

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD



In the Matter of )  
METROPOLITAN EDISON )  
COMPANY, et al., )  
(Three Mile Island )  
Nuclear Station, Unit )  
No. 1) )

Docket No. 50-289  
(Restart)

PEOPLE AGAINST NUCLEAR ENERGY  
REQUEST FOR FINANCIAL ASSISTANCE TO SUPPORT  
INTERVENTION ON THE ISSUES OF PSYCHOLOGICAL DISTRESS

People Against Nuclear Energy (PANE) requests financial assistance in the amount of \$52,220 from the Nuclear Regulatory Commission (the Commission) to support PANE's intervention on the issue of the psychological stress that was caused by the accident at Three Mile Island Unit 2 (TMI-2) and that would be compounded and made permanent by the reopening of TMI-1. The Commission has the legal authority to provide financial assistance to intervenors, and the facts of this case dictate that the Commission should assist PANE in order to assure a full and fair determination of the issue.

According to the Report of the President's Commission on the Accident at Three Mile Island - The Need for Change: The Legacy of TMI (the Kemeny Report), the most serious health effect of the TMI-2 accident was severe mental stress, which the Kemeny Commission found to be most acute among those living

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within five miles of the reactor. Id. at 12-13, 35. PANE, which is composed entirely of individuals living within the five mile area, contends that the reopening of TMI-1 will compound and make permanent the psychological stress caused by the accident. This is an issue which the Commission has never before faced, and it is one with respect to which the NRC Staff has no expertise or experience. Only if PANE and other intervenors are able to present their case will the Commission be able to develop a full record on the psychological distress contentions. PANE will be able to provide the information and expert opinion that the Commission needs only if the Commission grants the requested financial assistance.

I. The Commission Has the Authority to Provide Financial Assistance to Intervenors Raising Issues of Psychological Distress.

The question of whether the Commission has the authority to provide financial assistance to intervenors has been examined at length by the Commission and its Office of General Counsel and does not require extensive treatment here. Although in 1976 the Commission decided as a general proposition not to establish a program of intervenor funding, it did accept the Comptroller General's decision that it had the legal authority to provide financial assistance if it found that participation of certain interested parties was essential to reaching a decision on the issues before it. Nuclear Regulatory Commission (Financial Assistance to Participants in Commission Proceedings), Docket No. PR-2, CLI-76-23, 4 NRC

494,499 (November 12, 1976). The Commission did not base its refusal to establish a general program of financial assistance to intervenors on an absence of legal authority. Rather the Commission based its decision on the proposition that the expertise of the NRC Staff rendered public participation unnecessary to decisions concerning issues of nuclear reactor safety. Id. at 502-504.

Legal developments following the 1976 decision were discussed in Section XII of a January 5, 1979, memorandum from the General Counsel to the Commission (Attachment 1).<sup>1/</sup> After reviewing a Comptroller General decision even more favorable to intervenor funding than the one accepted by the Commission in 1976 and examining the only two relevant cases, the Commission's General Counsel concluded that "the best legal arguments ...favor implicit authority to fund," and advised that the Commission did not need specific statutory authority in order to institute a funding program. Attachment 1 at 6.

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<sup>1/</sup> These developments include (1) a Comptroller General decision providing a more liberal view of implicit funding authority, Comptroller General, Costs of Intervention--Food and Drug Administration, 56 Comp. Gen. 111 (1976), (2) a Second Circuit ruling that the Federal Power Commission had no authority to fund participation in its proceedings, Greene County Planning Board v. FPC, 559 F. 2d 1237 (2d Cir. 1977) (en banc), reversing in part 559 F. 2d 1227, cert. denied 434 US 1686 (1978), and (3) letters from John M. Harmon, Assistant Attorney General, Office of Legal Counsel, to Phillip J. Bakes, Jr., General Counsel, CAB, and to Linda Heller, General Counsel, DOT (March 1, 1978), and a decision by the District Court for the District of Columbia, Chamber of Commerce of the United States v. Department of Agriculture, 459 F. Supp. 216 (D.D.C. 1978) ruling that the Second Circuit's decision applies only to the Federal Power Act and does not preclude other agencies from funding public participation.

