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UNITED STATES OF AMERICA
before the
NUCLEAR REGULATORY COMMISSION

OFFICE OF SECRETARY
ROLEY
ADJUDICATORY

In the Matter of

YANKEE ATOMIC ELECTRIC COMPANY

(Yankee Nuclear Power Station)

Docket No. 50-029-LA
ASLBP NO 98-736-01-LA

6-29-98

FRANKLIN REGIONAL PLANNING BOARD'S BRIEF TO SUPPORT APPEAL

The Franklin Regional Planning Board (FRPB) hereby appeals the decision by the Atomic Safety and Licensing Board (ASLB) at to FRPB's ability to acquire standing in the above captioned proceeding. FRPB maintains that it has met the requisite standards to establish organizational or representational standing, discretionary or constitutional standing, and certainly standing as an interested governmental agency under 10 CFR Sect 2.715 (c).

At the outset, FRPB is concerned that the ASLB considered and erred in accepting and giving weight to the unsolicited correspondence of Brad C. Councilman, Chair of the Franklin Regional Council of Governments (FRCOG) dated March 26, 1998 to Judge James P. Gleason. This communication was not authorized by the FRCOG or any of its

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committees, nor was it distributed to the Service list as required under the rules in this proceeding. Yet, the ASLB gave the content of the letter full evidentiary value where it should have been ignored and not become a part of the record. The ASLB erred in considering the letter's representations as a basis to deny the FRPB standing as an organization and a governmental entity. Although Mr. Councilman's representations were not inaccurate, they were not complete in fully defining the role of the FRPB. And even if an aspect of our role is advisory in nature, truly, to advise requires a full understanding of the facts which mandates investigation, research and review.

The License Termination Plan (LTP) required this type of approach in order for the FRPB to meet its responsibility to the FRCOG and the citizens of the Franklin County region. After the Nuclear Regulatory Commission (NRC) Staff published their recommendation of No Significant Hazards Consideration, it triggered a 30 day period to request a formal public hearing. In order to accomplish the necessary review, to make recommendations, and to assure that the necessary health and safety concerns of the region were met by the LTP, the only avenue available to the FRPB to assure public input and confidence in the LTP, was to file for standing in this proceeding.

It was also error for the ASLB to not act on the Conditional Motions filed by all parties (see footnote 5 of Memorandum and Order [Decision on Standing]) or to have at least considered the FRPB's pleadings that confirmed its initial filings as to its role in properly representing the Franklin County region in this matter (see Exhibit A; FRPB's Conditional Motion dated May 2, 1998) before issuing its Memorandum and Order

(Decision on Standing). By ASLB choosing not to act, all parties were denied procedural means to exhaust their ability to include the substance and evidence of these filings in the record before reaching the “standing” decision. In fact, the ASLB has been held to a standard to accept such filings to develop a full record as “the cardinal rule, so as far as fairness is concerned, is that each side must be heard” *Houston Lighting and Power Company*, 10 NRC 521, 524 (1979). Although this case was determining applicability of objections to contentions, the same standard should be applied here where the party is attempting to establish its role as a proper party to the proceeding.

Throughout the decision, the ASLB termed the FRPB as a body with authority for regional planning and thus within itself does not have responsibilities that may be affected by an inadequate or flawed LTP. Our mandate is to “promote and protect (emphasis added) public health, safety and welfare and the natural and cultural resources of the Regional Planning District”. The decision improperly cites our role as only promoting these values.

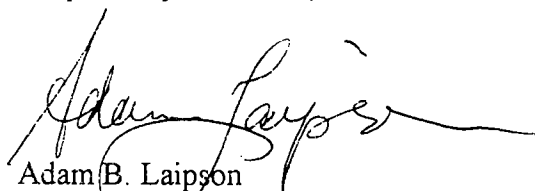
It was also error to not give full weight to the FRPB’s mandate as dictated under the Charter as adopted by all twenty-six towns in Franklin County. Certainly the Charter has more credence as to our role and function, then an authorized letter to only one member of the ASLB panel.

It was also error for the ASLB not to award standing to the Citizens Awareness Network (CAN) and New England Coalition on Nuclear Pollution (NECNP). Each of these parties made an adequate showing to establish standing. In so deciding, the ASLB shortchanged FRPB's ability to take part in the hearing process under the provisions of 10 CFR 2.715 (c). In appeal, if either party prevails to acquire standing, FRPB maintains that it has demonstrated that it is the proper body to represent the citizens and resources of Franklin County in the proceeding. There is no other regional body, governmental or quasi-governmental, better qualified or in a better position to involve itself with the subject matter of the LTP. We are the logical choice. Interestingly enough, the Licensee presented the LTP to the FRPB for review when it was first issued and used our monthly meetings as a forum for public outreach and feedback, until we filed for a formal public hearing.

The ASLB also erred in not addressing the adequacies of the public meeting notices and the Licensee not providing documentation for the Public Document Rooms in a timely manner. Such oversights violate the fundamental right to due process. The NRC should not conduct its matters with an attitude that they are above the law and without the guidelines of notice that are protected under our Constitution. The Commission should review all the circumstances concerning these improprieties as outlined by FRPB and the other parties to this proceeding.

WHEREFORE, the FRPB requests that its appeal be allowed and that it be given standing in the proceeding.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Adam Laipson", with a long horizontal flourish extending to the right.

Adam B. Laipson
Chair, Franklin Regional Planning
Board

June 29, 1998

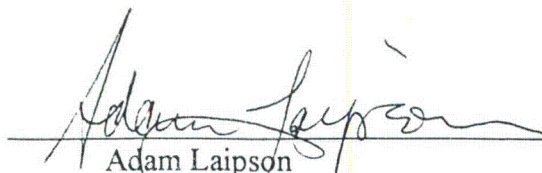
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CERTIFICATE OF SERVICE

I, Adam Laipson, Chair of the Franklin Regional Planning Board, do hereby certify that on June 29, 1998, I served the within notice and brief by United States Mail as follows:

Shirley Ann Jackson, Chairman US Nuclear Regulatory Commission Washington, DC 20555	Kenneth C. Rogers, Commissioner US Nuclear Regulatory Commission Washington DC 20555
Greta J. Dicus, Commissioner US Nuclear Regulatory Commission Washington, DC 20555	Dr. Nils Diaz, Commissioner US Nuclear Regulatory Commission Washington, DC 20555
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Mr. R.K. Gad, III, Esquire Ropes & Gray One International Place Boston, MA 02110-2624	Mr. James L. Perkins President of the Board New England Coalition on Nuclear Pollution, Inc. Post Office Box 545 Brattleboro, VT 05302
Mr. Paul Gunter Nuclear Information and Resource Service 1424 16th St., NW Suite 404 Washington, DC 20555 Phone 202-328-0002 FAX: 202-462-2183	Anne B. Hodgdon, Esquire Office of the General Counsel US Nuclear Regulatory Commission Washington, DC 20555 FAX: 301-415-3725
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Adam Laipson