



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)	(Construction Permit
SERVICE COMPANY)	Extension)
)	
(Bailly Generating Station,)	July 24, 1981
Nuclear-1))	

NORTHERN INDIANA PUBLIC SERVICE COMPANY'S
ANSWER TO (1) ILLINOIS' MOTION (JULY 17)
FOR CLARIFICATION OF ORDER AND
(2) PCCI'S MOTION (JULY 22) FOR
CLARIFICATION OR RECONSIDERATION OF ORDER

Illinois purports to find "ambiguous" "some of the language" in the Licensing Board "Order (Closing Discovery)" of July 10. It has therefore filed a "Motion for Clarification of Order." "Porter County Chapter Intervenors" have filed a Motion which also seeks clarification of "ambiguities" with respect to the first two points discussed below. If the "ambiguities" are not clarified to "PCCI's" satisfaction, they request reconsideration. In our view, the Order is not "ambiguous" and no clarification is required. However, the moving parties appear to have difficulties understanding their obligations under the order and the Board may therefore wish to assist them and thereby reduce the likelihood of future difficulties.

Scheduling of Depositions. Illinois and "PCCI" inquire in effect whether one must take depositions by August 28 or only

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serve notice by August 28 of depositions to be taken at any time thereafter. In the context of an "Order (Closing Discovery)," the meaning is clear: deposition-taking ends August 28. Furthermore, the order states explicitly "[t]hat all contested discovery to the extent that it cannot be completed by August 31, 1981, will be scheduled beyond that date by Board order"

Clearly, then, there is no ambiguity. "PCCI" notes that notice of depositions to be taken after August 28 had already been given and a number of subpoenas requested. The Board was, of course, well aware of those notices and requests--and NIPSCO's opposition thereto--when the July 10 order was issued. "PCCI" has provided no argument for reconsideration of the August 28 deadline.

"Updating" Responses. Illinois requests that the Board "explain" the word "update" and asks whether it is broader than "supplement" as used in 10 C.F.R. § 2.740(e). PCCI has some understanding of the word "update" but may believe that it is synonymous with "supplement" as used in Section 2.740(e). We assume that the Board intended to require parties to re-answer interrogatories, providing any information which has developed or been discovered since responses were filed. The Board may wish to be more explicit so that each party will have the same understanding of the obligation imposed. PCCI is also concerned about a perceived omission of "a further round of discovery based upon the updated responses" which was mentioned in the

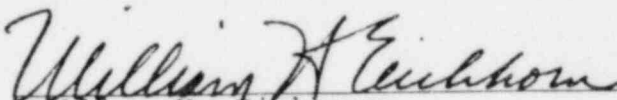
Board's May 20 order. There is no requirement for "a further round" and we urge the Board to refuse to permit a "free" round-- that is, discovery undertaken without specific leave of the Board.

Depositions after August 28, 1981, of expert witnesses.

Illinois asks whether parties may take depositions of expert witnesses after August 28, 1981. The Board's order does not expressly address this topic. Nevertheless, it is covered by the provision that discovery not completed by August 28 will be scheduled or denied by Board order. That is, after August 28, depositions may be taken only with the Board's permission. The merits of any particular request for authorization to depose will, of course, be dealt with when the request is made. However, we note that, in our view, depositions of expert witnesses will be difficult to justify when their testimony is to be prefiled and they will be available for cross-examination.

Respectfully submitted,

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