

RELATED CORRESPONDENCE
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))	

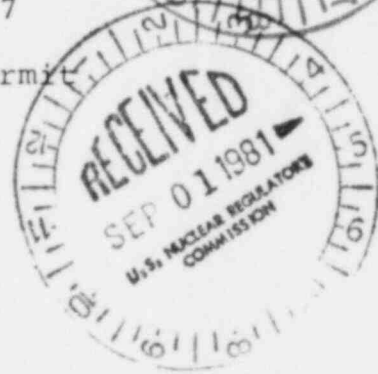
NORTHERN INDIANA PUBLIC SERVICE COMPANY'S
MOTION TO COMPEL APPEARANCES OF
MESSRS. OSANN AND READ FOR DEPOSITION

On July 30, 1981, Northern Indiana Public Service Company (NIPSCO) filed separate Notices of Deposition of Edward W. Osann, Jr., Agent for Porter County Chapter Intervenors (PCCI) and any representative of the State of Illinois (Illinois) having knowledge regarding the facts upon which Illinois has based its contentions. The dates for the depositions were August 20 for Mr. Osann and August 12 for the Illinois representative.

Both PCCI and Illinois have sought protective orders^{*/} and neither produced the requested witness on the scheduled date.

Illinois' motion identifies Mr. Read as its representative and suggests there are no other dates available before September 30 for the scheduling of his deposition. Illinois reasons that if the Board grants all of the requests for subpoenas for depositions of witnesses, nearly every working day in September will be taken

^{*/} Illinois' Motion for Protective Order (August 6, 1981);
Porter County Chapter Intervenors' Motion for Protective
Order (August 13, 1981).



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for such purpose and thus Mr. Read's deposition cannot be taken before the last date established by the Board for taking depositions. As pointed out in NIPSCO's response,^{*/} the Board has not granted any requests for subpoenas and accordingly all dates in September are available except September 1 and 9. Illinois should be compelled to produce Mr. Read for deposition on a date prior to September 30, 1981.

PCCI has not, in its request for protective order, stated that alternative dates during the month of September are not available. However, discussions with Counsel for PCCI and other PCCI pleadings and correspondence demonstrate PCCI's position to be the same as Illinois', i.e., that because subpoenas for depositions have been requested for nearly every working day in September, no other depositions can be scheduled.^{**/} The obvious result of the tactics of PCCI and Illinois is to prevent any discovery by other parties, to extend the time for discovery in this proceeding^{***/} and to delay the completion of this proceeding for as long as the Board will tolerate.

^{*/} Response of Northern Indiana Public Service Company to Illinois' Motion for Protective Order (August 10, 1981).

^{**/} See, e.g., Letter of August 17, 1981, to W. H. Eichhorn from R. J. Vollen regarding alternative dates for the taking of depositions of Messrs. Hipple and Kulawinski (copy attached).

^{***/} See Northern Indiana Public Service Company's Response in Opposition to Porter County Chapter Intervenors' Motion to Extend Time for Taking Depositions (August 17, 1981).

In view of the above and foregoing, NIPSCO requests an order compelling PCCI and Illinois to produce Mr. Osann and Mr. Read, respectively, for deposition on any day in September other than September 1 and 9.

Respectfully submitted,

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

By: William H. Eichhorn
William H. Eichhorn

Attorneys for Northern Indiana
Public Service Company

LOWENSTEIN, NEWMAN, REIS
& AXELRAD
1025 Connecticut Avenue, N.W.
Washington, D.C. 20036

**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

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