proceeding and the Commission's jurisdiction.

It would be pointless to state that the Consumer Advocate has the right to participate in our proceeding but then determine that there is no subject matter on which he may participate.

There are several considerations which must be resolved before the board can determine whether the Consumer Advocate may participate as a state agency. First, does his office have authority from the Commonwealth to represent the state on the subject matters of this proceeding? This can be resolved by a statement setting forth the specific subject matter as to which the Consumer Advocate wishes to participate and how that subject matter pertains to the responsibilities of his office. Second, it is possible that the Consumer Advocate may be invited to participate even without standing as a matter of right if he possesses expertise which may aid in developing a sound record in this proceeding. Portland General Electric Company (Pebble Springs Nuclear Plant, Units 1 and 2) CLI-76-27, 4 NRC 610 (1976). If he wishes to participate on this basis, his statement should include a description of the expertise or other resource which he believes will assist in developing a sound record.

Since the Consumer Advocate petitioned to participate, the Pennsylvania Public Utilities Commission (Utilities Commission) has also petitioned under §2.715(c), and below we grant the Utilities Commission participant status. We request that the Consumer Advocate confer with counsel for the Utilities Commission to determine whether the Utilities Commission may be able to represent the cognizable interests of both agencies in this proceeding, or whether a consolidated presentation by the two agencies may be appropriate. The Consumer Advocate's report, including the result of any conference with counsel for the Utilities Commission, is to be served within the time specified below for supplemental petitions.

In its petition the Utilities Commission asserts that it is charged with enforcement of Pennsylvania statutes mandating safe, adequate and reliable public utility service at just and reasonable rates. Without ruling on whether the Utilities Commission responsibility as a rate setter (as opposed to a rate payer) constitutes standing to participate, its other responsibilities relevant to the safe, adequate and reliable generation of electricity comprise appropriate interest and standing to participate. Moreover its expertise on some of the issues to be decided in the proceeding would be welcome as a matter of board discretion even without standing.

Neither the licensee nor the NRC staff oppose the participation of the Utilities Commission. The Utilities Commission

shall indicate the subject matters on which it desires to participate by filing a statement on or before the date provided below for supplemental petitions.

Petitions for Leave to Intervene

Under 10 CFR §2.714(a)(2), of the Commission intervention rules, a petition for leave to intervene:

... 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.

Paragraph (d) of §2.714 states:

(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.

The intervention rules also provide that the petitioner's specific contentions need not be filed until later in the proceeding, but petitioners sometimes include specific contentions

in the initial petitions filed. For efficiency the board issued an order on August 31, 1979 relieving the licensee and staff of any responsibility to address now specific contentions in original petitions. Accordingly their answers and the board's rulings below are limited to whether petitioners have satisfied the "interest" and "aspects" requirements of the intervention rule.

Since the change in the intervention rule effective May 26, 1978, the sufficiency of the "aspect" requirement must be evaluated in initial intervention petitions, but no reported NRC decision defines this requirement. We have taken it to mean simply that the petitioner must indicate its general position on the subject matter as to which it seeks to intervene. That subject matter must, of course, be within the scope of the proceeding as set forth in the notice of hearing.

The "interest" requirement of petitions has been well defined in NRC decisions, but, even so, interest must be determined in the context of the case at hand. There is nothing unusual about "interests" in NRC proceedings. The Commission has adopted the standard of "standing" in judicial proceedings as its standard for "interest." A petitioner must allege that some injury has occurred or will probably result from the action

to the person asserting the injury. Also, the interest asserted must arguably be within the zone of interests protected by the statutes enforced by the Commission and involved in the proceeding.^{2/}

Thus, even though a person might have an interest which could be affected by the results of an NRC action, unless the interest falls within the zone of interests encompassed by the Atomic Energy Act or the National Environmental Policy Act, that person has no standing to be a party to the proceeding. This is why we stated above that interest as an electricity rate payer will not confer standing upon a petitioner in this proceeding. Portland General Electric Co. ALAB-333, supra, and Tennessee Valley Authority ALAB-413, supra. The same is true where the interest asserted is that of a tax payer. Tennessee Valley Authority, Id. at 1421. The governing rule is that a generalized grievance shared in substantially equal measure by all or a large class of citizens is normally not cognizable as standing to participate. Warth v. Seldin, supra, at 499.

