

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION



Before the Atomic Safety and Licensing Board

In the Matter of)	
)	
NEW YORK STATE ELECTRIC & GAS)	
CORPORATION and LONG ISLAND)	
LIGHTING COMPANY)	
)	Docket Nos. STN 50-596
(New Haven Nuclear Power Station,))	STN 50-597
Units 1 and 2))	

APPLICANT'S ANSWER TO PETITION
TO INTERVENE OF
MID-HUDSON NUCLEAR OPPONENTS

On February 9, 1979 the Nuclear Regulatory Commission published in the Federal Register a notice which provided, inter alia, that any person whose interest may be affected by this proceeding could file a petition to intervene by March 12, 1979.

On March 22, 1979 Counsel for New York State Electric & Gas Corporation (NYSEG) received "PETITION TO INTERVENE OF MID-HUDSON NUCLEAR OPPONENTS, INC. ("MHNO")" which bears the date of March 19, 1979.

The nontimely petition, which is apparently neither signed nor conformed, does not appear to establish grounds necessary for intervening in this proceeding. Al-

though residence within 30-40 miles⁽¹⁾ of the reactor site is sufficient to satisfy the "zone of interest" test as set forth in the Pebble Springs case, Portland General Electric Co. (Pebble Springs Nuclear Plant, Units 1 & 2), CLI-76-27, 4 NRC 610 (1976), and residence within 50 miles⁽²⁾ might also satisfy this test, the Petitioner's remote location from the proposed New Haven 1 & 2 facility, its representation of "a distinct Mid-Hudson area constituency with interests different than any other parties to this case..."⁽³⁾ and its failure to particularize an injury that it or its members would sustain as required by 10 CFR §2.714(a)(2), should preclude a finding of standing.

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- (1) Northern States Power Co. (Prarie Island Nuclear Generating Plant, Units 1 & 2), ALAB-107, 6 AEC 188, 190, reconsideration denied, ALAB-110, 6 AEC 247, affirmed, CLI-73-12, 6 AEC 241 (1973); Louisiana Power & Light Co. (Waterford Steam Electric Station Unit 3), ALAB-125, 6 AEC 371, 372 n. 6 (1973); Virginia Electric & Power Co. (North Anna Power Station, Unit 1 & 2), ALAB-146, 6 AEC 631, 633-34 (1973).
- (2) Tennessee Valley Authority (Watts Bar Nuclear Plant, Units 1 & 2), ALAB-413, 5 NRC 1418, 1421 at n. 4 (1977).
- (3) Petition to Intervene of Mid-Hudson Nuclear Opponents, Inc., paragraph 8, March 19, 1979.

In addition, the Petitioner has failed to address the requirements of 10 CFR §2.714(d), and its request should not be entertained in the absence of any assertion of a reason for failing to file on time which would enable the Licensing Board to balance the factors set forth in 10 CFR §2.714(a) 1).

In light of the Petitioner's "...distinct Mid-Hudson area constituency with interests different than any of the parties to this case...",⁽⁴⁾ its failure to particularize its "...unique expertise on certain aspects of energy planning in New York State..."⁽⁵⁾ and the fact that the Petitioner has available other means of protecting its interests as "...a full party in Case 80008, the New York State siting proceeding relating to the same facilities which are the subject of this proceeding..."⁽⁶⁾ the Petitioner has not justified, on the face of its pleading, the granting of party status as a matter of discretion.

(4) Id.

(5) Id. at paragraph 9.

(6) Id. at paragraph 5. The Applicant is not aware that party status has been granted the Petitioner.

Respectfully submitted,

NEW YORK STATE ELECTRIC
& GAS CORPORATION

Roderick Schutt
Ira Lee Zebrak

Roderick Schutt
Ira Lee Zebrak

Roderick Schutt, Esq.
Ira Lee Zebrak, Esq.
Huber Magill Lawrence & Farrell
99 Park Avenue
New York, New York 10016

Dated: April 3, 1979

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CERTIFICATE OF SERVICE

I certify that service of APPLICANT'S ANSWER TO PETITION
TO INTERVENE OF MID-HUDSON NUCLEAR OPPONENTS was made upon the
following by first-class mail on April 3, 1979:

Seymour Wenner, Esquire
Chairman
Atomic Safety and Licensing Board
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

Daniel T. Swanson, Esquire
Marjorie B. Ulman, Esquire
Stuart A. Treby, Esquire
U.S. Nuclear Regulatory
Commission
Washington, D.C. 20555

Dr. Oscar H. Paris
Member
Atomic Safety and Licensing Board
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

Edward J. Walsh, Jr., Esquire
Long Island Lighting Company
250 Old Country Road
Mineola, New York 11501

Dr. Walter H. Jordan
Member
Atomic Safety and Licensing Board
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

Stanley B. Klimberg, Esquire
Acting Counsel
New York State Energy Office
2 Rockefeller Plaza
Albany, New York 12223

U.S. Nuclear Regulatory Commission
Office of the Secretary
Docketing and Service Section
Washington, D.C. 20555

Mr. Mark R. Gibbs
Town Supervisor
Town of Mexico
S. Jefferson Street
Mexico, New York 3114

Atomic Safety and Licensing
Board Panel
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

Safe Energy for New Haven
c/o Ms. Linda Clark
Box #122, RD #1
Mexico, New York 13114

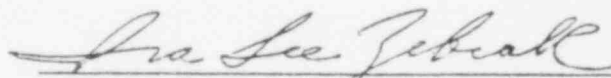
Oswego County Farm Bureau
c/o Ms. Nancy K. Weber
RD #3
Mexico, New York 13114

Mr. Peter D. G. Brown
Chairman of the Board
Mid-Hudson Nuclear Opponents, Inc.
P.O. Box 666
New Paltz, New York 12561

Ecology Action
c/o Ms. Helen Daly
W. River Rd. RD #5
Oswego, New York 13126

Robert J. Kafin, Esquire
Miller, Mannix, Lemery
& Kafin, P.C.
P.O. Box 765
11 Chester Street
Glens Falls, New York 12801

Paul Voninski, Ph.D.
Vice President
Mexico Academy and
Central School
Mexico, New York 13114


Ira Lee Zebrak, Esquire

Huber Magill Lawrence & Farrell
99 Park Avenue
New York, New York 10016