Since the General Counsel's memorandum was prepared in January, there have been only two relevant developments of which PANE is aware, neither of which would alter the conclusion that the Commission has the authority to provide intervenor funding. First, in its report on the Energy and Water Development Appropriation Bill, 1980, which included appropriations for the NRC, the House Committee on Appropriations noted that neither the Commission's budget request nor the Committee's recommendation included funds for intervenors. H.R. Rep. No. 96-243, 96th Cong., 2d Sess., 139. This indicates only that the Commission did not specifically request funding for intervenors, and that the Committee did not specifically include such funding in the Commission's budget. As the Conference Committee considering the Energy Reorganization Act did in 1974, see 4 NRC at 496, the House Appropriations Committee has apparently decided that there is no need for specific legislation or appropriations on the issue because the Commission can provide funding under its general authority. This conclusion is consistent with the language of the Energy and Water Development Appropriation Act itself, which provided \$363,340,000 "[f]or necessary expenses of the Commission in carrying out the purposes of the Energy Reorganization Act of 1974." The legislation contains no limitation on the use of the appropriated funds to provide financial assistance to intervenors.

The Commission has the authority to provide financial assistance to PANE if, in the words of the Comptroller General's

latest decision, it finds that the

particular expenditure for participation "can reasonably be expected to contribute substantially to a full and fair determination of" the issues before it, even though the expenditure may not be "essential" in the sense that the issues cannot be decided at all without such participation.

56 Comp. Gen. at 113. For the reasons set out below, PANE's request meets this standard and qualifies for financial assistance, even under the logic of the Commission's 1976 decision denying assistance in most cases.

II. The Commission Should Provide Financial Assistance to Allow PANE to Address the Issue of Psychological Distress.

A. Financial Assistance to Intervenors Raising Psychological Distress Contentions is Essential to a Full and Fair Consideration of the Issues.

The primary basis for the Commission's 1976 decision not to establish a program of financial assistance to intervenors was its conclusion that the NRC Staff had

developed in-depth expertise on reactor safety issues over the past two decades in the course of reviewing safety aspects of hundreds of proposed reactors.

4 NRC at 502-503. In addition, the Commission noted that each proposed reactor was subject to review by the independent Advisory Committee on Reactor Safeguards (ACRS) and by Licensing Boards and Appeal Boards, all of which included technical experts. With these resources at hand, the Commission concluded

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that

Given this advanced state of the art in reactor safety, the professionalism, depth and experience of our regulatory staff, and the further screening provided by expert committee and board review, we simply are unable to make the determinations set forth in the Comptroller General's standard.

4 NRC at 503. The Commission made essentially the same "expertise" argument in rejecting funding for intervention on environmental issues not related to reactor safety. 4 NRC at 503-504.

That reasoning is not applicable here. Psychological distress, which was found by the Kemeny Commission to be the major health effect of the TMI-2 accident, and which PANE alleges will be compounded and made permanent by the reopening of TMI-1, is an issue that the Commission has never before considered. The NRC Staff has no expertise in this area, and neither the Commission, the Licensing Board, nor the ACRS has the background that would allow it to reach a decision on the merits of this issue without the help of qualified experts. Accordingly, in this case, perhaps more than in any other case in recent years, the Commission needs a fully developed record in order to reach a decision, and it needs effective intervenors in order to assure that such a record will be created.

For two reasons, the Commission cannot rely on the Staff to present a complete and unbiased discussion of the issue. First, the Staff has not developed expertise on the issue in general, it has not studied the psychological distress at TMI in par-

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ticular, and it has no time to develop expertise now. Therefore, the Staff lacks the knowledge necessary to develop a complete presentation. Second, the Staff has already filed a mammoth brief arguing that the Commission should not even consider the issue. In light of this background, it is doubtful that the Staff would undertake any serious effort to determine whether psychological distress exists in the TMI area.

In order to assure effective intervenor participation on this issue, the Commission must provide intervenor funding. PANE has found the experts and could provide the necessary information. However, the reality is that PANE cannot continue effective participation and cannot present these experts without funding from the NRC.

B. The Commission Should Provide Financial Assistance to PANE and to All of the Other Intervenors Raising Psychological Distress Contentions.

When the Commission issued its 1976 decision rejecting a general program of intervenor funding, it also decided that it would be appropriate to fund public participation in the GESMO rulemaking proceeding. Applicants for funds were required to provide three categories of information to enable the Commission to evaluate their requests. The information included:

1. A description of the organization, including full name and address, general purposes, structure, and tax status.
2. A description of the distinctive contribution that the organization will make to the proceeding with particular reference to possible overlap with other participants, and including a description of how the financial assistance will be used.

