

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY
AND LICENSING BOARD

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OFFICE OF GENERAL
COUNSEL
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BRANCH

In the Matter of)
)
WASHINGTON PUBLIC POWER)
SUPPLY SYSTEM) Docket No. 50-460-OL
)
(WPPSS Nuclear Project No. 1))

APPLICANT'S MOTION TO STRIKE

Pursuant to 10 C.F.R. §2.730, the Washington Public Power Supply System ("Applicant") hereby moves to strike from the record in the captioned proceeding the Wall Street Journal article appended to "Petitioner's Response to Applicant's Motion for Reconsideration and/or Certification." Applicant further moves to strike all references to that article in petitioner's response.

Applicant so moves for a number of reasons. First, the article itself is of insufficient probative value to warrant inclusion in the record. Petitioner cites the article apparently for the proposition that there have been a number of instances in which employees have faced economic reprisal for "anti-nuclear" activity. However, the article only references allegations by a plant worker who, so far as Applicant is aware, has not presented such claims to the proper forum for adjudication. Under these

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circumstances, such article is not admissible because it is not reliable evidence of petitioner's allegation.¹ In short, petitioner asks this Board to accept as support for its position the unverified claim of an individual, as summarized in a newspaper article. Applicant believes that to do so would be inconsistent with Section 2.743(c) of the NRC Rules of Practice.

Second, Applicant notes that the newspaper article petitioner seeks to have included on the record appeared on April 4, 1983 of the Wall Street Journal, as the attached copy of the article reflects. Petitioner claims, apparently erroneously, that such article was published on April 5, 1983. Without belaboring the point, this is the second time petitioner has submitted newspaper articles to the Board for inclusion in the record,² and it is the second time that petitioner has failed to include the correct publication date of such articles.³

¹ 10 J.F.R. §2.743(c); Duke Power Company (McGuire Nuclear Station, Units 1 and 2), ALAB-669, 15 NRC 453, 467-77(1982); cf. Illinois Power Company (Clinton Power Station, Units 1 and 2), LBP-75-59, 2 NRC 579, 587-88 (1975) (excluding testimony of expert witness as irrelevant, immaterial and unreliable when testimony rested not on qualifications of witness but on newspaper and magazine articles).

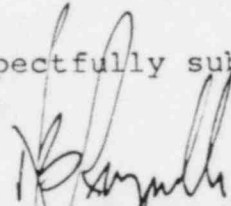
² See petitioner's March 7, 1983 letter to the Licensing Board transmitting what was purported to be a February 26, 1983 newspaper article in the Oregonian.

³ See Applicant's March 18, 1983 letter to the Board.

In any event, the burden rests with petitioner to identify the full and correct location and date of publication and to demonstrate the propriety of including such article in the record of this proceeding.⁴ Petitioner has failed to meet this burden.⁵

In light of the foregoing, Applicant requests that the newspaper article appended to petitioner's April 11, 1983 response as well as all references to such in its response be stricken.

Respectfully submitted,



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April 28, 1983

⁴ Cf. Consolidated Edison Company of New York, Inc., (Indian Point Station, Units 1, 2 and 3), CLI-77-2, 5 NRC 13, 14 (1977); 10 C.F.R. §2.732.

⁵ Applicant notes that petitioner never even formally moved that the Board consider this extra-record evidence, but rather simply appended the newspaper article on its own initiative. On this ground alone, the article and all references in its response thereto should be struck.

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WPPSS, With 4 of 5 Nuclear Plants Stalled Or Scrapped, Faces New Delay at 5th Unit

By NORMAN THORPE

Staff Reporter of THE WALL STREET JOURNAL

Washington Public Power Supply System, which has canceled two of five planned nuclear power plants and slowed construction of two others, faces uncertainty over the startup of its one remaining plant.

Located at Richland, Wash., the plant, which the utility system designates as plant No. 2, is about 85% complete and is scheduled for fuel loading in September and commercial operation next February.

But WPPSS and the federal Bonneville Power Administration, which has contracted to buy all the power it produces, face two problems that could result in further delays.

First, construction funds for the plant will run out in May or June, with about \$150 million needed to complete it. Bonneville has said it will provide the money if necessary, but the agency might face congressional resistance to such aid, and fears of a WPPSS default on some earlier borrowings are making conventional lenders leery of helping out.

Power Glut

Second, amid the biggest power glut the Northwest has ever experienced, Bonneville must find someone to use the power.

Bonneville and WPPSS both say they are confident the obstacles can be overcome. But unless they are, plant No. 2, which has fallen six years behind schedule and seen costs swell to \$3.3 billion from \$504 million, might fail to meet still another target date for opening.

WPPSS has been plagued by problems since beginning the five plants in the early 1970s. Regulatory delays, construction snags, management problems and inflation pushed the projects years behind schedule and ballooned cost estimates to \$23 billion from \$4.1 billion.

