

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

In the Matter of	) Docket No. 50-367
)
NORTHERN INDIANA PUBLIC SERVICE	) (Construction Permit
COMPANY	) Extension)
)
(Bailly Generating Station,	) January 18, 1980
Nuclear 1))

MOTION FOR ESTABLISHMENT OF SCHEDULE FOR
PREHEARING CONFERENCE AND RELATED FILINGS

Northern Indiana Public Service Company (NIPSCO) hereby requests that the Atomic Safety and Licensing Board (Board), pursuant to the provisions of 10 C.F.R. § 2.714(b) and § 2.751a issue an order establishing a schedule for a pre-hearing conference and for the filing of supplemental petitions to intervene and responses thereto. The requested action will facilitate orderly and expeditious disposition of the matters set forth in the "Notice of Opportunity for Hearing on Construction Permit Extension" published November 30, 1979 (44 Fed. Reg. 69061), with respect to NIPSCO's request for an amendment to Construction Permit No. CPPR-104 to extend the latest date for completion of the construction of the Bailly Generating Station, Nuclear 1 (the facility) from September 1, 1979, to December 1, 1987. The order is requested for the following reasons.

The "Notice of Opportunity for Hearing" invited "any person whose interest may be affected" by the proceeding to

1844 049

8001310 127

file a request for a hearing in the form of a petition for leave to intervene "with respect to whether, pursuant to 10 C.F.R. 50.55(b), good cause has been shown for extension of the completion date for Construction Permit No. CPPR-104 for a reasonable period of time; i.e., with respect to whether, pursuant to 10 C.F.R. 50.55(b), the causes put forward by the Permittee are among those which the Commission will recognize as bases for extending the completion date."

Between December 20 and December 31, five petitions to intervene^{*/} were filed on behalf of a dozen individuals and organizations and the State of Illinois. Pursuant to orders of the Board dated December 31, 1979, and January 8, 1980, NIPSCO responded to the petitions on January 18, 1980, urging that all petitions be denied for the reasons set forth in NIPSCO's Response to Petitions Filed in Response to Notice of Opportunity for Hearing.^{**/}

It is obvious from the petitions and NIPSCO's response

^{*/} Local 1010 of the United Steelworkers of America filed a document entitled "Petition to Deny Permit." We assume that this document will be treated as a petition for leave to intervene pursuant to 10 C.F.R. § 2.714.

^{**/} A number of letters were also written to the NRC in apparent response to the Notice. Most of them are clearly not requests for hearing or petitions for leave to intervene. Several might be interpreted as such requests or petitions and we have responded to them in NIPSCO's Response to Letters Filed by Citizens Grabowski, Laudig, and Schultz (Jan. 18, 1980).

that the views of the Petitioners differ widely from NIPSCO's views with respect to the permissible scope of any hearing which might be held regarding the requested construction permit extension. Presumably, these views will be reflected in the parties' positions regarding the admissibility of contentions.

Indeed, some of the Petitioners apparently even dispute whether they are required to file contentions before they begin discovery. In Paragraph 11 of the petitions filed by Illinois and Porter County Chapter,^{*/} Petitioners take the position that they will identify the specific contentions which they wish to litigate at some future date "following discovery and other appropriate procedures." This position conflicts with the provisions of 10 C.F.R. § 2.714(b) and 10 C.F.R. § 2.740(b) which clearly provide that, not later than 15 days prior to the prehearing conference, Petitioners must supplement their petitions to include a list of the contentions which they wish to litigate and that discovery shall not begin until after the Board has identified the matters in controversy following the prehearing conference.

^{*/} Porter County Chapter of the Izaak Walton League of America, Inc.; Concerned Citizens Against Bailly Nuclear Site; Businessmen for the Public Interest, Inc.; James E. Newman and Mildred Warner.

It is because of this apparent conflict with Commission regulations and the widely divergent views regarding the permissible scope of this proceeding that NIPSCO believes it essential to require the filing of amended petitions, including specific contentions, by a specific date. We assume that the Board will follow the usual prehearing practice provided by 10 C.F.R. § 2.751a, convening a prehearing conference within 90 days after publication of the notice and permitting Petitioners to file amendments to their petitions, including specific contentions, up to 15 days before the prehearing conference.

