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UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

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ATOMIC SAFETY AND LICENSING APPEAL BOARD

SECRETARY
OF SERVICE
BRANCH

In the Matter of

LOUISIANA POWER AND LIGHT COMPANY DOCKET NO. 50-382(OL)

(Waterford Steam Electric Station,
Unit 3) March 11, 1983

MOTION FOR LEAVE TO FILE
BRIEF "AMICUS CURIAE"

Petitioner, the State of Louisiana, herein appearing through William J. Guste, Jr., Attorney General, and other undersigned counsel, on its own behalf and on behalf of its citizens, respectfully requests permission to file a brief amicus curiae pursuant to 10 CFR 2.715(d) on the issue of the "feed and bleed" capability of the Waterford III nuclear power reactor.

The State of Louisiana, in its sovereign capacity, has an interest in protecting the rights and promoting the happiness and general welfare of the people. Specifically, the interest of the petitioner and the people it represents, which may be affected by the results of this proceeding, are the potential financial, health, safety and environmental problems associated with this nuclear power station.

The State takes this means urgently to call to this Honorable Board's attention a "Catch-22" situation as absurd as it is appalling. The NRC Staff at first assured the Board that

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all was well with shut-down decay heat, because the "feed and bleed" system would remove it handily. The Board pointed out that Waterford III has no "feed and bleed" capability. Not to worry, the Staff said, decay heat is adequately taken care of even without "feed and bleed." To this the Board replied that it did not believe the Staff, but was powerless to do other than accept the Staff's assertions, because the issue was uncontested. The Board said it hoped someone else would do something. So do we.

In its "Memorandum and Order" of March 18, 1982, the Licensing Board raised the "feed and bleed" issue sua sponte. On April 13, 1982, the State of Louisiana, through Assistant Attorney General Linda B. Watkins, filed a "Petition For Leave to Participate . . ." on the issue of "feed and bleed." The State's petition was denied in an unpublished April 20, 1982 order of the Licensing Board which order advised the State that it "may . . . file a petition for leave to intervene . . ."

A second "Petition for Intervention . . ." was filed on July 21, 1982 re-urging the "feed and bleed" issue in addition to the "Table S-3 Rule" issue raised in the NRDC v. NRC case. This petition was denied as being untimely in a September 10, 1982 order of the Licensing Board.

During the month of August, 1982, Assistant Attorney General Watkins, counsel assigned to NRC matters, left the

employ of the Office of the Attorney General and was replaced in this capacity by new counsel. Because of limited resources available, this office made the decision to abandon the "feed and bleed" issue. Consequently, no appeal was taken on the denial of Louisiana's "Petition for Intervention"

On November 3, 1982, in its "Partial Initial Decision (Operating License)," the Licensing Board accepted the NRC Staff's and Applicant's justification for interim operation "that the EFWS is so reliable that no other method of shut-down decay heat removal is necessary." (Decision at p. 9) In accepting such justification "with great reluctance" and refusing to investigate the "feed and bleed" issue further, the Licensing Board stated: "Therefore, we find ourselves in the uncomfortable position of being required to accept a justification of which we are personally skeptical. However, even if we were permitted to substitute our judgment for the Staff's we would (sic) unable to assess definitively Staff's and Applicant's justification without receiving evidence on the issue " (Decision at p. 10) Ironically, the Board had earlier denied Louisiana the opportunity to "make the record!"¹ The Licensing Board felt so strongly about the issue

¹ [W]e doubt that the State of Louisiana could significantly assist in developing a sound record" "Memorandum and Order," September 10, 1982, p. 5

that they "urge that an in-depth assessment of the reliability of the Waterford 3 shutdown decay heat removal system be made by an independent laboratory" (Decision p. 10)

Subsequently, Joint Intervenors, through Gary Groesch, filed exceptions before this Appeal Board, taking exception to several items in the "Partial Initial Decision (Operating License)" of November 3, 1982. Among them was the issue of "feed and bleed." These exceptions, and the subsequent brief, were not served on the State of Louisiana, probably because the State did not appear on Mr. Groesch's service list, inasmuch as the State is currently not a party to these proceedings. The State of Louisiana still has not received or seen a copy of Joint Intervenors exceptions or brief.

Undersigned counsel, on March 8, 1983, in a telephone conversation with NRC staff counsel Sherwin Turk, was informed that the "feed and bleed" issue was raised by Joint Intervenors by exception, but was not briefed, and would therefore be considered waived.

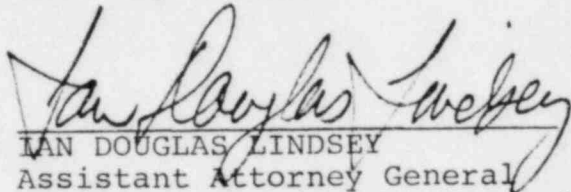
Petitioner shows that a brief amicus curiae on the issue of "feed and bleed" is desirable for the reason that if the State of Louisiana is not permitted to file a brief, this crucial issue may not be brought to the attention of this Honorable Appeal Board.

Considering the foregoing, and in particular the Licensing Board's serious concern about the issue, the State of Louisiana respectfully requests that it be allowed to file

a brief amicus curiae on the issue of the "feed and bleed"
capability at the Waterford III nuclear power reactor.

Respectfully submitted,

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UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING APPEAL BOARD

IN THE MATTER OF

LOUISIANA POWER AND LIGHT
COMPANY

Docket No. 50-382

(WATERFORD STEAM ELECTRIC
STATION, UNIT 3)

CERTIFICATE OF SERVICE

I hereby certify that copies of Motion for Leave to File Brief "Amicus Curiae" in the above-captioned proceeding have been served on the following by deposit in the United States mail, postage paid, first class, this 11th day of March, 1983.

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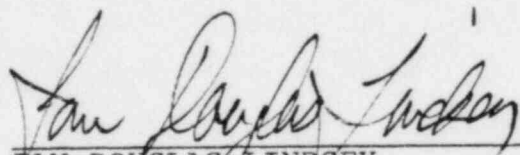
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