

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION



IN THE MATTER OF	)	
ILLINOIS POWER COMPANY,	)	
SOYLAND POWER COOPERATIVE, INC.	)	Docket Nos. 50-461 OL
and WESTERN ILLINOIS POWER	)	50-462 OL
COOPERATIVE, INC.	)	
	)	
(Operating Licenses for Clinton	)	
Power Station, Units 1 and 2)	)	

ANSWER OF APPLICANTS TO JOINT MOTION  
FOR EXTENSION OF TIME TO COMPLETE DISCOVERY

Illinois Power Company ("IP"), Soyland Power Cooperative, Inc., and Western Illinois Power Cooperative, Inc. (collectively "Applicants"), by their attorney, Peter V. Fazio, Jr., hereby submit, pursuant to Section 2.730(c) of the Rules of Practice of the Nuclear Regulatory Commission ("NRC"), their Answer to the Joint Motion of the Prairie Alliance and the State of Illinois ("Illinois") for Extension of Time to Complete Discovery ("Joint Motion").

1. In its order issued May 29, 1981, the Atomic Safety and Licensing Board established June 26, 1981, as the deadline for first round discovery requests. Prairie Alliance and Illinois separately served their first sets of interrogatories and their first requests for production of documents on June 26, 1981. On that same date, they filed their Joint Motion requesting an extension of time in which to formulate additional discovery requests.

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2. Applicants oppose the Joint Motion on the grounds that it is untimely, it fails to show good cause as required by 10 CFRs 2.711(a), the granting of the Joint Motion will delay the proceedings, and the double discovery requested by the Joint Motion would prove unduly burdensome to Applicants.

3. Prairie Alliance and Illinois have failed to comply with the present NRC policy as set forth in Part III.A. of the U.S. Nuclear Regulatory Commission Statement of Policy on Conduct of Licensing Proceedings, CLI-81-8, May 21, 1981 (Statement of Policy): "Requests for an extension of time should generally be in writing and should be received by the Board well before the time specified expires." at p. 4 (emphasis added). Prairie Alliance and Illinois filed their Joint Motion on the last day of the period allowed for first round discovery requests without explanation for the delay. Granting the Joint Motion would be unfair to the Staff and Applicants, who have completed and filed their discovery requests on time.

4. Prairie Alliance and Illinois have failed to show cause for their alleged inability to consult with their experts in time to formulate first round discovery requests.

5. The lack of resources cited by Prairie Alliance and Illinois in paragraph 5 of the Joint Motion is not

good cause for failure to complete first round discovery requests on time. The filing of the Joint Motion brings into serious question the representations made at the Second Special Prehearing Conference held in Champaign, Illinois on April 14, 1981. At that conference, Mr. Samelson, on behalf of Prairie Alliance, stated:

"Prairie Alliance would like to be on the record that we wholeheartedly agree with the concerns that were just stated that the licensing process should be conducted in a timely and efficient manner. And we intend to cooperate in every respect to make sure that the licensing process is conducted in that manner." Transcript of Second Special Prehearing Conference, at p. 70.

Similarly, when questioned on the ability of Illinois to meet the discovery timetable to be set by the Licensing Board, Mr. Neuman stated:

"No problems, Judge Clark. I was just going to say that we would be fully prepared to live within whatever framework is adopted. I don't anticipate any problems." Transcript of Second Special Prehearing Conference, at p. 224-25.

The Joint Motion indicates that Prairie Alliance and Illinois now seek to avoid the responsibilities which they embraced when they were attempting to show why they should be allowed to participate in the licensing process.

