

IN RESPONSE, PLEASE  
REFER TO: M970804A

August 4, 1997

MEMORANDUM FOR: L. Joseph Callan  
Executive Director for Operations

John F. Cordes, Acting Director  
Office of Commission Appellate Adjudication

FROM: John C. Hoyle, Secretary /s/

SUBJECT: STAFF REQUIREMENTS - AFFIRMATION SESSION,  
2:00 P.M., MONDAY, AUGUST 4, 1997,  
COMMISSIONERS' CONFERENCE ROOM, ONE WHITE  
FLINT NORTH, ROCKVILLE, MARYLAND (OPEN TO  
PUBLIC ATTENDANCE)

I. SECY-97-141 - Atlas Corporation; Docket No. 40-3453-MLA;  
LBP-97-9, Memorandum and Order (Denying Hearing Request)

The Commission approved an order denying the appeal of a Licensing Board order, LBP-97-9, that concluded the appellate lacked standing and therefore denied his petition to intervene. The Commission's order concludes that the Presiding Officer gave the appellate four reasonable opportunities to meet his burden of proof on the issue of standing but that he nevertheless failed to provide the necessary factual details that would support his claim of standing.

(Subsequently, on August 4, 1997 the Secretary signed the Order.)

cc: Chairman Jackson  
Commissioner Dicus  
Commissioner Diaz  
Commissioner McGaffigan  
EDO  
OGC  
OCAA  
OCA  
OIG  
Office Directors, Regions, ACRS, ACNW, ASLBP (via E-Mail)  
PDR - Advance  
DCS - P1-17

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

COMMISSIONERS:

Shirley Ann Jackson, Chairman  
Greta J. Dicus  
Nils J. Diaz  
Edward McGaffigan, Jr.

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In the matter of )

)  
ATLAS CORP. ) Docket No. 40-3453-MLA

)  
(Moab, Utah Facility) )  
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CLI-97-\_\_

MEMORANDUM AND ORDER

The Commission denies the appeal filed by Mr. John F. Darke June 2, 1997, and affirms the Presiding Officer's order, LBP-97-9, 45 NRC 414 (May 16, 1997). We do so on the grounds set forth in LBP-97-9. In that order, the Presiding Officer rejected Mr. Darke's request for a formal hearing, concluded that Mr. Darke had not met his burden to establish standing to intervene, and dismissed the proceeding.

We ordinarily defer to Licensing Board standing determinations. See Yankee Atomic Elec. Co. (Yankee Nuclear Power Station), CLI-96-7, 43 NRC 235, 248 (1996). Here, we see no legal error or abuse of discretion in the Presiding Officer's refusal to grant standing to Mr. Darke, given his failure to offer more than general responses to the Presiding Officer's reasonable and clearly articulated requests for more specific information about Mr. Darke's proximity-based standing claims. The four opportunities which Mr. Darke had to specify his claims were entirely adequate.

IT IS SO ORDERED.

For the Commission

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John C. Hoyle  
Secretary of the Commission

Dated at Rockville, Maryland,  
this            day of August, 1997.