

DOCKET NUMBER  
EXPORT/IMPORT...

11000495

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION



In the matter of  
WESTINGHOUSE ELECTRIC CORP.  
(Exports to the Philippines)

} Application No. XR-120  
} Docket No. 50-574  
}  
} Application No. XCOM 0013  
} Application No. XSNMO 1471

SUPPLEMENTAL MEMORANDUM IN REPLY TO  
NRC STAFF SUPPLEMENTAL ANSWER

The Center for Development Policy, the Philippine Movement for Environmental Protection ("PMEP"), Jesus Nicanor Perlas, III, and the Movement for a Free Philippines ("Petitioners") submit this memorandum to aid the Commission and to respond to the staff's Supplemental Answer in this proceeding.

1. Scope of Hearing.

Petitioners are aware that one of the crucial questions facing the Commission is the scope of the hearings to be held in this matter. More specifically, the question becomes whether or not the Commission will attempt to evaluate the health and safety risks of this export, and if so, to what extent.

Petitioners would submit that it is of crucial importance for this Commission to evaluate health and safety risks posed by this reactor. The NRC's actions are perceived abroad as evaluating the health and safety risks whether or not the Commission actually does. Thus, Westinghouse is on record in the Philippines as stating that the NRC had given "the Bataan nuclear plant a clean bill of health and [the reactor] would pose no undue risks to the public and plant surroundings."

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Obviously, when the foreign nation views this as an American project, when the NRC's actions are viewed, rightly or wrongly, as judging the health and safety aspects of this project, and when the applicant is trying to persuade others that the NRC has judged the health and safety aspects, there is no choice left for this Commission but to engage in a thorough review of the health and safety aspects of this reactor.

2. Request to Add Necessary Parties.

The only party presently before this Commission is the applicant for the export license, Westinghouse. Yet the Commission will be making decisions on material developed and submitted by others besides the applicant. For example, most of the Preliminary Safety Analysis Report ("PSAR") and the Preliminary Site Investigation Report ("PSIR") were developed by Ebasco, a consultant to the Philippines National Power Corp. Neither of these are parties to this proceeding.

The State Department in the executive branch judgment submitted on September 28, 1979 relied heavily upon Ebasco data. Yet Ebasco will not be before the Commission and thus will not be forced to justify its results.

Ebasco is in possession of most of the primary evidence in this matter and yet unless it is a party to the proceedings it will not produce this evidence and thus the Commission will not have a complete record upon which to judge this export.

3. The Need for a Trial-type Hearing.

The NRC staff recommends against a trial-type hearing because the Commission is not required to hold such a hearing. Supplemental Answer p. 10. While this is indeed the general rule, the present case is exceptional and its facts require a hearing.

As Petitioners have detailed previously, there are crucial questions of credibility concerning the evidence submitted in this matter. The only way that credibility can be judged is to subject the individuals to cross-examination on the record in order that the fact-finders themselves can judge the witnesses' substantive answers and their demeanor. There can be no substitute for cross-examination in this case when there is evidence that reports have been deliberately and consciously misstated and that much evidence on the seismic and volcanic risks to this plant have been hidden.

As has been shown in the Puno Commission hearings in the Philippines, when the applicant and the engineering consultants, Ebasco, have been subjected to a rigorous cross-examination, much new and different evidence has been disclosed. This evidence has uniformly been unfavorable to the interests of Westinghouse and Ebasco and thus would never have been seen the light of day unless solicited through cross-examination.

Therefore, as Petitioners have demonstrated, the need for a trial-type adversarial hearing is overwhelming.

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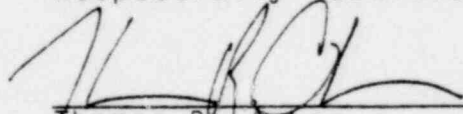
4. Submission of Affidavits

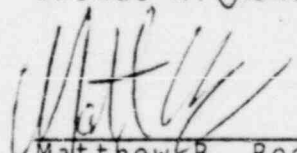
Attached hereto are the affidavits of eight PMEP members, seven of whom are American citizens currently residing in the Philippines within 70 kilometers of the proposed reactor site. These affidavits detail the Petitioners' interests in the subject matter of this proceeding and demonstrate why they meet the requirements for a hearing as of right in this matter.