6. Good cause for further first round discovery cannot be shown given the number and extent of coverage of the interrogatories which Prairie Alliance and Illinois

served upon Applicants on June 26, 1981. It is obvious that Prairie Alliance and Illinois each took responsibility for drafting interrogatories on one-half the contentions. Illinois filed 53 interrogatories dealing with contentions 2, 3, 5, 8, 10 and 12, while Prairie Alliance drafted 114 interrogatories dealing with contentions 1, 4, 6, 7, 9, 11. Many of these interrogatories have numerous subparts. As many as 63 interrogatories have been submitted with regard to a single contention. The interrogatories already submitted are quite comprehensive and sufficiently cover all issues raised by the admitted contentions. Moreover, allowing further first round discovery would violate the NRC's guidelines on limiting the number of interrogatories. In the Statement of Policy at page 6, the NRC stated: "The Commission believes that the benefits now obtained by the use of interrogatories could generally be obtained by using a smaller number of better focused interrogatories and is considering a proposed rule that would limit the number of interrogatories a party could file." On June 8, 1981, the NRC proposed amending 10 CFR §2.740b to limit to 50 the number of interrogatories which one party can serve on another party, "absent a ruling by the Board that a greater number of interrogatories is justified." 46 Fed. Reg. 30349 (June 8, 1981). Thus it is apparent that the NRC is seeking to limit the number of interrogatories in

any particular proceeding. Further interrogatories should be allowed only if Prairie Alliance and Illinois could justify them. However, the Joint Motion fails to state any need for further inquiry which might justify additional first round discovery.

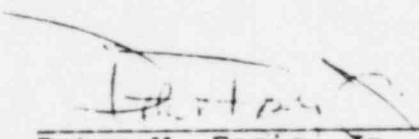
7. The request for extension of time made by Prairie Alliance and Illinois poses a real threat of delay in these proceedings. Discovery should be completed as rapidly as possible so that the issues can be narrowed through settlement or summary disposition prior to the issuance of the Staff's SER in January 1982. The parties can then focus their full attention on any additional issues that may be raised in the SER. Any delay at this time increases the likelihood of additional delay later in the proceedings.

8. Because of the number and breadth of coverage of the interrogatories already filed by Prairie Alliance and Illinois, Applicants have already begun a systematic program of employee consultation and document review in order to furnish responses. Prairie Alliance and Illinois are now seeking to have Applicants repeat this expensive, time-consuming process in the future without offering any justification as to why such a second review will be necessary.

9. For all the reasons set forth above, Prairie Alliance and Illinois have failed to show any acceptable justification for granting an extension of time.

WHEREFORE, Applicants respectfully request that the Joint Motion of Prairie Alliance and Illinois For An Extension of Time to Complete Discovery be denied.

Respectfully submitted,



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Dated: July 8, 1981

CERTIFICATE OF SERVICE

I hereby certify that an original and two conformed copies of the foregoing document were served upon the following:

Secretary of the Commission  
United States Nuclear Regulatory Commission  
Washington, D.C. 20555  
Attention: Docketing and Service Branch

and that one copy of the foregoing document was served upon each of the following:

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Atomic Safety and Licensing  
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in each case by deposit in the United States Mail, postage  
prepaid on July 8, 1981.

  
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Docket Nos. 50-461-OL  
50-462-OL

NOTICE

To:

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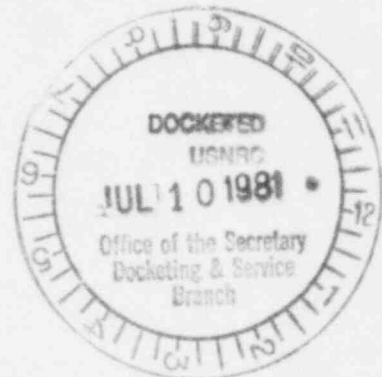
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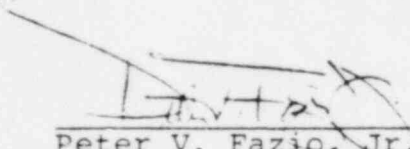
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PLEASE TAKE NOTICE that I have filed with the Secretary of the United States Nuclear Regulatory Commission ANSWER OF APPLICANTS TO JOINT MOTION FOR EXTENSION OF TIME TO COMPLETE DISCOVERY in the above captioned matter. A copy of this document is attached hereto and hereby served upon you.



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