

STATE OF INDIANA)
) SS:
COUNTY OF LAKE)

AFFIDAVIT OF IRA J. ROBERTS

The undersigned, Ira J. Roberts, being duly sworn upon his oath, deposes and says:

1. That he is Vice President of Marketing and Contracts of Northern Indiana Public Service Company (NIPSCO) and as such is authorized to make this affidavit for and on behalf of NIPSCO.

2. That as Vice President of Marketing and Contracts the undersigned, Ira J. Roberts, is responsible for forecasting the future electric demands on NIPSCO's system including the gathering of specific information for such purposes. This work is conducted under direct supervision and control of the undersigned.

3. That NIPSCO is an electric utility engaged in the business of supplying electricity to customers in the northern part of the State of Indiana and as such supplies electrical energy to approximately 316,000 customers.

4. That in the process of supplying electricity to such customers it is necessary to predict the expected electrical demands on NIPSCO's system several years in advance in order to properly schedule capacity additions to its system and make appropriate plans to meet future demands.

5. That in the process of predicting future expected demands on its system, NIPSCO divides its customers into various categories

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such as residential, commercial, sales for resale and industrial and employs specific methodology to each such class of customer to forecast the future needs of each category of customer.

6. That in forecasting the industrial segment of its customers NIPSCO assesses the individual needs of each of its six largest industrial customers which represents approximately 50 percent of the total kilowatthour sales on NIPSCO's entire system.

7. That in predicting the future demand of its six largest industrial customers NIPSCO obtains information from the individual industrial customers regarding their future operating plans and any plans for plant additions which would affect the specific customer's need for electrical energy. Additionally, in forecasting the overall need of the industrial customer category NIPSCO obtains information regarding expected future electrical needs from its twenty-five largest customers.

8. That the information obtained from individual customers is the best available estimate of future energy requirements of the industrial segment of NIPSCO's customers and is vital to NIPSCO's overall forecasting effort. For example, if a large industrial customer planned a major plant addition requiring 100 to 200 megawatts of additional electric energy at a specific point in time, NIPSCO may have to bring on line additional electric generating facilities to coincide with the time of completion of such addition in order to satisfy the additional electric requirement. Since the lead time for construction of generating facilities is in most instances much longer than additions to manufacturing facilities, information regarding energy demands for such additions

must be given to NIPSCO well in advance of the time that the customer announces publicly its plan for such addition.

9. That up to this date, NIPSCO's industrial customers have willingly provided to NIPSCO, on a continuous basis, information regarding future plans; however, information regarding energy requirements for planned plant additions or future operational changes by such customers is given to NIPSCO with the understanding that it will not be publicly disclosed. NIPSCO has not publicly released any such information given in confidence without the consent of its customers.

10. That if NIPSCO did not honor its trust to hold such information in confidence, some or all of its industrial customers may become reluctant to divulge such information to NIPSCO thereby depriving NIPSCO of a vital and necessary planning tool in predicting the future demands on its system.

11. That the general electrical energy use levels of NIPSCO's six largest industrial customers is such that the identity of those customers would be apparent from examination of the individual forecasts for those customers even if the customers' names were deleted from the documents.

And further the Affiant sayeth not.

NORTHERN INDIANA PUBLIC SERVICE COMPANY

By:

Ira J. Roberts

STATE OF INDIANA)
) SS:
COUNTY OF LAKE)

Before me, a Notary Public, in and for said County and State, this 26th day of May, 1981, personally appeared W. J. Roberts, Vice President of Marketing and Contracts, of Northern Indiana Public Service Company and acknowledged the execution of the foregoing instrument as the free and voluntary act acting for said company and swears that the statements contained in his Affidavit are true and correct.

GIVEN under my hand and notarial seal this 26th day of May, 1981.

Frederic S. Bonner
NOTARY PUBLIC
A Resident of Lake County, Indiana

My Commission expires:

August 1, 1982

1 Shorb?

2 A Because I think that the problem may well have
3 been the potential for delay and disruption.

4 Q And that's what you and Mr. Boyd were talking
5 about trying to avoid?

6 A Yes.

7 Q To whom were you and he referring as the inter-
8 venors in that conversation?

9 A Any and all the intervenors in the case.

10 Q Those individuals and organizations who partici-
11 pated as intervenors in the NRC or AEC proceed-
12 ings concerning Bailly?

13 A Yes.

14 Q At the bottom of that document, Mr. Shorb, there
15 appear to be some handwritten notes.

16 A Yes.

17 Q Are those yours?

18 A Yes.

19 Q For the record, can you read them?

20 A Yes. "Called Boyd and said we did not want
21 tentative letter. We want letter only after de-
22 cision is made."

23 MR. VOLLEN: Mr. Eichhorn, the docu-
24 ment that has been marked Deposition Exhi-
25 bit 9 is the actual document that you

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produced, which is obviously a Xerox copy of the memorandum. It appears that there may have been something on the original that got lost in the copying on Page 2. I wonder if you have or could make available the original of that document just so we can see that nothing got cut off in the photocopying process.