^{2/} Portland General Electric Co. (Pebble Springs Nuclear Plant, Units 1 and 2), CLI 76-27, 4 NRC 610, 613-14 (1976); Public Service Co. of Oklahoma (Black Fox Station, Units 1 and 2), ALAB-397, 5 NRC 1143, 1144-45 (1977); Sierra Club v. Morton, 405 U.S. 727 (1972); Warth v. Seldin, 422 U.S. 490 (1975).

Activities such as residing, working, playing and traveling within a reasonably close distance of a facility may be a sufficient demonstration that a petitioner's cognizable interest may be affected by the proceeding. As a general principle, the farther from the reactor the activity in question, the more the petitioner must demonstrate how his interests may be affected by the proceeding.^{3/}

With these guidelines in mind, we turn now to the individual intervention petitions.

3/ e.g.

Northern States Power Co. (Prairie Island Nuclear Generator Plant Units 1 and 2) ALAB-107, 6 AEC 188, 190 (1973)
(residence 30 to 40 miles from facility not too far to require conclusion that petitioners are beyond the zone of interest)

Tennessee Valley Authority supra, ALAB-413 at 1421 (students' residence 50 miles from facility not too far to preclude finding of standing)

Dairyland Power Cooperative (LaCrosse Boiling Water Reactor) ALAB-497, 8 NRC 312 (1978). (Petitioner residing 75 miles from facility alleging general safety contentions was beyond the geographical zone of interest)

Virginia Electric and Power Company (North Anna Nuclear Power Station, Units 1 and 2) ALAB-522 (1979) (Petitioner residing 45 miles from facility but who canoes on nearby lake not obviously unaffected)

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

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Before the Atomic Safety and Licensing Board

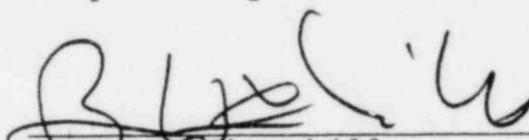
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In the Matter of)
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WISCONSIN ELECTRIC POWER COMPANY) Docket No. 50-266-OLA2
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(Point Beach Nuclear Plant,)
Unit 1))

NOTICE OF APPEARANCE

The undersigned, being an attorney at law in good standing admitted to practice before the Courts of the District of Columbia, hereby enters his appearance on behalf of Wisconsin Electric Power Company in proceedings related to the above-captioned matters.

Respectfully submitted,



Bruce W. Churchill
SHAW, PITTMAN, POTTS & TROWBRIDGE
1800 M Street, N.W.
Washington, D.C. 20036
(202) 822-1000

Dated: August 24, 1982

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

Before the Atomic Safety and Licensing Board

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OFFICE OF SECRETARY
DOCKETING & SERVICE
BRANCH

In the Matter of)
)
WISCONSIN ELECTRIC POWER COMPANY) Docket No. 50-266-OLA2
)
(Point Beach Nuclear Plant,)
Unit 1))

NOTICE OF APPEARANCE

The undersigned, being an attorney at law in good standing admitted to practice before the Courts of the District of Columbia, hereby enters her appearance on behalf of Wisconsin Electric Power Company in proceedings related to the above-captioned matters.

Respectfully submitted,



Delissa A. Ridgway
SHAW, PITTMAN, POTTS & TROWBRIDGE
1800 M Street, N.W.
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(202) 822-1000

Dated: August 24, 1982

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

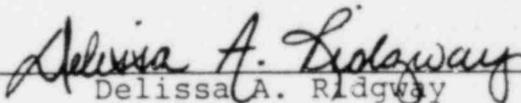
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CERTIFICATE OF SERVICE

This is to certify that copies of the foregoing "Licensee's Answer To Decade's Petition For Leave To Intervene and Petition For Hearing" and "Notice[s] of Appearance" of Bruce W. Churchill and Delissa A. Ridgway were served, by deposit in the U.S. Mail, first class, postage prepaid, to all those on the attached Service List, except that those marked with an asterisk were served by hand delivery and those marked with a double asterisk were served by deposit with Federal Express, this 24th day of August, 1982.


Delissa A. Ridgway

Dated: August 24, 1982

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NUCLEAR REGULATORY COMMISSION

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(Point Beach Nuclear Plant,)
Unit 1))

SERVICE LIST

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