Moreover, in order to facilitate an effective prehearing conference which is more carefully focused, the filing of contentions should be required to be completed by a date certain, which enables NIPSCO and the NRC Staff to respond in writing, so that the positions of all participants are known to the Board and others before the prehearing conference.

Because of the number of petitions and the apparently wide variety of contentions which the Petitioners seem to believe are appropriate for consideration in this proceeding, it appears prudent to reserve two days for a prehearing conference. NIPSCO therefore requests the Board to establish a schedule (i) providing for a prehearing conference on February 28 and 29; (ii) requiring Petitioners to file, not later than February 12, 1980, a supplement to their

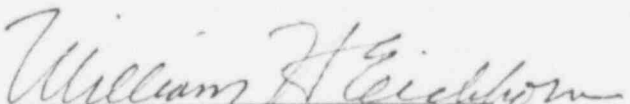
petitions to intervene, including a list of contentions which Petitioners seek to have litigated and the bases for each contention set forth with reasonable specificity; and (iii) providing for responses to Petitioners' contentions by NIPSCO and the Staff by February 25, 1980.

To avoid delays occasioned by mailing of the required filings, NIPSCO will arrange for pickup from all Petitioners of their supplemented petitions on February 12, 1980, and will deliver copies to the Board and Staff if desired. NIPSCO will also arrange for hand delivery of its response to any Petitioner to whom the response is directed, to the Board, and to the NRC Staff on February 25, 1980, and make similar arrangements for Staff responses if desired.

Respectfully submitted,

William H. Eichhorn
EICHHORN, EICHHORN & LINK
5243 Hohman Avenue
Hammond, Indiana 46320

Maurice Axelrad, Esquire
Kathleen H. Shea, Esquire
LOWENSTEIN, NEWMAN, REIS,
AXELRAD & TOLL
1025 Connecticut Avenue, N.W.
Washington, D.C. 20036

BY: 
WILLIAM H. EICHHORN

BY: 
KATHLEEN H. SHEA

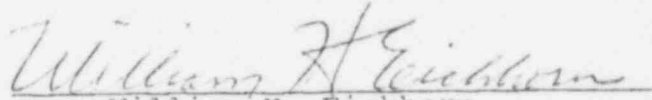
UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

In the Matter of)	
)	
NORTHERN INDIANA PUBLIC	)	Docket No. 50-367
SERVICE COMPANY)	
	)	(Construction Permit
Bailly Generating Station,	)	Extension)
Nuclear 1)	

NOTICE OF APPEARANCE

Notice is hereby given that the undersigned attorney herewith enters an appearance in the captioned matter. In accordance with §2.713, 10 C.F.R. Part 2, the following information is provided:

Name	- William H. Eichhorn
Address	- Eichhorn, Eichhorn & Link 5243 Hohman Avenue Hammond, Indiana 46320
Telephone Number	- (219) 931-0560
Admission	- U.S. Supreme Court; U.S. Circuit Court of Appeals Seventh Circuit; U.S. District Court, Northern District of Indiana; Indiana Supreme Court
Name of Party	- Northern Indiana Public Service Company 5265 Hohman Avenue Hammond, Indiana 46325


William H. Eichhorn

Attorney for Northern Indiana
Public Service Company

Dated at Washington, D.C.

this 15th day of January, 1980

1844 054

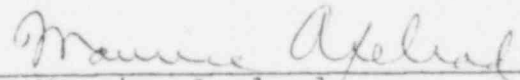
UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

In the Matter of)	
)	
NORTHERN INDIANA PUBLIC	)	Docket No. 50-367
SERVICE COMPANY)	
	)	(Construction Permit
Bailly Generating Station,	)	Extension)
Nuclear 1)	

NOTICE OF APPEARANCE

Notice is hereby given that the undersigned attorney herewith enters an appearance in the captioned matter. In accordance with §2.713, 10 C.F.R. Part 2, the following information is provided:

Name	- Maurice Axelrad
Address	- Lowenstein, Newman, Reis, Axelrad & Toll 1025 Connecticut Avenue, N.W. Washington, D.C. 20036
Telephone Number	- (202) 862-8400
Admission	- U.S. Court of Appeals for the District of Columbia Circuit; and Court of Appeals of New York
Name of Party	- Northern Indiana Public Service Company 5265 Hohman Avenue Hammond, Indiana 46325



