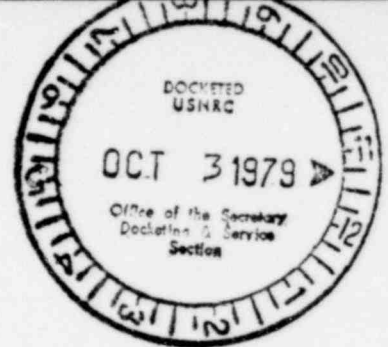


UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION



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 OF THE  
CENTER FOR DEVELOPMENT POLICY  
IN SUPPORT OF  
PETITION TO INTERVENE AND REQUEST FOR HEARING

On April 20, 1979, the Center for Development Policy ("CDP") filed with this Commission ("NRC") a "Petition for Leave to Intervene and Request for Hearing" in the above-captioned matters. This Memorandum and accompanying Affidavit are submitted in support thereof.

I. THE STANDARDS FOR INTERVENTION ARE SET OUT IN THE NUCLEAR NONPROLIFERATION ACT AND THE NRC'S REGULATIONS.

The standards governing intervention are contained in the regulations on public participation, 10 C.F.R. §§ 110.80 through 110.13, promulgated by the NRC under congressional mandate contained in the Nuclear Nonproliferation Act ("NNPA") of 1978, 42 U.S.C. § 2155. The tests for intervention are (a) whether the proposed intervenor has an interest which may be affected, 10 C.F.R. § 110.82(b)(4), or (b) that intervention would be in the public interest and would assist the Commission in making the statutorily required determinations, 10 C.F.R. § 110.82(b)(3). CDP meets both these tests.

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## II. CDP HAS AN INTEREST IN THIS EXPORT PROCEEDING.

As demonstrated in the attached affidavit of Lindsay Mattison, CDP has a vital interest in monitoring the flow of resources from the United States to developing nations, conducting research and analysis of development programs and their effects, and disseminating this analysis to the public and interested public officials. In sum, CDP's public interest activities give it a previously recognized and legally cognizable interest in these proceedings.

This interest was recognized by Congress in enacting the public participation section of NNPA:

[I]t is the intent of the Committee to guarantee the citizens and public interest groups their right to make their views known during the export licensing process.

H. R. Rep. No. 95-587, 95th Cong., 1st Sess., p. 22 (1977).

(Emphasis added.) Clearly Congress wanted the NRC to allow public interest groups such as CDP the right of intervention in nuclear export licensing proceedings.

## III. CDP'S INTERVENTION WILL ASSIST THE COMMISSION IN MAKING ITS STATUTORILY REQUIRED DETERMINATIONS.

As demonstrated in Mr. Mattison's affidavit, CDP has spent much time, effort and money in studying this proposed export. CDP has brought to the attention of the State Department and NRC much evidence which otherwise would not have been in the public record. These efforts on CDP's part are continuing and more relevant and undisclosed evidence is being discovered every day. CDP's involvement allows the NRC to make the statutorily required judgments on the widest possible record, thus ensuring that the NRC's decision is based upon all the relevant facts.

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As documented in Mr. Mattison's affidavit, CDP is the only group other than the NRC and the applicant that has both the interest and the financial resources to be able to develop independent evidence in this matter. It has been involved in the proceedings in the Philippines (the Puno Commission) and has served to relay information from the proceedings in the Philippines to the NRC and developments in the United States to the Philippines. Without the participation of CDP, the Commission's judgment on this matter will necessarily be one-sided, for there is no other way that evidence critical of the applicant will be developed.

IV. A FULL, OPEN, ADJUDICATORY PUBLIC HEARING  
IS REQUIRED IN THIS INSTANCE.

As demonstrated in Mr. Mattison's affidavit and by the record in this case, CDP has discovered much evidence which contradicts that submitted by the applicant. It is hornbook law that in matters where the credibility of witnesses is questioned, the only method to discover the truth is through cross-examination. This is the instant situation and therefore only a full, open, adjudicatory public hearing with full cross-examination will serve the purpose of discovering the truth. Only in this manner can the proposed export be scrutinized adequately.

Additionally there are many individuals who have extensive knowledge of the project under consideration but who will only divulge such under compulsory process. A full, open hearing will be the only way to procure this information.

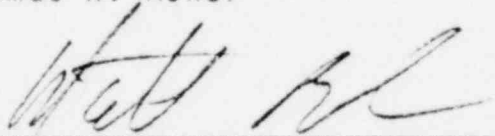
Thus not only is an oral public hearing necessary, but to adequately prepare, the NRC must allow the parties full discovery rights. This will result in the fullest presentation of evidence and thus allow the NRC to make a decision on the broadest possible record.

V. CONCLUSION.

In conclusion, CDP has demonstrated in its original Petition and this Supplement that it meets the standards for standing in this matter and that only a full, open, public hearing can adequately assure that all the relevant evidence will be disclosed.

Respectfully submitted,

  
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Thomas R. Asher

  
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Matthew B. Bogin

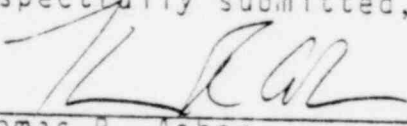
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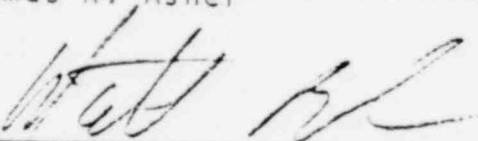
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