In January 1982, WPPSS canceled two partly built plants, leaving \$2.25 billion in outstanding bonds. Three months later it suspended work on a third plant, and in February it slowed construction of a fourth.

Hopes Ride on No. 2

As a result, WPPSS and its supporters have pinned their hopes on plant No. 2, the only plant nearly constructed. "We have to complete at least one of them," says John L. Kostick, a WPPSS director.

This plant also has been beset by problems. In 1980, WPPSS discovered faults in construction and record-keeping at the plant that caused the Nuclear Regulatory Commission to levy a \$50,500 civil penalty. The NRC also ordered new work on the plant suspended for about a year while the deficiencies were corrected.

The NRC is still reviewing work performed before the stop order, conducting what it calls "quality reverification." Daniel M. Sternberg, chief of the NRC's regional reactor projects branch, says questions remain, but "there are always going to be questions, and there's nothing at this point

that indicates any of the hardware has a problem."

In recent years, many nuclear power plants have faced startup delays for inspections and other regulatory reasons. They can't be precluded for this plant, but currently there aren't any looming. The biggest potential obstacle, says Mr. Sternberg, is what the commission calls "interveners," groups or persons who may challenge licensing of the plant. But this plant doesn't have any, and currently "there's no real basis for anybody to claim intervenor status in the plant," says Mr. Sternberg.

Nonetheless, a lawsuit soon may raise questions about the plant's safety. Richard H. Bennett, a Richland attorney, says he plans to file suit against a plant contractor on behalf of a worker who alleges that record-keeping problems continued after the NRC allowed work to resume. The worker, Janis Cagle, says the lapse occurred in handling documents about piping and valve problems and could prevent faults from being corrected, leading to safety deficiencies. She says she was laid off for trying to ensure that required procedures were followed.

Mr. Sternberg said the NRC always reviews such claims, but he also noted that allegations about construction faults often increase as construction on nuclear plants winds down and workers are terminated.

Technical Outlook Clear

A WPPSS spokesman hadn't any comment on the allegations, but said the plant has received most of the many required NRC approvals. Mr. Sternberg said that currently he doesn't see any "identifiable item" that would delay startup for technical reasons.

But there are the questions about how WPPSS will raise \$150 million to complete the plant. Previous financing came from the bond market, but concern that WPPSS may default on \$2.25 billion in bonds from canceled plants Nos. 4 and 5 has made bond buyers nervous. WPPSS officials have been courting bond underwriters and say they still hope to have access to the bond market in time to borrow the funds, but they are also pursuing alternatives.

One possibility, they say, is to sell the plant's fuel to a lender and lease it back, raising perhaps \$75 million. For part of the other \$75 million, they are asking Northwest bankers whether they would provide a "bridge" loan until other financing is found. The bankers are as nervous as the bond buyers and the subject is "very, very tender," says a Seattle bank executive.

Bonneville has promised it will provide the funds if WPPSS can't raise them elsewhere, but Bonneville officials say that would have to be a last resort, partly because it could cause a storm in Congress. Rep. James Weaver (D., Ore.), chairman of a House Interior subcommittee overseeing Bonneville, has questioned Bonneville's authority to extend such financing and said he would oppose it.

The other big question is whether plant

No. 2 should be operated even if finished. "It certainly isn't needed; we're up to our eyebrows in power," says Matt Dillon, a dissident WPPSS director.

To justify the plant, Bonneville needs a market for the power, but the region has a power surplus expected to last four or five years. Unusually heavy winter rains have raised hydroelectric power generation. The recession and industrial retrenchment have added to the surplus, as has conservation spurred by WPPSS-induced rate increases.

Bonneville is trying to sell the power to California utilities, but the Californians are seeking a price that doesn't come close to servicing the plant's debts. "We would end up subsidizing California," complains Mr. Dillon.

Economic Operation Seen

But Bonneville officials say the incremental cost of operating the plant isn't much compared with the cost of building it and that it would be economic to run. "We will find a market for at least a portion of the total surplus," one official maintains.

Separately, a county judge in Seattle last week freed the supply system to take action against 88 municipal utilities that have refused to pay their share of the \$2.25 billion in debt associated with the canceled plants.

The 88, who in 1976 signed contracts to pay, are refusing on the grounds that the supply system allegedly misrepresented its ability to complete the projects. The misrepresentation charge will be heard in court, but in the meantime, Judge H. Joseph Coleman freed the cash-strapped system to seek \$30 million in overdue payments from the 88 utilities. The judge earlier signed a restraining order prohibiting the supply system from taking action against the 88.

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CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing "Applicant's Motion to Strike" in the captioned matter were served upon the following persons by deposit in the United States mail, first class, postage prepaid this 28th day of April, 1983:

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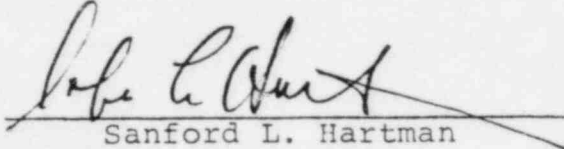
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