

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

Before the Atomic Safety and Licensing Board

In the Matter of
BOSTON EDISON COMPANY, et al.
(Pilgrim Nuclear Generating
Station, Unit 2)

Docket No.
50-471

PETITION OF THE GOVERNOR'S MASSACHUSETTS
OFFICE OF ENERGY RESOURCES FOR LEAVE TO
PARTICIPATE AS AN INTERESTED STATE AGENCY OR
IN LIEU THEREOF TO MAKE A LIMITED APPEARANCE

Pursuant to 10 CFR 2.715(c) as most recently amended, 43 Fed. Reg. 17802, April 26, 1978, the Governor's Massachusetts Office of Energy Resources (MOER) requests the Atomic Safety and Licensing Board grant it leave to participate in the above referenced construction permit proceedings as an "interested state agency". MOER will address the issue of "need for power" and will not seek to address other issues before the board.

The MOER was established by a Directive of the Governor of Massachusetts on March 13, 1979. Pursuant to said Directive the MOER is "responsible for all state policy regarding new energy facilities".

As affidavit of Mr. Joseph S. Fitzpatrick, Director of MOER, is attached in this Petition. A copy of the March 13, 1979 Directive is attached to the affidavit as Attachment I thereto. Mr. Fitzpatrick's affidavit describes the grounds for this petition.

The provisions of Section 274 of the Atomic Energy Act 42 U.S.C. Section 2021(1) and the Commission's regulations in 10 CFR Section 2.715(c) implementing that section are designed to effectuate the Congressional determination that state agencies presumptively have a great interest in NRC construction proceedings. We, therefore, request that the Board allow MOER to assist the Commission in making its decision pursuant to 10 CFR Section 2.715(c).

Licensing Boards have permitted representatives of a State to participate pursuant to 10 CFR 2.715(c) after the time for filing of petitions under 10 CFR has expired, Exxon Nuclear Company, Inc., LBP-77-59, 6 NRC 518, 523 (1977); Gulf States Utilities Company, LBP-76-32, 4 NRC 293, 296 (1976) and after the commencement of evidentiary hearings; Texas Utilities Generating Co., LBP-74-75, 8 AEC 673, 675 (1974).

In this regard MOER's petition to participate in this proceeding was not filed earlier since MOER was only recently established by the Governor of the Commonwealth of Massachusetts on March 13, 1979.

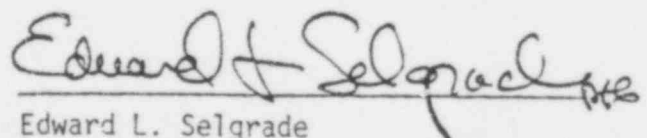
In May, 1974 the Department of the Attorney General intervened as a party to this proceeding pursuant to 10 CFR 2.714. Under that section, the Office of the Attorney General was required to state its contentions in advance of hearing and in general to take an adversary posture in the case.

The position of the MOER is not fully consistent with that taken by the Attorney General under CFR 2.714, and MOER therefore seeks interested state agency status pursuant to section 2.715(c). That section is designed "to accord to states the privilege of fully participating in licensing proceedings and advising the Commission on the resolution of issues considered therein without being obliged in advance to set forth any affirmative contentions of its own." Energy Research and Development Administration ALAB-354, 4 NRC 383, 393 (1976). Licensing Boards have, in the past, recognized the varied interests of state government and have permitted a state to be represented by two autonomous agencies, one participating as a party intervenor and the other as an interested State. Nuclear Fuel Services, Inc. LBP-75-4, 1 NRC 89 (1975).

Wherefore, MOER requests that it be allowed to participate in this proceeding as an interested state agency and to "advise the Commission" on matters of utmost importance to the people of the Commonwealth.

If this request to participate as an interested state agency is denied for any reason, MOER requests that it be allowed to make a limited appearance pursuant to 10 CFR 2.715(a) to present its views concerning the issues referred to above.

Respectively submitted,



Edward L. Selgrade
Deputy Director
Governor's Massachusetts Office of
Energy Resources
73 Tremont Street
Boston, Massachusetts 02108
(617) 727-4732

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

Before the Atomic Safety and Licensing Board

In the Matter of
Boston Edison Company, et. al.

(Pilgrim Nuclear Generating
Station, Unit 2)

Nuclear No. 50-471

CERTIFICATE OF SERVICE

I, Edward L. Selgrade, hereby certify that the attached Petition of the Governor's Massachusetts Office of Energy Resources For Leave to Participate as an Interested State Agency or In Lieu Thereof to Make a Limited Appearance submitted by the Governor's Massachusetts Office of Energy Resources has been served on the following list by depositing a copy thereof in the United States Mail, first class postage prepaid, this 23rd day of May, 1979.

