

Key Central

Docket No. 50-289

NOV 13 1973

Honorable Richard S. Schweiker  
United States Senate

Dear Senator Schweiker:

Thank you for your inquiry with respect to your constituent's, Mr. David Sholly's, concerns with respect to public participation in the public hearing on the application for an operating license for the Three Mile Island, Unit 1, nuclear facility.

Under the Commission's Rules of Practice there are two means whereby members of the public may participate in AEC public hearings involving an application for a nuclear facility license. One of these provides for a member of the public to become an intervenor in the proceeding. As intervenors, such members of the public have all the rights of a party to the proceeding and may present evidence, cross-examine witnesses and fully participate in all aspects of the proceeding. For a member of the public to become an intervenor, he or she or an organization must file with the Commission a formal petition for leave to intervene in accordance with the Commission's Rules of Practice and the petition must be granted by the Atomic Safety and Licensing Board designated to rule on such petitions.

A second method for participating in these proceedings is by means of a limited appearance. A person desiring to present an oral or written statement regarding the application but who does not desire to request full party status as an intervenor normally would participate in the proceeding by this means. Under Commission procedures, a person desiring to make a limited appearance is merely required to make known to the presiding Atomic Safety and Licensing Board that such an appearance is desired. Requests for such appearance are

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routinely granted. The presiding Board is, however, granted discretion to apply reasonable constraints on the length of oral limited appearance statements in the interest of providing everyone who desires an opportunity to make such an appearance adequate time to do so and assuring the orderly conduct of the proceeding.

As I understand the situation, Mr. Sholly is a member of an organization known as Citizens for a Safe Environment (CFSE) which petitioned to intervene in the Three Mile Island proceeding. This petition was granted and CFSE became a full party to the proceeding. The organization was ably represented by counsel.

I further understand that in addition Mr. Sholly submitted a request to the presiding Atomic Safety and Licensing Board to make a limited appearance. This request along with twelve others was granted by the presiding Board. In granting these requests the presiding Board limited oral statements to five minutes. However, in the interest of assuring each of these persons the opportunity to present to the Board a full and complete statement of their positions, in the event the five minute limit for oral statements was insufficient, the Board permitted each person making a limited appearance to submit for the record written statements of any length.

On November 6, 1973, Mr. Sholly presented his oral limited appearance statement to the Board and submitted a more detailed written statement for the record. On November 7, 1973, CFSE entered into an agreement with the applicant for the license, Metropolitan Edison, in which the applicant agreed to satisfy certain concerns of CFSE in connection with the proposed operation of the Three Mile Island facility and CFSE agreed to withdraw as an intervenor in the proceeding. This agreement is pending before the presiding Board. A ruling is anticipated shortly.

In the event you desire additional information, please contact me.

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Sincerely,

Original signed  
 by H. K. Shapar

Howard K. Shapar  
 Assistant General Counsel  
 Licensing and Regulation

Enclosure:	OGC	OGC	OCR		
OFF Incoming ltr. from	TFEngelhardt	Shapar			
Steven C. Sholly	dtc				
URNAME ▶	11/15/73	11/15/73	11/15/73		
DATE ▶					

United States Senate

OCT 22 1973

Respectfully referred to:

Congressional Liaison  
Atomic Energy Commission  
Washington, D. C. 20545

Because of the desire of this office to be responsive to all inquiries and communications, your consideration of the attached is requested. Your findings and views, in duplicate form, along with return of the enclosure, will be appreciated by

Richard S. Schweiker  
Pennsylvania

READ OFF. DIR. OF SEN.  
Date 10/26/73  
Time 11

U.S.S.

Form #2

DP-6310

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Steven C. Sholly

[REDACTED]  
17 October 1973

The Honorable Richard Schweiker  
Senator from Pennsylvania

Mr. Senator:

I am a member of an organization called Citizens for a Safe Environment from Harrisburg, Pennsylvania. The organization is currently involved in the licensing hearings for the Three Mile Island Nuclear Power Station, Unit 1, nuclear reactor, which is located about nine miles from Harrisburg. Citizens for a Safe Environment has intervened in the hearings to express its concerns that certain features of the reactor present undue hazards to the population in the vicinity of the reactor.

As a member of an Intervening organization, it seemed logical to me that I should be permitted to present my testimony at the hearings by virtue of being a member of the Intervenor. However, I have recently been informed by Citizens for a Safe Environment Chairperson Virginia Southard that I must request permission from the Atomic Energy Commission to make an appearance at the hearing and be able to speak. Not only that, but I found that I am limited to five minutes time in which to present my feelings to the Atomic Safety and Licensing Board assigned to the hearing by the A.E.C. In addition, not only must I request permission, but Ms. Southard, who is the leader of the Intervenor, must also request permission to speak at the hearing and she is also limited to five minutes.

I find this situation rather incredible. It seems to me that the rules which require my submitting a request to appear at the hearing is specifically designed to discourage public participation in proceedings of this type, when in fact their health, welfare, and peace of mind are possibly threatened. No doubt exists in my mind that the A.E.C. needs some idea of how many persons wish to make statements to the hearing board in order to proceed in a smooth fashion and minimize confusion. However, for a concerned member of the public to be forced to "request permission" to make an appearance at such a hearing as I am describing is absurd and an affront to the intelligence and dignity of any person who becomes involved in such a proceeding.

I strongly resent the "high-and-mighty" attitude which pervades the A.E.C. regulations regarding personal appearances at licensing hearings. Since the due date for appearance requests for the Three Mile Island hearing is already past, I can only sit by and hope for the A.E.C. to grant me permission to do what I feel should be a basic right of every person to do--that is, to freely present his views in a public proceeding which involves his personal health and welfare or that of his family.

As Assistant Secretary of the Interior, John A. Laran, noted in a letter to Senator Warren Magnuson, dated April 25, 1972, "Public information about



utility plans and participation in siting decisions is presently inadequate. Full public participation is a vital part of the successful resolution of conflicts over location of facilities."

A report of a special committee of the Association of the Bar of the City of New York, submitted as testimony in Senate Commerce Committee hearings on Powerplant Siting, cited several defects in the present system of information disclosure and public participation in powerplant licensing hearings. Among those defects were listed:

- (a) Failure to provide for adequate public disclosure of important facts,
- (b) Presenting unnecessary obstacles to public participation, and
- (c) Failure to inspire essential public trust in the objectivity of the results reached.

That same subcommittee recommended that all stages of the decision-making process in powerplant siting be opened up to effective public participation. The two main reasons for this were, first, that a more open decision-making process is more likely to arrive at sound decisions which are in the public interest, and, secondly, that the credibility of such processes cannot withstand the criticism that results from the exclusion of persons or interest groups who reasonably believe themselves to be affected by the results of such proceedings.

It is evident to me that little effort has been exerted by the A.E.C. along these lines since the time of the above mentioned report. It is high time that the A.E.C. becomes more responsive to the citizens of this country who reasonably believe themselves to be affected by their actions. I strongly urge you to use all measures at your disposal to correct this unfortunate and unnecessary situation.

Any response which you may have to this communication will be greatly appreciated. I thank you kindly for your time and for your consideration in this matter.

-Sincerely, -

*Steven C. Sholly*

Steven C. Sholly