5. Conclusion

Petitioners respectfully request that this Commission issue an order (a) making Petitioners, as well as Philippines National Power Corp. and Ebasco Services, Inc. parties in this proceeding, and (b) ordering an adjudicatory hearing on all questions raised by the Petition at which all parties may present evidence, utilize compulsory process and cross-examine adverse witnesses.

Respectfully submitted,

  
\_\_\_\_\_  
Thomas R. Asher

  
\_\_\_\_\_  
Matthew B. Bogin

Thomas R. Asher, P.C.  
1232 Seventeenth Street, N.W.  
Third Floor  
Washington, D.C. 20036  
(202) 452-1540

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

In the matter of	)	
WESTINGHOUSE ELECTRIC CORP.	)	Application No. XR-120
	)	Docket No. 50-574
(Exports to the Philippines)	)	Application No. XCOM 0013
	)	Application No. XSNMO 1471

CERTIFICATE OF SERVICE

I hereby certify that copies of "Supplemental Memorandum in Reply to NRC Staff Supplemental Answer" were mailed, first-class postage prepaid, to the following individuals this 9th day of October, 1979:


Howard K. Shapar, Esq.  
Joanna Becker, Esq.  
U.S. Nuclear Regulatory Commission  
Room 10604  
Maryland National Bank Building  
Washington, D. C. 20555

Barton Z. Cowan, Esq.  
Eckert, Seamons, Cherin & Mellott  
42nd Floor, 600 Grant Street  
Pittsburgh, Pennsylvania 15230

Thomas M. Daugherty, Esq.  
Westinghouse Nuclear Energy Systems  
P. O. Box 355  
Pittsburgh, Pennsylvania 15230

Peter Tarnoff  
Executive Secretary  
U.S. Department of State  
Washington, D. C. 20520



  
Matthew B. Bogin

1160 015





In the matter of  
WESTINGHOUSE ELECTRIC CORP.  
(Exports to the Philippines)

Application No. XR-120  
Docket No. 50-574

Application No. XCOM 0013  
Application No. XSNMO 1471

**POOR ORIGINAL**

Affidavit about PNEP Membership  
and Petition for Leave to Intervene  
and Request for Hearing

I, Jose Leonidas, A Filipino citizen now residing  
at 128 N. Domingo st. San Juan Rizal, Metro Manila  
Philippines, state that:

1. I was born in San Juan Rizal, Metro Manila  
Philippines in 29 August 1954, and I have been  
staying in San Juan Rizal for the past 25 years. This place  
is about 70 km away (radial distance) from the Bataan  
Nuclear power plant site.

2. I am a member of the Philippine Movement for  
Environmental Protection (PNEP) and I join the PNEP  
in its petition for Leave to Intervene and Request for  
Hearing concerning the proposed export of a nuclear  
power reactor and fuel to the Philippines by the Westing-  
house Electric Corp.

I am trully disturbed by the hazards posed by  
the Bataan nuclear power plant, for my own safety and  
those of others. I hope an exhaustive and open discussion  
of this will take place before the Nuclear Regulatory  
Commission decide on the proposed nuclear exports.

IN WITNESS WHEREOF, I hereunto affix my signature  
this 25th day of July, 1979 at Manila.

ARL  
REPUBLIC OF THE PHIL.  
RIZAL PROV.  
CITY OF MANILA

(SGD)

Jose Leonidas  
Affiant

SUBSCRIBED AND SWORN to before me this 25th day of  
July, 1979: affiant exhibiting to me his Residence  
Certificate No. 142078075 issued on April 3, 1978  
at SAN JUAN, M.A.

(SGD)

Ana R. Garcia  
Notary Public

**ANA R. GARCIA**  
NOTARY PUBLIC  
UNTIL DEC. 31, 1980

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BOOK NO. I  
SERIES OF 1979

1160 016

In the matter of  
WESTINGHOUSE ELECTRIC CORP.  
(Exports to the Philippines)

Application No. KR-120  
Docket No. 50-574

Application No. XCOM 0013  
Application No. ISMHO 1471

POOR ORIGINAL

Affidavit about PNEP Membership  
and Petition for Leave to Intervene  
and Request for Hearing

I, James B. Reuter Jr., an American citizen now residing at  
2307 Pedro Gil, Manila, state that:

1. I was born in Elizabeth, New Jersey USA in May, 1916  
and I have been staying in MANILA, Philippines for  
the past 41 years. This place is about 70 km away (radial  
distance) from the Bataan nuclear power plant site.