Edward Luton, Esquire
Chairman, Atomic Safety and
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Washington, D. C. 20555

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Union Carbide Corporation
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Dr. Richard F. Cole
Atomic Safety and Licensing Board
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

Atomic Safety and Licensing Appeal Board
U.S. Nuclear Regulatory Commission
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U.S. Nuclear Regulatory Comm.
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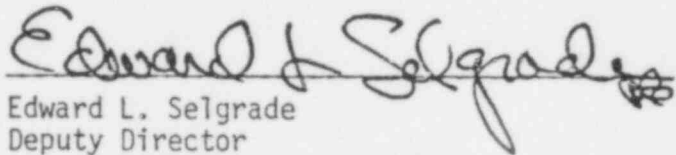
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UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matter of
BOSTON EDISON COMPANY, et al
(Pilgrim Nuclear Generating
Station, Unit 2)

Docket No. 50-471

AFFIDAVIT OF JOSEPH S. FITZPATRICK, DIRECTOR,
THE MASSACHUSETTS OFFICE OF ENERGY RESOURCES,
IN SUPPORT OF PETITION OF THE GOVERNOR'S
MASSACHUSETTS OFFICE OF ENERGY RESOURCES FOR
LEAVE TO PARTICIPATE AS AN INTERESTED STATE AGENCY
OR IN LIEU THEREOF TO MAKE A LIMITED APPEARANCE

I am Joseph S. Fitzpatrick, Director of the Governor's
Massachusetts Office of Energy Resources.

Pursuant to 10 CFR 2.715(c), the Governor's Massachusetts Office
of Energy Resources (MOER) has requested that the Atomic Safety and
Licensing Board grant it leave to participate in the above referenced
construction permit proceeding as an "interested state agency."

The MOER was established by a Directive of the Governor of
Massachusetts on March 13, 1979, a copy of which is attached to this
affidavit as Attachment I. Pursuant to said Directive MOER is
"responsible for all state policy regarding new energy facilities."

It is crucial that the people of the Commonwealth of Massachusetts
be guaranteed a safe, inexpensive and reliable source of electrical
energy over the next several decades and MOER believes that it has a
responsibility to participate in decisions which will affect the

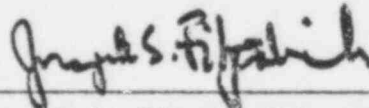
availability of such future sources. Participation of MOER will neither delay nor broaden the scope of this licensing proceedings; rather MOER intends to assist the Licensing Board in reaching an expeditious determination concerning certain discrete issues involved in the application by Boston Edison for a permit to construct the Pilgrim Unit 2 facility. MOER expresses no view at this time on any issues concerning the safety of the particular design proposed for the Pilgrim Unit 2 facility, but will offer its views on certain non-safety issues which must be determined. In the view of MOER, the construction and operation of another sizable base load facility by the applicants in these proceedings is required to meet the energy needs of the Commonwealth, as well as the needs of New England. Therefore, it is vital that MOER be allowed to participate as an interested state agency in this proceeding, the outcome of which may, if safety issues are involved, have a significant impact upon meeting these energy needs.

The MOER is aware that this licensing proceeding has been pending before this Board for many years and that our entrance into the proceeding at this date would preclude us from participating in the disposition of matters previously litigated. However, we intend to take the proceedings as we find it and to limit our participation to certain of the issues which remain outstanding.

Our petition to participate in this proceeding was not filed earlier since MOER, which has responsibility for coordinating state-wide energy policies, was only recently established by the Governor.

We are also aware that the Office of the Massachusetts Attorney General has intervened as a Party in this proceeding pursuant to 10 CFR §2.714. The Attorney General's Office has taken an adversarial posture consistent with the established role of a party intervenor who must, in order to be admitted, submit contentions and thereby take a position in the proceeding at the outset. This role is entirely different from that of an interested state agency participating pursuant to § 2.715(c).

MOER has responsibility for formulating and implementing a coordinated state-wide energy policy.




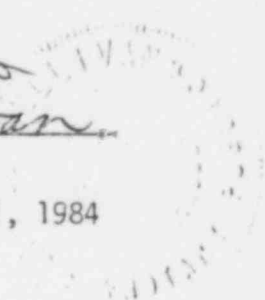
Joseph S. Fitzpatrick, Director
Governor's Massachusetts Office
of Energy Resources
73 Tremont Street
Boston, Massachusetts 02108
(617) 727-4732

Suffolk SS.

May 23, 1979

I, Gary D. Sullivan, certify that on May 23, 1979 the above-named Joseph S. Fitzpatrick did personally appear and swear before me that the above statement was true to the best of his knowledge, information, and belief.


Gary D. Sullivan
Notary Public
My Commission expires May 11, 1984



By His Excellency

EDWARD J. KING
Governor

DIRECTIVE

There is hereby established the Governor's Office of Energy Resources. The Director of the Governor's Office of Energy Resources shall attend meetings of the Governor's Cabinet, and shall receive a salary as fixed by the Governor not exceeding the sum annually appropriated therefor by the General Court.

The Governor's Office of Energy Resources shall have responsibility for budgeting and administering the following program areas:

ENERGY FACILITIES SITING

The Governor's Office of Energy Resources shall provide staff support to the Energy Facilities Siting Council and be responsible for all state policy regarding new energy facilities.

ENERGY POLICY OFFICE/SOLAR ACTION OFFICE

The Governor's Office of Energy Resources will assume the responsibility of the Energy Policy and Solar Action offices including energy conservation; the development of alternative energy sources (solar, hydro, biomass, etc.); and the development of energy and electricity pricing proposals.

Signed this *March 13th* day of *March*
in the year of Our Lord one thousand nine hundred and seventy-nine.

Edward J. King
Edward J. King
Governor