3. A description of the organization's financial status, including assets and liabilities, sources of income, and efforts to fund this intervention.

4 NRC at 514. The information provided below is based on these categories.

1. People Against Nuclear Energy

People Against Nuclear Energy (PANE) is a citizens organization of approximately 100 members who live within five miles of the TMI reactors. Its address is the home of its President, James Hurst:

617 Briarcliff Road  
Middletown, Pennsylvania 17057.

PANE is governed by a twelve member Board of Directors which includes the President, Vice President, Secretary, and Treasurer. PANE is a non-profit corporation of the State of Pennsylvania, and it applied to the Internal Revenue Service for §501(c)(3) tax exempt status on November 20, 1979. A description of PANE's general purposes is attached as Attachment 2.

PANE was formed in the aftermath of the accident at TMI-2 by people who felt that their lives had been so disrupted that they could not live with the prospect of another nuclear disaster. From its inception, PANE has been particularly concerned with the psychological and community trauma caused by the accident, and it intends to focus its efforts on those specific issues. PANE's activities to date have primarily involved monthly meetings at which speakers, films, and other educational information are provided to the public, and intervention in this proceeding.

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## 2. PANE's Contribution to This Case

The Kemeny Report indicated that the most severe mental distress caused by the accident at TMI-2 occurred in the population within five miles of the reactor. Kemeny Report at 13. As an organization whose members are all part of that population, PANE has the greatest personal knowledge of the trauma and the strongest incentive to contribute effectively to this proceeding. The fact that PANE and its counsel have participated extensively thus far without any promise of funding establishes their commitment and indicates the quality of their contribution. PANE is the only intervenor that has provided extensive argument on the question of whether psychological distress is cognizable in this proceeding. More importantly, however, PANE has contacted recognized experts in the field of stress psychology who have agreed to assist in developing the evidence that the Commission needs if PANE obtains the funds necessary to support their efforts.

PANE has been fortunate to have both Dr. Kai Erikson and Dr. Robert Lifton of Yale University agree to assist in preparing its case. Dr. Erikson is a prominent sociologist who helped the victims of the 1972 Buffalo Creek dam collapse evaluate the psychological and community harm that was caused by that disaster. This work is described in his book, Everything in its Path, published by Simon and Schuster in 1976. Dr. Lifton is an eminent psychiatrist whose most well-known work has involved the study of the psychological trauma to the survivors of the

atomic bomb at Hiroshima. He also assisted in the preparation of the psychological stress evidence in the litigation concerning the Buffalo Creek disaster. In addition, PANE has been working with Dr. Edward Walsh, a sociologist at Pennsylvania State University, and expects to retain at least one other expert witness to direct much of the interviewing that will be necessary to evaluate the extent of the psychological damage to the population in the TMI area.

Finally, PANE has taken the initiative to bring the relevant intervenors together in order to present a coordinated case with a minimum of evidentiary overlap. PANE has consulted extensively with the Newberry Township Steering Committee, which is also composed of individuals living near the reactor and has many of the same qualifications for funding that PANE has demonstrated above. PANE will be able to coordinate effectively with Newberry Township, and PANE also expects to be able to coordinate with the remaining intervenors who have raised this issue.

Attachment 3 is a proposed budget showing PANE's projected expenses for fiscal year 1980. The intervention expenses are shown under Part II. They include \$23,660 for expert witness fees and expenses, and \$28,560 for legal fees and expenses, for a total of \$52,220. PANE would use any funds provided by the Commission to cover costs shown in Part II. PANE will also provide periodic revisions of these estimates to the Commission as more information becomes available.

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### 3. PANE's Financial Status and Sources of Income

As noted above, PANE is a recently organized citizens group. It has survived to date on individual contributions and fund raising efforts such as community bake sales. A summary of its financial status as of October 16, 1979, which was included in its application to the IRS for tax exempt status, is attached as Attachment 4. In addition to its local efforts, PANE has also applied to a number of foundations for funding and has received a promise of \$1,100 from one source. Several other requests are still pending. In terms of the expenses shown on Attachment 3, PANE's income has gone entirely to pay legal fees and expenses and to support its monthly newsletter and meetings program. PANE has not yet opened an office or incurred other substantial obligations other than the intervention itself. It is clear that PANE will be unable to participate effectively in these proceedings unless the NRC provides the requested financial assistance. In fact, given the severely limited availability of private funds, PANE will probably not be able to participate at all without financial support from the NRC.