2. I am a member of the Philippine Movement for Environmental  
Protection (PNEP) and I join the PNEP in its petition for Leave to  
Intervene and Request for Hearing concerning the proposed export of  
a nuclear power reactor and fuel to the Philippines by the Westing-  
house Electric Corp.

I am truly disturbed by the hazards posed by the Bataan nuclear  
power plant, for my own safety and those of others. I hope an ex-  
haustive and open discussion of this will take place before the  
Nuclear Regulatory Commission decide on the proposed nuclear exports.

IN WITNESS WHEREOF, I hereunto affix my signature this 18<sup>th</sup>  
day of July 1979 at Manila.

25<sup>th</sup>  
ARG.

(SGD). James B. Reuter, Jr.  
Affiant

SUBSCRIBED AND SWORN to before me this 25<sup>th</sup> day of July, 1979:  
affiant exhibiting to me his Residence Certificate No. 3200934  
issued on January 29, 1979 at Manila.

REPUBLIC OF THE PHILIPPINES  
RIZAL PROV.  
CITY OF MANILA

(SGD).

Ana R. Garcia  
Notary Public

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PAGE NO. 31  
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ANA R. GARCIA  
NOTARY PUBLIC  
UNTIL DEC. 31 1980

1160 017

In the matter of  
WESTINGHOUSE ELECTRIC CORP.  
(Exports to the Philippines

Application No. XR-120  
Docket No. 50-574

Application No. KCON 0013  
Application No. KSNMO 1471

**POOR ORIGINAL**

Affidavit about PNEP Membership  
and Petition for Leave to Intervene  
and Request for Hearing

I, John F. Danac, an American citizen now  
residing at 2218 McKinley Blvd. Manila, state that:

1. I was born in December 1945, USA in San Antonio  
and I have been staying in Manila, Philippines for  
the past 32 years. This place is about 70 km. away (radia.  
distance) from the Bataan nuclear power plant site.

2. I am a member of the Philippine Movement for Environ-  
mental Protection (PNEP) and I join the PNEP in its petition  
for Leave to Intervene and Request for Hearing concerning the  
proposed export of a nuclear power reactor and fuel to the  
Philippines by the Westinghouse Electric Corporation.

I am truly disturbed by the hazards posed by the Bataan  
nuclear power plant, for my own safety and those of others.  
I hope an exhaustive and open discussion of this will take  
place before the Nuclear Regulatory Commission decide on the  
proposed nuclear exports.

IN WITNESS WHEREOF, I hereunto affix my signature this  
25<sup>th</sup> day of July, 1979 at Manila.

(SGD.)

John F. Danac  
Affiant

SUBSCRIBED AND SWORN to before me this 25<sup>th</sup> day of July,  
1979: affiant exhibiting to me his Residence Certificate No. 2218 McKinley Blvd. Manila  
issued on July 19, 1979 at Manila.

REPUBLIC OF THE PHILIPPINES  
RIZAL PROV.  
CITY OF MANILA

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PAGE NO. 21  
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(SGD.)

Ana R. Garcia  
Notary Public

**ANA R. GARCIA**  
NOTARY PUBLIC  
UNTIL DEC. 31, 1980

1160 018



In the matter of  
WESTINGHOUSE ELECTRIC CORP.  
(Exports to the Philippines

Application No. XR-120  
Docket No. 50-574

Application No. XCON 0013  
Application No. XSNMO 1471

**POOR ORIGINAL**

Affidavit about PNEP Membership  
and Petition for Leave to Intervene  
and request for Hearing

I, (Name) GARCIA, JR. HON. 11, an American citizen now  
residing at 2500 E. Avenue 1, Bataan, Bataan, P.R., state that:

1. I was born in BATAAN, BATAAN, P.R., USA in 1946  
and I have been staying in BATAAN, P.R., Philippines for  
the past 14 years. This place is about 70 km. away (radial  
distance) from the Bataan nuclear power plant site.

2. I am a member of the Philippine Movement for Environ-  
mental Protection (PNEP) and I join the PNEP in its petition  
for Leave to Intervene and Request for Hearing concerning the  
proposed export of a nuclear power reactor and fuel to the  
Philippines by the Westinghouse Electric Corporation.

