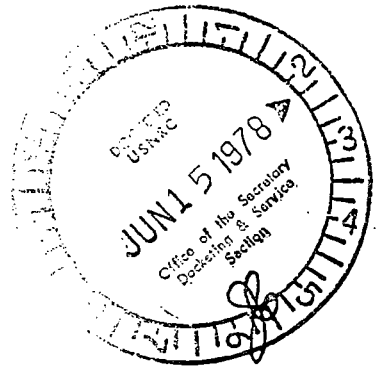


6-12-78



UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matter of)

PUBLIC SERVICE ELECTRIC & GAS COMPANY)

(Salem Nuclear Generating Station,)
Unit No. 1))

Docket No. 50-272
Proposed Issuance of
Amendment to Facility
Operating License No. DPR-70

THE PUBLIC ADVOCATE'S MOTION
FOR RECONSIDERATION OF PART
OF THE BOARD'S ORDER OF MAY 24, 1978

The Public Advocate of the State of New Jersey, on behalf of the intervenors, Alfred and Eleanor Coleman ("intervenors" or "the Colemans"), hereby respectfully moves the Atomic Safety and Licensing Board ("Board") for reconsideration of that part of its May 24, 1978 "Order Following Special Prehearing Conference" ("Order") which denied the Coleman's proposed contention 13. In support of this Motion, the Public Advocate represents as follows:

1. In its Order the Board denied the proposed contention 13 with the following reasoning:

Contention 13 asserts that the Licensee has failed to consider adequately the cumulative impact of expanding storage in Salem Unit 1 in association with the proposed expansion of the storage capacity in Salem Unit 2. The Board finds that it is premature to consider this contention. Any impact which may be due to the effect of Unit 2 being added to Unit 1 can more properly be considered in the review of the application to enlarge the storage

HEAR 4

capacity of Unit 2. Therefore, this contention is rejected as beyond the scope of this proceeding. (Order, at 10) (emphasis added)

2. During discussion of the proposed contention 13 late in the prehearing conference of May 18, 1978 (Tr. 92-102) counsel to Public Service Electric and Gas Company ("the licensee" or "PSE&G") agreed that "first of all there is no doubt that a separate application has been made with regard to Salem Unit 2." (Tr. 94, 23-25) (emphasis added).

He also stated that the "requested modifications" for Unit 2 are "almost identical" to the amendment now before the Board for Unit 1. (Tr. 95, 6-9) (Consequently, the Board would expect to see similar evidence presented by the NRC staff and PSE&G if the two amendments were treated in the same proceeding.)

3. While the Public Advocate has not been provided with a copy of the Salem Unit 2 application (Tr. 95, 3-4), it is our understanding that the licensee's application of necessity must be for an amendment to the existing construction permit ("CP") for Salem Unit 2, since construction of the facility has not yet been completed. 10 C.F.R. 50.56.

4. The regulations provide that amendments to the CP may be granted by the Commission without providing public notice of the proposed modification and consequently with no opportunity for the public to respond by requesting the Commission to convene a Board to rule on possible intervention and hearings, as has occurred in this proceeding. 10 C.F.R. 50.58(h) authorizes the Commission, when reviewing CP amendments -- as well as operating license amendments -- to "dispense with such notice and publication [of the application]" and to "issue the amendment," as requested.

5. Based upon discussions with the NRC staff it is the Public Advocate's understanding and belief that the Commission in fact has decided to "dispense with such notice and publication" with respect to Salem Unit 2. Consequently, the Board mistakenly believed that the application to amend the CP for Salem Unit 2 would be subject to the same opportunity for hearing and intervention which pertained in this proceeding.

6. It is also the Public Advocate's understanding that the NRC staff supported the admission of contention 13 at the conference (Tr. 95, 14-25) in part at least due to the staff's awareness that, unless admitted in this proceeding, the impacts of expanding the capacity and the duration for storing spent nuclear fuel at Salem Unit 2 would not be the subject of any public review and opportunity for hearing.

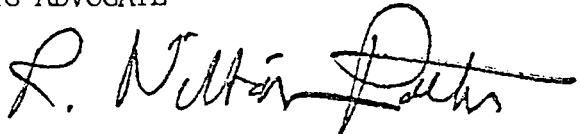
7. Finally, the NRC staff has stated its intention to perform its safety and environmental analysis of the Unit 2 amendment in the context of the Unit 1 review and hearing. (Tr. 95, 21-25). Moreover, both Salem units are owned and operated by the licensee, PSE&G. As a result, the Board must anticipate that the staff and the licensee already are conducting reviews of the "cumulative impacts of expanding spent fuel storage" at the two units, which is the essence of the contention. Therefore, the Board should require presentation of their findings as evidence in this proceeding.

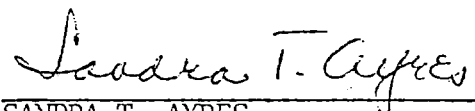
CONCLUSION

For the reason stated herein, the Public Advocate on behalf of the Coleman's, respectfully moves the Board to reconsider the denial of the intervenor's proposed contention 13 and to modify the Order accordingly.

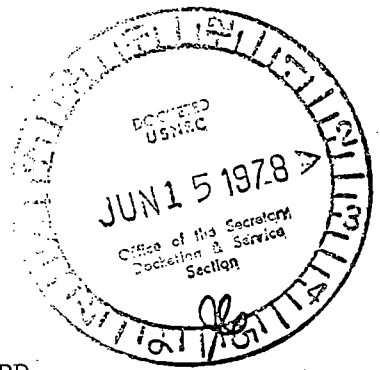
Respectfully submitted,

STANLEY C. VAN NESS
PUBLIC ADVOCATE

By: 
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Division of Public Interest Advocacy

DATED: June 12, 1978



UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matter of

PUBLIC SERVICE ELECTRIC & GAS COMPANY

(Salem Nuclear Generating Station,
Unit No. 1)

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Docket No. 50-272

CERTIFICATE OF SERVICE

I hereby certify that copies of "The Public Advocate's Motion for Reconsideration of Part of the Board's Order of May 24, 1978" in the above captioned matter, have been served upon persons listed on attached service list, by deposit in the United State mail, first class, postage prepaid, this 12th day of June, 1978.

A handwritten signature in dark ink, appearing to read "R. William Potter". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

R. WILLIAM POTTER
Deputy Director
Division of Public Interest Advocacy

DATED: June 12, 1978

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