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UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION '82 MAR -4 P12:12

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matter of)
)
NORTHERN INDIANA PUBLIC)
SERVICE COMPANY)
)
(Bailly Generating Station,)
Nuclear-1))

Docket No. 50-367



PORTER COUNTY CHAPTER INTERVENORS' RESPONSE
TO NIPSCO'S "MOTION FOR RECONSIDERATION OF
ORDER DATED JANUARY 29, 1981"

Porter County Chapter Intervenors ("PCCI"), by their attorneys, hereby respond to, and urge the Board to deny, NIPSCO's "Motion For Reconsideration of Order Dated January 29, 1982" ("Motion"), dated February 16, 1982.

The Order of January 29 provides that "NIPSCO's revised site restoration plan is approved and that NIPSCO is directed to begin implementing that plan forthwith." (p. 2)

NIPSCO's complaint that the Order does not "discharge the responsibility [of the Board] to 'issue timely rulings on all matters'" (Motion, p. 2), is, of course, pointless. The Order specifically identifies issues yet to be decided.*/ NIPSCO offers no basis to challenge the Board's conclusion that "it [is] unnecessary to delay the implementation of the site restoration plan pending the resolution of these issues."

NIPSCO argues that the Board has exceeded its jurisdiction in entering the Order because the Order does not simultaneously

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* NIPSCO uses its Motion to reargue its positions on those undecided issues. PCCI will not reargue its positions here.

terminate the proceedings. (Motion, pp. 7-8) No legal basis is presented for this theory, and nothing in 10 CFR §2.107 suggests that conditions imposed on the withdrawal of an application may only be ordered simultaneously with termination of a proceeding.

The only possible prejudice which NIPSCO suggests it might suffer from the January 29 Order that it comply with its own restoration plan, to which no party has objected, prior to resolution of those other issues, is that:

... NIPSCO is forced to undertake its restoration plan with only the hope, but without assurance, that the Board will not impose additional conditions in the termination order which are inconsistent with the restoration plan which is under way or possibly completed.
(Motion, p. 7; footnote omitted.)

NIPSCO's fear of additional, inconsistent conditions is, of course, an unsupportable challenge to the integrity of the Board and, indeed, to the entire adjudicatory process.

NIPSCO's Motion is groundless and should be denied.

March 1, 1982

Respectfully submitted,

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by:

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CERTIFICATE OF SERVICE

I hereby certify that I have served copies of Porter County Chapter Intervenors' Response to NIPSCO's "Motion For Reconsideration of Order Dated January 29, 1982" on each of the persons listed on the attached Service List by causing them to be deposited in the U.S. mail, first class postage prepaid, this 1st day of March, 1982.

March 1, 1982

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