### III. Proposed Funding Mechanism

PANE proposes the following mechanism to provide assistance to intervenors while at the same time assuring that public funds are properly spent once the Commission has decided that assistance should be provided:

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1. Intervenor to submit a projected budget for the entire case with a statement of expenses incurred to date, income expected from other sources, and expenses that must be covered in order to proceed.
2. The Commission to provide each intervenor with one-half of its approved total immediately, to be kept in an escrow account by the intervenor.
3. Intervenor to draw from the escrow account each month to cover the fees and expenses incurred to date and to submit a complete report of activities and expenditures to the Commission at the end of each month.
4. Intervenor to submit revised budgets as necessary.
5. The Commission to provide the remainder of the approved amount after 90% of the first payment has been expended.
6. Intervenor accounts related to this proceeding to be available for Commission or other Federal government inspection at all times on reasonable notice.
7. Intervenor to provide a final report of expenditures after the Commission reaches a decision.

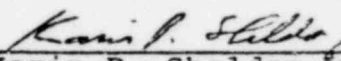
### Conclusion

For the foregoing reasons, PANE urges the Commission to approve financial assistance for the intervenors raising psychological distress issues in this proceeding. In particular, PANE requests that the Commission provide it with at least \$52,220, to be distributed under the procedure set out in Part III of this request.

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Respectfully submitted,

  
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Dated: November 29, 1979

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## XII. FUNDING OF INTERVENORS

A. Background

The general question of the desirability of intervenor funding in NRC proceedings has been thoroughly discussed in the Commission's 1976 decision terminating its rulemaking on funding <sup>1/</sup> and elsewhere.<sup>2/</sup> A section on funding was included in the draft licensing bill developed by the Commission in September of 1977 (§ 194).

To provide a context for this controversial issue, it may be useful to review some of the legal history concerning intervenor funding, as it has affected NRC and other federal agencies.

In response to a request from NRC, the Comptroller General ruled in February 1976 that, under the Commission's appropriations for "necessary expenses," it

has the statutory authority to facilitate public participation in its proceedings by using its own funds to reimburse intervenors when (1) it believes that such participation is required by statute or necessary to represent adequately opposing points of view on the matter, and (2) when it finds that the intervenor is indigent or otherwise unable

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<sup>1/</sup> Nuclear Regulatory Commission (Financial Assistance to Participants in Commission Proceedings), Dkt. No. PR-2, CLI-76-23, 4 NRC 494 (November 12, 1976).

<sup>2/</sup> Letter from Chairman Hendrie to Representative Seiberling, May 11, 1978.

to bear the financial costs of participation in the proceedings.<sup>3/</sup>

The opinion noted, however, that legislation would be desirable.<sup>4/</sup>

The Commission relied substantially on the quoted language in its 1976 funding decision.

In a later opinion, the Comptroller General clarified this and other decisions on funding intervenors:<sup>5/</sup>

While our decision to NRC did refer to participation being "essential," we did not intend to imply that participation must be absolutely indispensable. We would agree with Consumers Union that it would be sufficient if an agency determines that a particular expenditure for participation "can reasonably be expected to contribute substantially to a full and fair determination of" the issues before it, even though the expenditure may not be "essential" in the sense that the issues cannot be decided at all without such participation. Our previous decisions may be considered modified to this extent.<sup>6/</sup>

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<sup>3/</sup> Comptroller General, Costs of Intervention -- Nuclear Regulatory Commission, file B-92288 at 7 (February 19, 1976).

<sup>4/</sup> Id. at 8.

<sup>5/</sup> The Comptroller General had previously found that his ruling for NRC was equally applicable to FCC, FTC, FPC, ICC, CPSC, SEC, FDA, EPA, and NHTSA. Letter to Congressman John E. Moss, file B-180224 (May 10, 1976). See also letter to Congresswoman Yvonne Brathwaite Burke, file B-139703 (September 22, 1976) (concerning FCC).

<sup>6/</sup> Comptroller General, Costs of Intervention -- Food and Drug Administration file B-139703 at 5 (December 3, 1976).

