

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,)	August 25, 1981
Nuclear-1))	

NORTHERN INDIANA PUBLIC SERVICE COMPANY'S
RENEWED MOTION FOR PROTECTIVE ORDER



In response to notices filed by Porter County Chapter Inter-venors (PCCI) to take the depositions of Messrs. Hiple and Kulawinski, both Northern Indiana Public Service Company (NIPSCO) Vice Presidents, NIPSCO on July 8, and July 24, 1981, filed motions for protective orders stating that the depositions were noticed for a date beyond the date NIPSCO had requested for the close of discovery (July 31)^{*/} and beyond the date established by the Board for scheduling of depositions (August 28).^{**/} In response to complaints by PCCI and Illinois, the Board extended to September 30, 1981, the date by which depositions must be

*/ NIPSCO's Motion for Establishment of Schedule (June 1, 1981).

**/ Board Order (Closing Discovery) (July 10, 1981).

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taken.^{*/} In view of the August 4 Board Order, Counsel for NIPSCO advised Counsel for PCCI by letter dated August 10, 1981, that NIPSCO would withdraw its motion for a protective order with respect to all depositions of NIPSCO employees noticed for the month of September but that Messrs. Hiple and Kulawinski had scheduling conflicts which prevented them from being available on the dates scheduled for their depositions, September 15 and September 22, respectively. Ten alternative dates were suggested for the taking of Mr. Hiple's deposition and nine for Mr. Kulawinski. A copy of that letter is attached. On August 11, 1981, NIPSCO filed its "Conditional Withdrawal of Motions for Protective Orders" which withdrew requests for protective orders with respect to certain depositions and set forth the above facts with respect to Messrs. Hiple and Kulawinski.

On August 17, 1981, Counsel for PCCI advised Counsel for NIPSCO that the depositions of Messrs. Hiple and Kulawinski would not be rescheduled for any of the requested alternative dates. A copy of the August 17 letter is attached. The reasons advanced by Counsel for PCCI for not rescheduling the Hiple and Kulawinski depositions is that "there are already depositions scheduled for each of the dates . . . mention[ed]" as alternatives except September 29 and 30 on which dates Counsel "will be unavailable."

^{*/} Order (Summarizing Actions Taken at Conference Call of August 3, 1981) (August 4, 1981).

Counsel for PCCI is incorrect in assuming the depositions have already been scheduled for most of the alternative dates suggested for the Hipple and Kulawinski depositions. While requests have been made for subpoenas to depose witnesses, the Board has not ruled on those requests and accordingly no depositions have been scheduled for the suggested alternative dates. Moreover, no determination has been made regarding the availability of the witnesses for which subpoenas have been requested on the dates requested by PCCI. Thus, PCCI's refusal to reschedule the depositions of Messrs. Hipple and Kulawinski is unwarranted.

Messrs. Hipple and Kulawinski are not available on September 15 and 22, respectively, but are available on a reasonable number of alternative dates. To force them to appear on the dates requested by PCCI under the existing circumstances places an unnecessary burden upon them, is oppressive and is sought only for the purpose of harassment. NIPSCO respectfully requests a protective order providing that Messrs. Hipple and Kulawinski not be required to appear for their depositions on September 15 and 22, respectively, and that the Board schedule the depositions

of these NIPSCO employees for any of the alternative dates set forth in the attached letter of August 10, 1981.

Respectfully submitted,

EICHHORN, EICHHORN & LINK
5243 Hohman Avenue
Hammond, Indiana 46320

By:


William H. Eichhorn

Attorneys for Northern Indiana
Public Service Company

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MAUREEN JOHNS GRIMMER

August 10, 1981

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

Re: In the Matter of Northern Indiana Public Service
Company (Bailly Generating Station, Nuclear-1)
Docket No. 50-367
(Construction Permit Extension)

Dear Mr. Vollen:

On June 25, July 8, July 24, and July 27, 1981, Northern Indiana Public Service Company (NIPSCO) filed Motions for Protective Orders regarding the depositions of Messrs. Purcell, Petersen, Hipple and Kulawinski on the grounds that the depositions were scheduled beyond the close of discovery. In view of the Board's recent order extending the date for the taking of depositions up to September 30, we will withdraw those Motions and produce these witnesses for depositions. However, Messrs. Hipple and Kulawinski now scheduled for September 15 and 22, respectively, have scheduling conflicts and are unavailable on their scheduled deposition dates. Mr. Hipple is available for the purpose of being deposed on any of the following dates: August 31, September 2, 3, 4, 8, 10, 21, 25, 29 and 30. Mr. Kulawinski is available on any of the following dates: September 1, 2, 3, 4, 8, 9, 10, 16 and 17. Will you please reschedule these depositions for any of the above-mentioned dates.