(Discussion off the record.)

MR. VOLLEN:

Q Is Shorb Deposition Exhibit 10 a memorandum of the same telephone conversation referred to in that handwritten note that you just read on the bottom of Shorb Deposition Exhibit 9?

A Yes.

Q Did you tell him why you had decided to wait?

A I don't believe so. I simply told him we decided to wait.

Q And why did you decide to wait?

A Because we did--we wanted a decision from the NRC staff before we proceeded.

Q Yes, sir. Did you tell him why--I take it from this memorandum that you were telling him that you told him in that conversation that you decided you didn't want a letter of tentative

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approval.

That's right.

Q Did you tell him why you didn't want a letter of tentative approval?

A I don't recall whether I did or not.

Q Do you recall with whom you discussed the issue or whether or not you wanted a letter of tentative approval?

A No, I don't recall specifically.

Q Do you recall generally?

A I presume that I would have discussed it with either or both Nuclear Staff personnel and our attorneys.

Q But you don't recall; it's just a presumption?

A No, I don't recall.

Q Directing your attention to Shorb Deposition Exhibit 11 for identification, did you have a telephone conversation with Roger Boyd on July 18, 1978?

A Yes.

Q And is that document a memorandum of that conversation?

A Exhibit 11 is, yes.

Q And do you have any recollection of anything that was said in that conversation other than

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1 what is reported in that memorandum?

2 A No.

3 Q Did you ask him why he and his staff and the
4 legal staff had been discussing the contents of
5 the report in excruciating detail?

6 A No. But I presume that was in great detail.

7 Q Did you often have discussions with Mr. Boyd on
8 what he and his legal staff were discussing?

9 A In--in this case I did. I didn't often. No.

10 Q What did he tell you about what his legal staff
11 and he were discussing?

12 A He didn't tell me anything more than what I have
13 recited here.

14 Q Did he tell you about conversations he had with
15 his lawyers?

16 A He simply said that he had been discussing this
17 in excruciating detail. Which I assume is simply
18 a very detailed discussion. I don't know what
19 that means particularly.

20 Q Did you ask him?

21 A Not that I recall.

22 Q Did you ask him what the issue was that he had
23 discussed with his lawyers?

24 A I don't recall anything more of that conversa-
25 tion than what is in this memorandum, Mr. Vollen.

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When, if you recall, Mr. Shorb, was your next conversation with Roger Boyd after July 18, 1978? I wouldn't recall unless I look at these exhibits to see whether there was another one immediately afterward. I see that the next exhibit in point of time is January 5, 1979.

That's the next one in point of time that's been produced for me.

Yes. And whether or not that was the next conversation, I could not tell you. Because as I mentioned before, I don't regularly make memorandums of telephone conversations; so there could have been or could not have been. I do not know.

During the period from June 30, 1978, through July 18, 1978, a period of approximately eighteen days, you had at least four telephone conversations with Mr. Boyd, is that correct, on the subject of the staff review of NIPSCO's pile proposal?

Apparently. Yes.

And you don't recall--do you recall whether you had any further conversations with Mr. Boyd on that subject in the period from July 18, '78, until January 5, 1979?

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1 A I don't really recall, no. I simply don't re-
2 call.

3 Q Do I understand that Mr. Bohn just went to check
4 with your secretary to see the original of Shorb
5 Deposition Exhibit 9 for identification?

6 A Yes.

7 Q And would she, your secretary, find the original
8 in a file?

9 A I presume so.

10 Q And what file would that be; do you know?

11 A I don't know. I don't know where these came
12 from.

13 MR. VOLLEN: Mr. Eichhorn, I'd like
14 to have that file produced to see whether
15 there were any other memoranda or telephone
16 conversations between Mr. Shorb and Mr.
17 Boyd on this subject between the period
18 of July 18, '78 and January 5, '79.

19 MR. EICHHORN: Bob, we have produced
20 from that file, obviously, all documents
21 pertaining to your document request. And we
22 are not going to produce that file for your
23 examination today unless we have an offi-
24 cial request that is within the scope of
25 the contentions that you have admitted,

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1 and we would so honor it.

2 MR. VOLLEN: I don't know what you mean
3 by "official request." I hereby make an of-
4 ficial request for the production of that
5 file.

6 MR. EICHHORN: No. That file is not a
7 specific identification of documents within
8 a contention or within the confines of any
9 contention which you have pending.

10 MR. VOLLEN: Does that file contain
11 memoranda of further--of other telephone
12 conversations between Mr. Shorb and people
13 with the NRC staff on the subject of pilings?

14 MR. EICHHORN: I'm not going to be de-
15 posed here, Bob. I'll be glad to discuss
16 it with you. And if--I will again review
17 the file to see if there are any documents
18 that fall within the scope of the conten-
19 tions and any request that you have made.
20 My information would be that there would not
21 be documents or they would have been pro-
22 duced in the first instance under your re-
23 quest. But I won't agree carte blanche to
24 give you that file.

25 MR. VOLLEN

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