On June 30, 1977, the Second Circuit in Greene County IV rejected the Comptroller General's rationale and ruled that the FPC had no statutory authority to pay the expenses of intervenors in its proceedings.<sup>7/</sup> It concluded, with little discussion:

In light of the Supreme Court's very broad language in Alyeska Pipeline Service Co. v. Wilderness Society [421 U.S. 240, 257 (1975)], that "absent statute or enforceable contract, litigants pay their own attorneys' fees", a finding that the Federal Power Commission is empowered to reimburse intervenors for their legal expenses must await appropriate Congressional action.<sup>8/</sup>

Later that year, the Commission determined, based largely on this case, that it would not fund participants in the Uranium Fuel Cycle (Table S-3) rulemaking.<sup>9/</sup>

On March 1, 1978, the Office of Legal Counsel of the Department of Justice informed both CAB and DOT that Greene County did not preclude them from determining whether they had explicit or implicit statutory authority to pay expenses

<sup>7/</sup> Greene County Planning Board v. FPC, 559 F.2d 1237, (2d Cir. 1977) (en banc), reversing in part 559 F.2d 1227 (Greene County III), cert. denied, 46 U.S.L.W. 3514 (February 21, 1978).

<sup>8/</sup> Id. at 1239.

<sup>9/</sup> Letter from Samuel J. Chilk to Helene Linker, NRDC September 26, 1977, regarding NRDC's Petition for Reconsideration of the Commission's Ruling Reopening the Hearing on the Uranium Fuel Cycle; see SECY-77-455 at 3 (August 23, 1977); Transnuclear, Inc. (Low-Enriched Uranium Exports to EURATOM Member Nations), 6 NRC 849, 852-853 (1976).

of intervenors in their proceedings.<sup>10/</sup> The Justice Department reasoned that Greene County construed only the Federal Power Act and thus bound no other agency (except possibly FERC, as legal successor to FPC). It also concluded that the court's opinion was not so broad as to preclude other agencies from funding participants, in part because the opinion gave great weight to the FPC's views that it lacked statutory authority.

On October 10, 1978, in a carefully researched opinion, the District Court for the District of Columbia found that the Department of Agriculture possesses implied authority to fund, by contract, a consumer group's participation in its rulemaking. Chamber of Commerce of the United States v. Department of Agriculture, Civil No. 78-1515 (October 10, 1978). It found that the Greene County court based its decision largely on FPC's views and in essence refused to require FPC to fund participants because of FPC's distaste for doing so and its view that it lacked authority.

A number of agencies have instituted, proposed, or considered programs to reimburse participants' expenses. FTC and EPA have statutorily-based programs for agency

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<sup>10/</sup> Letters from John M. Harmon, Assistant Attorney General, Office of Legal Counsel to Phillip J. Bakes, Jr., General Counsel, CAB, and to Linda Heller Kamm, General Counsel, DOT (March 1, 1978).

rulemaking proceedings. No other agencies have explicit statutory authority to fund participants. However, the National Highway Traffic Safety Administration (NHTSA) has had an active program since January 1977 and the National Oceanic and Atmospheric Administration (NOAA) promulgated final rules for such a program in April 1978. The Consumer Product Safety Commission (CPSC) has promulgated interim rules for financial compensation; the CAB has published proposed rules; and FDA and FCC have published advance notice of proposed rulemakings.<sup>11/</sup> The Department of Agriculture has directed its agencies to consider funding as one means of encouraging and increasing public participation in their proceedings.<sup>12/</sup>

The question of implicit statutory authority for agencies to fund intervenors has not been finally settled. The most authoritative judicial decision on the subject -- Greene County -- is against such authority. However, we believe that Greene County is properly construed narrowly, as the Office of Legal Counsel and D.C. District Court in

<sup>11/</sup> Brief histories of and statutory and Federal Register citations for these programs are given in a Congressional Research Service report available from OGC.

<sup>12/</sup> 43 Fed. Reg. 50988 (November 1, 1978).



the Chamber of Commerce case have done. The best legal arguments, and the positions taken by several other federal agencies, favor implicit authority to fund. The Commission would be on relatively, if not entirely, firm legal ground if it decided to institute a funding program without explicit statutory authorization.

B. Need for Legislation

Since the Commission can properly interpret the Atomic Energy Act to confer implicit statutory authority to fund intervenors, further legislation would not be necessary to authorize a funding program (leaving aside, of course, the need to obtain funds for such an initiative through the routine budget process). However, even though the Commission has implicit authority, funding legislation may be desirable. This issue is discussed in the Commission's decision terminating its rulemaking on funding cited in note 1, above. The Commission there thought that a decision to fund the presentation of private views should be made by Congress. The Comptroller General also suggested that legislation "would be advisable [to set forth] the parameters of such financial assistance, and the scope and limitations on the use of appropriated funds ...."<sup>13/</sup>

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<sup>13/</sup> Controller General, Costs of Intervention -- Nuclear Regulatory Commission, supra n. 3, at 8.