Yours very truly,

EICHHORN, EICHHORN & LINK

By: William H. Eichhorn

WHE/dgg

**BPI****Business and Professional People for the Public Interest**

109 North Dearborn Street, Suite 1300 • Chicago, Illinois 60602 • Telephone: (312) 641-5570

August 17, 1981

Mr. William H. Eichhorn
 Eichhorn, Eichhorn & Link
 5243 Hohman Avenue
 Hammond, IN 46320

RE: In the Matter of Northern Indiana Public Service
 Company (Bailly Generating Station, Nuclear-1)
 Docket No. 50-367 (Construction Permit Extension)

Dear Bill:

This is in response to your letter of August 10, 1981 seeking to reschedule the depositions of Messrs. Hipple and Kulawinski, notice of which was served on June 29, 1981.

Unfortunately, we are unable to comply with your request that we reschedule these depositions to any of the dates you mention. As is clear from recent filings summarized in Porter County Chapter Intervenors' Motion to Extend Time for Taking Depositions, dated August 10, 1981, there are already depositions scheduled for each of the dates you mention, except for September 29 and 30, 1981 on which dates I will be unavailable.

Very truly yours,

Robert J. Vollen
 One of the Attorneys for Porter
 County Chapter Intervenors

RJV:pt
 cc: Service List

Directors

Robert B. Lifton
President
 Donald Dann
 Alan Saks
 Dora Williams
Vice Presidents
 Richard P. Kiphart
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UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION
BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

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NORTHERN INDIANA PUBLIC)	(Construction Permit
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CERTIFICATE OF SERVICE

I hereby certify that copies of the following documents.

Northern Indiana Public Service Company's
Renewed Motion for Protective Order

Northern Indiana Public Service Company's
Motion to Compel Appearances of Messrs.
Osann and Read for Deposition

Northern Indiana Public Service Company's
Objection to Porter County Chapter Intervenor's
Motion to Extend Time for Reply to Northern
Indiana Public Service Company's Fourth
Set of Interrogatories to Porter County
Chapter Intervenor and Motion to Compel
Response

Northern Indiana Public Service Company's
Objection to Illinois' Motion for Extension
of Time to Respond to Northern Indiana Public
Service Company's Fourth Set of Interrogatories
and Northern Indiana Public Service Company's
Motion to Compel Response

were served on the following by deposit in the United States
mail, postage prepaid, on this 25th day of August, 1981:

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

Dr. Robert L. Holton
Administrative Judge
School of Oceanography
Oregon State University
Corvallis, Oregon 97331

Dr. J. Venn Leeds
Administrative Judge
10807 Atwell
Houston, Texas 77096

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

Stephen H. Lewis, Esquire
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Susan Sekuler, Esquire
Environmental Control Division
188 West Randolph Street
Suite 2315
Chicago, Illinois 60601

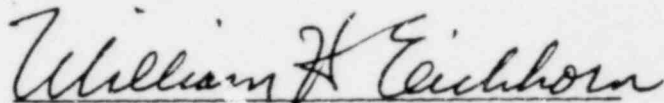
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Mr. Clifford Mezo
United Steelworkers of America
Local 1010
3703 Euclid Avenue
East Chicago, Indiana 46312

Mr. George Grabowski
Ms. Anna Grabowski
3820 Ridge Road
Highland, Indiana 46322

A handwritten signature in cursive script, reading "William H. Eichhorn". The signature is written in dark ink and is positioned above the printed name and address.

WILLIAM H. EICHORN
Eichhorn, Eichhorn & Link
5243 Hohman Avenue
Hammond, Indiana 46320

Attorneys for Northern Indiana
Public Service Company