

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

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

AFFIDAVIT OF JIM C. PETERSEN
IN SUPPORT OF SUMMARY DISPOSITION OF
COALITION FOR SAFE POWER AMENDED CONTENTION 2

I, Jim C. Petersen, being duly sworn do depose and state:

1. I am employed by the U.S. Nuclear Regulatory Commission in the Office of State Programs. A statement of my professional qualifications is attached. I am a NRC staff analyst currently assigned to the Washington Public Power Supply System (WPPSS or permittee) Nuclear Project No. 1 (WNP-1). I certify that I have personal knowledge of the matters set forth herein with respect to the extension of the construction completion date of the WNP-1 project, and that the statements made are true and correct to the best of my knowledge.

2. As admitted by the Licensing Board in its Memorandum and Order, dated March 25, 1983, the Coalition for Safe Power (CFSP) Amended Contention #2 states:

Petitioner contends that the Permittee's decision in April 1982 to "defer" construction for two to five years, and subsequent cessation of construction at WNP-1, was dilatory. Such action was without "good cause" as required by 10 CFR 50.55(b).

Moreover, the modified request for extension of completion date to 1991 does not constitute a "reasonable period of time" provided for in 10 CFR 50.55(b).

3. Pursuant to 10 CFR 50.55(b), permittee requested an amendment to the WPPSS Nuclear Project No. 1. (WNP-1) Construction Permit No. CPPR-134. By letter of July 21, 1981, permittee requested an extension of its latest construction completion date to June 1, 1986. In a letter of January 11, 1983 modifying its pending amendment request of July 21, 1981, permittee requested a further extension of five years, to June 1, 1991. The purpose of this affidavit is to demonstrate that permittee's decision to defer construction of WNP-1 was not dilatory and was for good cause, by providing further detailed explanation of the Staff's evaluation of the reason cited by permittee in support of its January 11, 1983 modification of its amendment request.

4. The reason put forth by permittee as justification for extension of its construction completion date is:

Subsequent to the filing of that amendment request, the Bonneville Power Administration ("BPA") recommended to the Supply System that construction on WNP-1 be delayed for a period of from two to five years. In view of that recommendation, the Supply System's Board of Directors voted to suspend construction on WNP-1 temporarily. The Board has determined that construction on WNP-1 will be delayed for at least two years, and that it is possible that the delay could be for as long as five years. The actual length of the delay will depend on regional energy demand considerations. (Permittee's letter dated January 11, 1983.)

CFSP Amended Contention 2 challenges that reason as being dilatory and without good cause. At issue is whether BPA's recommendation that the plant be deferred for 2 to 5 years is an act which is beyond the

control of permittee and accordingly constitutes "good cause" for the extension. The pertinent question here is whether or not the relationship between BPA and WPPSS, and specifically the degree of BPA's influence over WPPSS, is such that BPA can effectively control the planned construction completion date of WNP-1. If the answer to this question is yes, then the BPA "recommendation" is a circumstance beyond the control of permittee and constitutes "good cause" under 10 CFR § 50.55(b) for extension of the construction permit completion date.

5. BPA's influence on and control over the construction of WNP-1 can be measured in at least two ways. First is the provision in the WNP-1 bond indenture which makes BPA ultimately responsible for payment of principal and interest on the WPPSS revenue bonds issued to finance the project. Since WPPSS is a public agency, its permanent financing for utility plants is all in the form of bonded indebtedness. There is no equity capital such as that contributed by the stockholders of an investor-owned utility. There are three levels of underlying security for repayment of the WNP-1 bonds. The first level of security for the bonds is the revenues that will be collected from ratepayers who use electricity generated by the plant. The second level of security is evidenced by the Net Billing Agreements between WPPSS and the publicly-owned utilities and by the Exchange Agreements between WPPSS and the privately-owned utilities. These contracts, to which BPA is also a party, provide that each participating utility will pay its share of WNP-1 costs (including all debt service costs) regardless of whether or not WNP-1 is completed, operable or operating. The third level of

security is provided by BPA's obligation, through such contracts, to make up any deficiencies in project costs (including all debt service costs) not provided by the participating utilities.

6. A second measure of BPA's effective control over WPPSS' decisions involving WNP-1 is BPA's approval authority over the issuance of WPPSS bonds to finance the project. The WNP-1 Project Agreement between BPA and WPPSS provides that BPA has approval/disapproval authority over WPPSS' issuance of WNP-1 revenue bonds. WPPSS must issue WNP-1 bonds in such amounts and at such times so as to fulfill the WPPSS' budget and financial plan over which BPA has approval authority.

7. Thus, BPA's financial stake (and financial responsibility) in the successful completion and operation of WNP-1 is so high as to give BPA a measure of control in significant decisions on the project. It is reasonable that such control and influence should extend, as it does, to the planned completion date of the facility, a factor that has major financial and operating significance to BPA and to WPPSS. Based on the information set forth above, I conclude that BPA's involvement in the WNP-1 project is so substantial and so integral that it effectively has control over such decisions as the planned completion date of the project.

Jim C. Petersen

Jim C. Petersen

SUBSCRIBED and sworn to before
me this 14 day of November, 1983

[Signature]

Notary Public
My commission expires:

2/1/86