C. Issues(1) Scope

Should a funding program be a pilot program with a definite expiration date, a permanent NRC program, or a Government-wide program?<sup>14/</sup> In its draft licensing bill the Commission settled on a pilot program as did the Administration. The Udall draft resolution also proposed a pilot program. Chairman Hendrie and Commissioner Kennedy have indicated their view that funding in Commission proceedings could best be accomplished through a general funding bill applicable to all agencies, such as Senator Kennedy's bill, S. 270.<sup>15/</sup>

(2) State proceedings

Should a funding provision require or merely permit states conducting NEPA or other delegated licensing proceedings to provide intervenor funding in those proceedings using federal grant money? Alternatively, should a funding provision be limited to NRC proceedings, with no mention of state proceedings and no provision for federal-state grants for intervenor funding?<sup>16/</sup> The NRC draft bill (§ 193 and

<sup>14/</sup> See Memo from Chairman Udall to members of the House Subcommittee on Energy and the Environment entitled "Issues Paper for August 14 Meeting," dated August 11, 1978, at 21.

<sup>15/</sup> Letter to Seiberling, supra n. 2, at 2.

<sup>16/</sup> Udall Issues Paper, supra n. 14, at 23-24.

alternate) and the Administration bill (§ 195) provided for NRC grants to states for intervenor funding, but did not require them. Chairman Hendrie has indicated his view that since the proposed federal program is a trial or pilot program, it seems reasonable to permit but not require states to fund intervenors.<sup>17/</sup> Commissioner Bradford has indicated that "intervenor funding should be a possibility for NEPA proceedings delegated to the States."<sup>18/</sup>

(3) Commission proceedings

In what types of Commission proceedings should funding be available?<sup>19/</sup> The Commission's draft bill appears to have provided for funding in all licensing proceedings and in all rulemaking proceedings in which an oral hearing is held (§ 194(a)(1)). The DOE draft bill excluded export licensing proceedings and gave the Commission sole discretion to extend the funding program to rulemakings (§ 197(a)(1)).

Rulemakings, as compared to licensing proceedings, generally cover more generic, policy-oriented issues and

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<sup>17/</sup> Letter from Chairman Hendrie to Congressman Dingell, July 19, 1978, question 22(A) (forwarding responses to questions in Congressman Dingell's letter of June 29, 1978).

<sup>18/</sup> Letter from Commissioner Bradford to Congressman Dingell, October 18, 1978, at 4, question 22(A) (forwarding additional responses to Congressman Dingell's questions).

<sup>19/</sup> Udall Issues Paper, supra n. 14, at 24-25.

attract better financed intervenor groups which are better able to make an affirmative case, rather than relying on cross-examination. Clear distinctions can be drawn between rulemaking and licensing for funding purposes, but they do not all suggest that rulemakings are less appropriate for funding. Indeed, GESMO -- a rulemaking -- is the only concrete proceeding the Commission has proposed for funding to date.

Finally, the legislative hearings the Commission may hold in export proceedings <sup>20/</sup> would not seem sufficiently lengthy or burdensome to require funding to achieve adequate public participation.

#### (4) Criteria

Who qualifies for funding? There are great and subtle variations among the funding criteria in the NRC draft bill, the Administration bill (H.R. 11704 and S. 2775), the Kennedy Government-wide funding bill (S. 270) and the now-defeated amendment to the NRC Authorization Act.<sup>21/</sup> The major

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<sup>20/</sup> Nuclear Non-Proliferation Act of 1978 §304(c), 42 U.S.C. 2155a.

<sup>21/</sup> See Letter from Representative Seiberling to Acting Chairman Gilinsky, April 3, 1978.

differences pertain to financial need tests. They include

- a) Whether a petitioner for funding must show that it "does not have reasonable access to alternative sources of funds."<sup>22/</sup>
- b) Whether the main need criterion should be that "effectiveness [of intervention] would be significantly limited in the absence of funding" (DOE and NRC drafts) or that the petitioner does not have sufficient resources to "participate effectively" without funding (Kennedy bill and authorization amendment).
- c) Whether, in lieu of (b) above, it is sufficient to show that the petitioner's economic interest in the outcome of the proceeding is small compared to the cost of effective participation (Kennedy bill and authorization amendment).