I am truly disturbed by the hazards posed by the Bataan  
nuclear power plant, for my own safety and those of others.  
I hope an exhaustive and open discussion of this will take  
place before the Nuclear Regulatory Commission decide on the  
proposed nuclear exports.

IN WITNESS WHEREOF, I hereunto affix my signature this  
25 day of July, 1979 at Manila.

(SGD.) R. J. Garcia Jr. HON. 11  
Affiant

SUBSCRIBED AND SWORN to before me this 25 day of July,  
1979: affiant exhibiting to me his Residence Certificate No. 8  
issued on July 17, 1979 at Bataan.

REPUBLIC OF THE PHILIPPINES  
RIZAL PROV.  
CITY OF MANILA

DOC. NO. 151  
PAGE NO. 32  
BOOK NO. 1  
SERIES OF 1979

(SGD.)

Ana R. Garcia  
Notary Public  
**ANA R. GARCIA**  
NOTARY PUBLIC  
UNTIL DEC. 31, 1980

1160 019

POOR ORIGINAL

In the matter of  
WESTINGHOUSE ELECTRIC CORP.  
(Exports to the Philippines)

Application No. XR-120  
Docket No. 50-574

Application No. KCON 0013  
Application No. KCONMO 1471

Affidavit about PNEP Membership  
and Petition for Leave to Intervene  
and Request for Hearing

I, Kenneth Charles Bogart, S.J., an American citizen now  
residing at 2302 Padre Hil, Metro Manila, Phil., state that:

1. I was born in Buffalo, New York, USA in 6 June 1925  
and I have been staying in Metro Manila, Philippines for  
the past twenty years. This place is about 70 km. away (radial  
distance) from the Bataan nuclear power plant site.

2. I am a member of the Philippine Movement for Environ-  
mental Protection (PNEP) and I join the PNEP in its petition  
for Leave to Intervene and Request for Hearing concerning the  
proposed export of a nuclear power reactor and fuel to the  
Philippines by the Westinghouse Electric Corporation.

I am truly disturbed by the hazards posed by the Bataan  
nuclear power plant, for my own safety and those of others.  
I hope an exhaustive and open discussion of this will take  
place before the Nuclear Regulatory Commission decide on the  
proposed nuclear exports.

25th IN WITNESS WHEREOF, I hereunto affix my signature this  
day of July, 1979 at Manila.  
KCB

(SGD.)

Kenneth C Bogart SJ  
Affiant

SUBSCRIBED AND SWORN to before me this 25th day of July,  
1979: affiant exhibiting to me his Residence Certificate No.  
1451471 issued on March 5, 1979 at Manila.

REPUBLIC OF THE PHILIPPINES  
RIZAL PROV.  
CITY OF MANILA

DOC. NO. 152  
PAGE NO. 32  
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SERIES OF 1979

(SGD.)

Ana R. Garcia  
Notary Public

ANA R. GARCIA  
NOTARY PUBLIC  
UNTIL DEC. 31, 1980

1160 020

In the matter of  
WESTINGHOUSE ELECTRIC CORP.  
(Exports to the Philippines)

Application No. XR-120  
Docket No. 50-574

Application No. XCON 0013  
Application No. XSNMO 1471

POOR ORIGINAL

Affidavit about PNEP Membership  
and Petition for Leave to Intervene  
and Request for Hearing

I, Thomas B. Steinbock, an American citizen now  
residing at 2nd Floor, 360 Ave. Bataar, state that:

1. I was born in Bronx, New York, USA in Dec. 1929  
and I have been staying in Manila, Philippines for  
the past 15 years. This place is about 70 km. away (radial  
distance) from the Bataar nuclear power plant site.

2. I am a member of the Philippine Movement for Environ-  
mental Protection (PNEP) and I join the PNEP in its petition  
for Leave to Intervene and Request for Hearing concerning the  
proposed export of a nuclear power reactor and fuel to the  
Philippines by the Westinghouse Electric Corporation.

I am truly disturbed by the hazards posed by the Bataan  
nuclear power plant, for my own safety and those of others.  
I hope an exhaustive and open discussion of this will take  
place before the Nuclear Regulatory Commission decide on the  
proposed nuclear exports.

25th IN WITNESS WHEREOF, I hereunto affix my signature this  
day of July, 1979 at Manila.  
ANA

(SGD.) Thomas B. Steinbock  
Affiant

SUBSCRIBED AND SWORN to before me this 25th day of July,  
1979: affiant exhibiting to me his Residence Certificate No. 8  
2nd: 836 issued on 11-11-78 at Manila.

