

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

DOCKETED
USNRC

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ATOMIC SAFETY AND LICENSING BOARD

OFFICE OF SECRETARY
DOCKETING & SERVICE
BRANCH

Before Administrative Judges:

Herbert Grossman, Chairman
Glenn O. Bright
Dr. Jerry Harbour

SERVED AUG 16 1983

In the Matter of

WASHINGTON PUBLIC POWER SUPPLY SYSTEM,
et al.

(WPPSS Nuclear Project No. 1)

Docket No. 50-460-CPA

(ASLBP No. 83-485-02 CPA)

August 15, 1983

MEMORANDUM AND ORDER
(Granting In Part and Denying In Part
Intervenor's Motion to Compel)

MEMORANDUM

On June 9, 1983, Intervenor, the Coalition for Safe Power (CSP), served its second set of interrogatories upon Applicant, the Washington Public Power Supply System (WPPSS). Applicant objected to Interrogatories 19, 21, 22, 25, 27, 31-35, 38, 42-45, and 47. On July 13, Intervenor moved to compel responses to Interrogatories 25, 27, 28, 31, 32, 35, 38 and 42, and to compel more complete responses to Interrogatories 26 and 50.

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Applicant responded to CSP's motion to compel by answering Interrogatories 31, 32, 35 and 38 (without waiving its objections to those interrogatories), by continuing to object to Interrogatories 25, 27, 28 and 42, and by objecting to further responses to Interrogatories 26 and 50.

We grant Intervenor's motion with regard to Interrogatories 25-28 and deny it with regard to Interrogatories 42 and 50.

Interrogatory 25

In this interrogatory, CSP seeks to discover the differences in Applicant's usage of the terms "deferral, mothball and preservation." Applicant objects on the ground that the information sought relates only to health and safety aspects of the construction deferral -- matters outside the scope of this proceeding. These terms have apparently been used by Applicant in public statements and documents. Intervenor denies that it is attempting to raise health and safety issues by its request.

It appears to us that, although the differences in the projected manner of treating the suspended facility may be motivated by health and safety reasons, the terms themselves describe the possible treatment of the facility rather than the motivating reasons for such treatment (even if the motivating reasons were health and safety considerations).

Applicant's objection is not well founded, and it should answer the interrogatory.

Interrogatory 26

Interrogatory 26 states: "To what events is the restart of construction on WNP-1 tied? Explain fully your answer." Applicant responded as follows:

The restart of construction on WNP-1 is tied to those factors upon which the extension of the WNP-1 construction permit until 1991 was based.

Intervenor asserts that Applicant should "Explain fully [the] answer" by showing how each factor identified affects the restart of construction of WNP-1 and how the decision will be made. Applicant contends that Intervenor is now attempting to rewrite its interrogatory and that these are other questions that Intervenor should have asked but didn't.

It appears to us that Applicant's answer to the interrogatory was incomplete and circular. Rather than name the events and explain how these events affect the restart of construction, it merely referenced the restart of construction to the unnamed construction permit extension factors. That response is unsatisfactory and incomplete. The question posed by Intervenor in paraphrasing the original interrogatory seemed to

us to be a legitimate reading of the original interrogatory. Applicant should furnish a complete answer to those questions.

Interrogatories 27 and 28

These interrogatories ask what the effect would be on the restart and completion of WNP-1 of the possible default on WNP-4 and WNP-5, and the deferral of construction on WNP-3, respectively.

As we gather from Applicant's original objections to the interrogatories and its response to the motion to compel, Applicant objects to answering on the grounds that the interrogatories seek information with regard to projects other than WNP-1, namely, WNP-3, WNP-4 and WNP-5. Applicant suggests that an inquiry into those projects is a "tangential question" that constitutes "unlimited inquiries into a construction permit holder's activities on other projects." Applicant's response to motion to compel at 7.

We do not view the interrogatories that way. It appears to us that, as a prima facie matter, a very direct connection has been demonstrated between the restart of WNP-1 and the fortunes of WNP-3, WNP-4 and WNP-5. Furthermore, the interrogatories themselves limit the inquiry into WNP-3, WNP-4 and WNP-5 to their "effect *** on the restart and completion of WNP-1." These interrogatories, therefore, are neither "tangential" to the continued construction of WNP-1, nor do they con-

stitute "unlimited inquiries" into Applicant's activities on other projects. Applicant should supply those answers.

Interrogatory 42

This interrogatory asks the reasons for halting construction of WNP-3, including the suggestion of there being no need for its power, and questions how these reasons will affect the deferral of WNP-1. As with Interrogatories 27 and 28, Applicant objects to these inquiries into Applicant's activities on projects other than WNP-1.

We agree with Applicant that the reasons for Applicant's having taken actions on other projects are not sufficiently connected to its contemplated activities on WNP-1 to warrant discovery into those matters. We do not consider that, because Applicant had certain reasons to take actions with regard to other projects, the existence of these reasons in Applicant's mind constitutes a basis for the Board to determine whether good cause exists for extending the construction permit for WNP-1. Intervenor seeks to discover matters that are not relevant and which do not appear to lead to relevant matters.

Interrogatory 50

This interrogatory questioned whether the passage of Washington Initiative 394 affected the ability of WPPSS to issue bonds. Appli-

cant's response indicated that any perceived impediment to the repayment of bonds would make their sale more difficult; that Initiative 394 would clearly have constituted such a perceived impediment; and that the Supreme Court had declared Initiative 394 unconstitutional so as to remove this impediment to net billing financing.

It appears to us that Applicant has completely answered that interrogatory. No further response is necessary.

ORDER

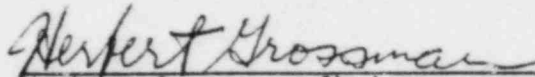
For all the foregoing reasons and based upon a consideration of the entire record in this matter, it is, this 15th day of August, 1983,

ORDERED

1. That Intervenor's motion to compel answers to Interrogatories 25, 27, and 28 is granted;
2. That Intervenor's motion to compel a more complete response to Interrogatory 26 is granted;
3. That Intervenor's motion to compel an answer to Interrogatory 42 is denied; and

4. That Intervenor's motion to compel a more complete answer to Interrogatory 50 is denied.

FOR THE ATOMIC SAFETY AND LICENSING BOARD

A handwritten signature in cursive script, reading "Herbert Grossman", is written over a horizontal line.

Herbert Grossman, Chairman
ADMINISTRATIVE JUDGE

Dated at Bethesda, Maryland,
August 15, 1983.