The other criteria in the NRC draft bill do not seem to be substantially more rigorous than the criteria for admission as an intervening party.<sup>23/</sup>

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<sup>22/</sup> DOE draft § 197(b)(2) only. See discussion in letter from Hendrie to Dingell, supra n. 17, question 23A.

<sup>23/</sup> Letter from Hendrie to Dingell, supra n. 17, question 24B.



PANE was founded by a group of concerned citizens several weeks after the March, 1979 nuclear reactor accident at Three Mile Island, Pennsylvania. PANE's membership is derived from the three boroughs and two townships which are located within a five-mile radius of the nuclear facility.

The applicant has a two-fold goal: to educate the public about nuclear energy in general; and to organize a legal drive designed to permanently close down Three Mile Island as a nuclear power facility. (See Attachment B-4 for a fuller discussion of this goal.)

PANE is engaged in the following specific activities:

- conducts semi-monthly public meetings to educate area residents about nuclear energy in general, and the Three Mile Island facility in particular. Participants hear speakers, see films, and receive hand-outs. Examples of past meetings are: Dr. Edward Walsh, Professor of Sociology, Pennsylvania State University, showed a film presenting both sides of the nuclear issue, and spoke about the sociological impact of the nuclear accident; Dr. Ollie Larmi, of Bloomsburg State College, Pennsylvania, delivered a lecture on the economic and ethical considerations of nuclear power; Dr. Chauncey Kepford, a radiation chemist from the University of Wyoming lectured on how the Three-Mile Island accident happened, and what a nuclear reactor looks like. The next scheduled meeting, in November of this year, will include descriptions by a physician and a biologist of their extensive research on the effects of low-level radiation on human health.
- keeps the public informed as to the current status of the Three Mile Island facility, including information on pertinent legislation and names of key governmental administrators at the state and federal level whose decisions affect nuclear power and the Three Mile Island facility. (See Attachments B-1.)
- participates as a recognized intervenor before the 1980 Nuclear Regulatory Commission hearings on the

proposed start-up of Unit 1 at Three Mile Island. (See fuller explanation attached hereto as Attachment B-4.)

- publish newsletters (See Attachments B-2) which monitor and inform public about administrative, legislative, and legal activities that could lead to the reopening of Unit 1.
- publicize through hand-outs and newsletters current information of vital interest to the health of local residents. For example, readers have been informed of the availability of home study radiological monitoring courses, and where to call to arrange body scans to detect levels of radiation.
- engage in direct and indirect lobbying within the expenditure levels permitted for 501(c)(3) tax exempt organizations "electing" to be governed by those provisions of the Internal Revenue Code. (See Attachment B-3.)
- conduct a national public education drive using the services of a media consultant. Such a drive would include arranging for interviews with and placing feature articles in newspapers and national-circulation magazines focusing on issues surrounding the Three Mile Island accident and nuclear facility safety; and coordinating the dissemination of testimony.

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## PROPOSED ANNUAL BUDGET (1980, 1981)

I. PANE Operating Expenses (Monthly Estimates:)Office Expenses:

Office Rental	\$	150
Office Equipment Rental		75
Telephone		100
Other Utilities (electricity, heat, water & sewage)		50
Insurance (fire, liability, office contents)		15
Office supplies (stationery, envelopes, file folders, etc.)		50
Postage:		
2000 newsletters at .084 ea. (bulk rate)	\$168	
Bulk permit	4	
Other postage not mailed bulk	75	247
Printing (2000 newsletters/mo. plus handouts for public meetings):		
12 reams of paper at \$4.00	\$ 48	
3 bottles of ink at \$7.00	21	
Address label printing	20	89
Copying Costs (1000 copies at \$.15)		150
Advertising (6 ads at \$25.00)		150
Subscriptions and Educational Supplies		25
Membership Fees in Other Organizations		10
Total monthly Office Expenses	\$	1,111
Travel Expenses (1000 miles/mo. at \$.17/mile)		170
Public Meeting Expenses:		
Meeting hall rental	\$ 50	
Speaker and travel reimbursement or film rental	50	
Projector and screen rental	15	115
Operating Capital for buttons, T-shirts, books, pamphlets, etc. (per year)	\$	1,000
Accounting Service and Audit Fees (annual amount)		500

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TOTAL ANNUAL OPERATING EXPENSES	\$28,252
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II. PANE Intervention expenses (Estimates:)\*