REPUBLIC OF THE PHILIPPINES  
RIZAL PROV.  
CITY OF MANILA

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(SGD.) Ana R. Garcia  
Notary Public

ANA R GARCIA  
NOTARY PUBLIC  
UNTIL DEC. 31, 1980

1160 021

POOR ORIGINAL

In the matter of  
WESTINGHOUSE ELECTRIC CORP.  
(Exports to the Philippines)

Application No. XR-120  
Docket No. 5'-574

Application No. XCOM 0013  
Application No. XBNMO 1471

Affidavit about PMAEP Membership  
and Petition for Leave to Intervene  
and Request for Hearing

I, JAMES J. HENNESSEY, S.J., an American citizen now  
residing at Loyola Heights, Quezon City, state that:

1. I was born in Groveland, New York, USA in 1909  
and I have been staying in Metro Manila, Philippines for  
the past 16 years. This place is about 70 km. away (radial  
distance) from the Bataan nuclear power plant site.

2. I am a member of the Philippine Movement for Environ-  
mental Protection (PMAEP) and I join the PMAEP in its petition  
for Leave to Intervene and Request for Hearing concerning the  
proposed export of a nuclear power reactor and fuel to the  
Philippines by the Westinghouse Electric Corporation.

I am truly disturbed by the hazards posed by the Bataan  
nuclear power plant, for my own safety and those of others.  
I hope an exhaustive and open discussion of this will take  
place before the Nuclear Regulatory Commission decide on the  
proposed nuclear exports.

20th IN WITNESS WHEREOF, I hereunto affix my signature this  
21st day of July, 1979 at Manila.  
AKB.

(SGD.) James J. Hennessey, S.J.  
Affiant  
JAMES J. HENNESSEY, S. J.

SUBSCRIBED AND SWORN to before me this 25th day of July,  
1979: affiant exhibiting to me his Residence Certificate No. 3156702  
issued on January 19/79 at Manila.

PHILIPPINES  
RIZAL PROV.  
CITY OF MANILA

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PAGE NO. 32  
BOOK NO. I  
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(SGD.) Ana R. Garcia  
Notary Public

ANA R. GARCIA  
NOTARY PUBLIC  
UNTIL DEC. 31, 1980

1160 022



In the matter of  
WESTINGHOUSE ELECTRIC CORP.  
(Exports to the Philippines

Application No. XR-120  
Docket No. 50-574

Application No. KCON 0013  
Application No. KSNMO 1471

**POOR ORIGINAL**

Affidavit about PMEP Membership  
and Petition for Leave to Intervene  
and Request for Hearing

I, ALEXSIUS F. TORRALBA, an American citizen now  
residing at 2107 Pedro Gil, Sta. Ana, Manila, state that:

1. I was born in the Philippines, USA in Zamboanga  
and I have been staying in Manila, Philippines for  
the past five years. This place is about 70 km. away (radial  
distance) from the Bataan nuclear power plant site.

2. I am a member of the Philippine Movement for Environ-  
mental Protection (PMEP) and I join the PMEP in its petition  
for Leave to Intervene and Request for Hearing concerning the  
proposed export of a nuclear power reactor and fuel to the  
Philippines by the Westinghouse Electric Corporation.

I am truly disturbed by the hazards posed by the Bataan  
nuclear power plant, for my own safety and those of others.  
I hope an exhaustive and open discussion of this will take  
place before the Nuclear Regulatory Commission decide on the  
proposed nuclear exports.

25<sup>th</sup> IN WITNESS WHEREOF, I hereunto affix my signature this  
18th day of June, 1979 at Manila.

- \* I am a naturalized American citizen.
- \* I am not a member of the PMEP but I join in its petition.

(SGD.) Alexsius F. Torralba  
Affiant

SUBSCRIBED AND SWORN to before me this 25<sup>th</sup> day of June,  
1979: affiant exhibiting to me his Residence Certificate No. 3047988  
issued on January 25, 1979 at Manila.  
AT THE PROV. OF RIZAL, MUN. OF SAN JUAN, METRO MANILA

(SGD.) Ana R. Garcia  
Notary Public

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PAGE NO. 32  
BOOK NO. I  
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**ANA R. GARCIA**  
NOTARY PUBLIC  
UNTIL DEC. 31, 1980

1160 023