Maurice Axelrad

Attorney for Northern Indiana
Public Service Company

Dated at Washington, D.C.
this 15th day of January, 1980

1844 055

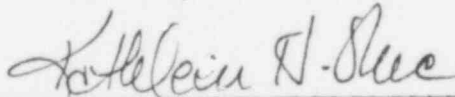
UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

In the Matter of)	
)	
NORTHERN INDIANA PUBLIC	)	Docket No. 50-367
SERVICE COMPANY)	
	)	(Construction Permit
Bailly Generating Station,	)	Extension)
Nuclear 1)	

NOTICE OF APPEARANCE

Notice is hereby given that the undersigned attorney herewith enters an appearance in the captioned matter. In accordance with §2.713, 10 C.F.R. Part 2, the following information is provided:

Name	- Kathleen H. Shea
Address	- Lowenstein, Newman, Reis, Axelrad & Toll 1025 Connecticut Avenue, N.W. Washington, D.C. 20036
Telephone Number	- (202) 862-8400
Admission	- Supreme Court of Kansas; District of Columbia Court of Appeals
Name of Party	- Northern Indiana Public Service Company 5265 Hohman Avenue Hammond, Indiana 46325



Kathleen H. Shea

Attorney for Northern Indiana
Public Service Company

Dated at Washington, D.C.

this 15th day of January, 1980

1844 056

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matter of)	
	)	Docket No. 50-367
NORTHERN INDIANA PUBLIC)	
SERVICE COMPANY	)	(Construction Permit
	)	Extension)
Bailly Generating Station,)	
Nuclear 1)	

CERTIFICATE OF SERVICE

I hereby certify that copies of NIPSCO'S Response to Petitions Filed in Response to Notice of Opportunity for Hearing; NIPSCO'S Response to Letters Filed by Citizens Grabowski, Laudig, and Schultz; Licensee's Answer to Petitions for Waiver of or Exception to 10 C.F.R. § 50.55(b); Motion for Establishment of Schedule for Prehearing Conference and Related Filings; and Notices of Appearances were served on the following by deposit in the United States mail, postage prepaid, or by hand delivery this 18th day of January, 1980.

Herbert Grossman, Esquire
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

Glenn O. Bright
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

Richard F. Cole
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

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

Howard K. Shapar, Esquire
Executive Legal Director
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

Steven Goldberg, Esquire
Office of the Executive Legal Director
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

1844 057

William J. Scott, Esquire
Dean Hansell, Esquire
Assistant Attorney General
Environmental Control Division
188 West Randolph Street
Suite 2315
Chicago, Illinois 60601

Robert J. Vollen, Esquire
c/o BPI
109 North Dearborn Street
Suite 1300
Chicago, Illinois 60602

Edward W. Osann, Jr., Esquire
One IBM Plaza
Suite 4600
Chicago, Illinois 60611

Robert L. Graham, Esquire
One IBM Plaza
44th Floor
Chicago, Illinois 60611

Mr. Mike Olszanski
Mr. Clifford Mezo
United Steelworkers of America
3703 Euclid Avenue
East Chicago, Indiana 46312

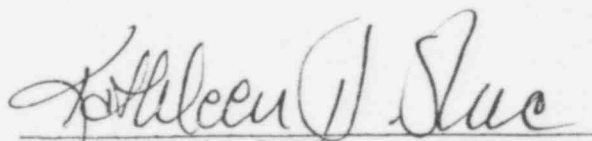
Diane B. Cohn, Esquire
William B. Schultz, Esquire
Suite 700
2000 P Street, N.W.
Washington, D.C. 20036

Richard L. Robbins, Esquire
53 West Jackson Boulevard
Chicago, Illinois 60604

Mr. George Grabowski
Ms. Anna Grabowski
7413 W. 136th Lane
Cedar Lake, Indiana 46303

Stephen Laudig, Esquire
445 N. Pennsylvania Street
Suite 815-816
Indianapolis, Indiana 46204

Dr. George Schultz
110 California
Michigan City, Indiana 46360

A handwritten signature in cursive script, reading "Kathleen H. Shea". The signature is written in dark ink and is positioned above a horizontal line.

KATHLEEN H. SHEA
Lowenstein, Newman, Reis,
Axelrad & Toll
1025 Connecticut Avenue, N.W.
Washington, D.C. 20036