A. Expert Witnesses - Fees:

Dr. Kai T. Erikson, Dr. Robert Lifton, \$ 6,000 (each  
20 working days each at \$300 per day

Dr. Edward Walsh, and colleague, 20  
working days at \$200 per day 4,000 (each

Total Expert Witness Fees \$20,000

B. Expert Witness - Expenses:

Participation in hearings at \$50 per  
day, five days each \$ 1,000

Preparation of case and on-site  
interviews, based on estimate of two  
trips of two days duration to the  
Three Mile Island Area per witness, or  
16 days at \$50 per day 800

Travel. Based on estimate of 12 round-  
trips at \$130 each 1,560

Copying, telephone, postage 300

Total Expert Witness Expenses \$ 3,660

Total Expert Witnesses \$23,660

C. Legal Fees: (For Two Attorneys)

Participation by two attorneys in three  
weeks of hearings at \$300 per day, each,  
and for preparation nad briefing fees at  
\$50 per hour. \$27,000

D. Legal Expenses:

Participation in hearings, two  
attorneys for 15 days each at \$15 per  
day\*\*\* \$ 450

Participation in pre-hearing Confer-  
ence, two attorneys for two days at  
\$15 per day\*\*\* 60

Travel. Ten round trips at \$45 per  
trip. 450

Copying, telephone, postage	\$ 600
<u>Total Legal Expenses</u>	\$ 1,560
<u>Total Legal Fees and Expenses</u>	\$28,560
<u>Total Intervention Expenses</u>	\$52,220
 <u>III. National Public Education Expenses</u>	
Media Consultant	\$10,000

ANNUAL BUDGET SUMMARY

I. PANE Operation Expenses	\$28,252
II. PANE Intervention Expenses	
A. Expert Witness	\$23,660
B. Legal	28,560
III. PANE Education Expenses	10,000
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TOTAL	\$90,472

- \* Although difficult to accurately predict, it is reasonable to assume that costs incurred by expert witnesses would be borne primarily in the first year of operation.
- \*\* Estimates as to the number of days each expert witness will work include approximately one week of participation hearings and three weeks of preparation. It should also be noted that PANE has secured, as its expert witnesses, individuals renowned for their work in social science and psychology as well as sub-fields related to the issues being raised in the litigation. These experts have agreed to assist PANE for remuneration which is well below fees each could command in the open market.
- \*\*\* These expenses are low because attorneys can be guests in homes of PANE members.

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\*\*\*\* Includes the arranging of interviews and feature articles in the national press, and coordinating the dissemination of testimony.

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Financial Summary: (As of October 16, 1979)

Loans from board members	700.00
Contributions	<u>655.00</u>
TOTAL INCOME	\$1,355.00
Less	
<u>Expenses:</u>	
Legal Fees	\$ 700.00
Postage	294.50
Pennsylvania State Incorporation Fees	75.00
Newspaper Advertising	18.08
Speaker's Fee	15.00
Film Rental	15.00
Movie Screen Rental	10.60
Office Supplies (Paper)	<u>10.16</u>
TOTAL EXPENSES	<u>\$1,138.34</u>
CURRENT BALANCE	<u>\$ 216.66</u>

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UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matter of )  
 )  
METROPOLITAN EDISON COMPANY, )  
 et al., ) Docket No. 50-289  
(Three Mile Island Nuclear )  
 Station, Unit No. 1 )  
 )

CERTIFICATE OF SERVICE

I hereby certify that a copy of "People Against Nuclear Energy Request For Financial Assistance to Support Intervention on The Issues of Psychological Distress" was mailed first class postage prepaid this 29th day of November, 1979, to the following:

\* Secretary of the Commission (21)  
U.S. Nuclear Regulatory Commission  
Washington, D.C. 20555  
ATTN: Chief, Docketing & Service Section  
  
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U.S. Nuclear Regulatory Commission  
Washington, D.C. 20555

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Cert. of Service  
Docket No. 50-289

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1550 089

Cert. of Service  
Docket No. 50-289


\*Ivan W. Smith, Chairman  
Atomic Safety and Licensing Board  
U.S. Nuclear Regulatory Commission  
Washington, D.C. 20555

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John E. Minnich  
Chairman, Dauphin County Board  
of Commissioners  
Dauphin County Courthouse  
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Harrisburg, Pennsylvania 17120

\_\_\_\_\_

\* Hand Delivered

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