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UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

August 14, 1979

In the Matter of)
)
NORTHERN INDIANA PUBLIC SERVICE)
COMPANY)
)
Bailly Generating Station,)
Nuclear-1)
)

Docket No. 50-367



RESPONSE TO NRC ORDER
DATED JULY 25, 1979

By order of July 25, 1979, the Commission invited comments on the July 16 letter by which the Advisory Committee on Reactor Safeguards furnished answers to Commission questions concerning use of shorter pilings at the Bailly facility. Permittee Northern Indiana Public Service Company hereby furnishes its comments.

We note that the ACRS invited any member of the public to provide comments or other information to the Committee during its examination of the questions posed by the Commission. See Notices published 44 Fed. Reg. 36519 (June 22, 1979) and 44 Fed. Reg. 37350 (June 26, 1979).

In fact, representatives of several petitioners attended the ACRS Subcommittee meeting on July 9 and some presented their views^{*/}; a representative of the Bethlehem Steelworkers provided

^{*/} See statements Tr. 83-106 (July 9, 1979).

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information to the ACRS Staff by telephone on July 12,^{*/} the date when the full Committee considered the Bailly questions. It would therefore appear that generous opportunity for comment has been afforded.

The ACRS letter speaks for itself and necessitates little commentary. NIPSCO and the NRC Staff had previously concluded that the shorter piles proposal does not entail any change in the "principal architectural and engineering criteria" established for the Bailly facility. The ACRS' conclusions fully support that view.

Although availing themselves of the opportunity for participation in ACRS review, the petitioners, who first requested a hearing on the shorter piles proposal almost ten months ago,^{**/} have failed to raise any specific substantive safety question with respect to the proposed foundation for the Bailly facility. The ACRS letter confirms that no such question arises from the proposal. Accordingly, there exists no reason for the Commission to order a hearing on the proposal as a matter of discretion. The Staff has stated the matter succinctly:

To order a hearing in the circumstances of this case would be to telegraph the message that mere persistence will be

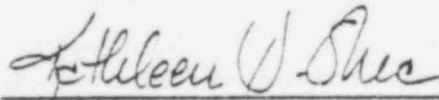
^{*/} Tr. 55-56 (July 12, 1979).

^{**/} The first petition is dated November 1, 1978; the second, November 20, 1978.

enough to rebut the presumption against reopening closed proceedings, "merely because some detail involving plant construction or operations has been changed."*/

We urge the Commission to deny the pending petitions promptly.

Respectfully submitted,



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*/

NRC Staff Response to Commission Questions of December 11, 1978, p. 38 (January 10, 1979), quoting Northern Indiana Public Service Co. (Bailly Generating Station, Nuclear-1), CLI-74-39, 8 AEC 631 (1974).

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CERTIFICATE OF SERVICE

I hereby certify that copies of Northern Indiana Public Service Company's "Response To NRC Order Dated July 25, 1979", in the above-captioned proceeding, dated August 14, 1979, were served on the following by deposit in the United States mail, postage prepaid, or by hand delivery this 15th day of August, 1979:

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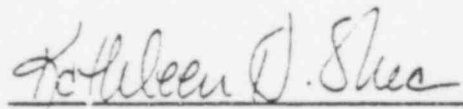
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