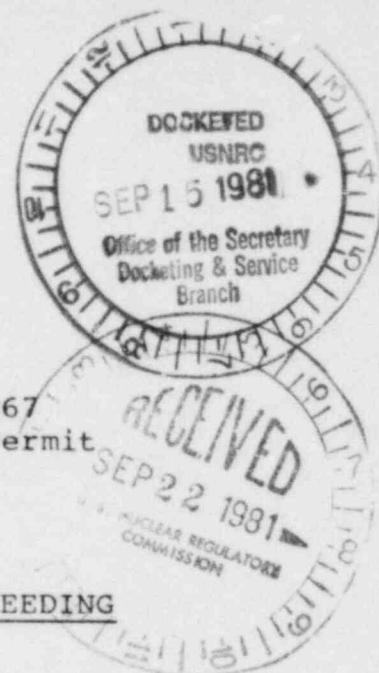


9/10/81

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD



In the Matter of)
)
NORTHERN INDIANA PUBLIC)
SERVICE COMPANY)
(Bailly Generating Station,)
Nuclear-1))

Docket No. 50-367
(Construction Permit
Extension)

PCCI'S RESPONSE TO NIPSCO'S MOTION TO TERMINATE PROCEEDING

On August 26, 1981, NIPSCO filed a Motion to Terminate Proceeding, requesting that this Board "terminate all proceedings pending before it regarding Bailly." Porter County Chapter Intervenors (PCCI) hereby respond to that motion.

First, PCCI submit that the motion should be granted and that all proceedings pertaining to Bailly should be terminated.* However, as is implicit in the Board's Order (Suspending Proceedings), dated September 1, 1981, the termination should be with prejudice to any subsequent application to extend Construction Permit No. CPPR-104. See 10 CFR §2.107(a). In order to assure all parties, the Commission and the public of the finality of NIPSCO's decision not to construct Bailly and to assure that none of the issues raised will need to be litigated, the termination should be with prejudice.

* The order should terminate "all" proceedings in Docket No. 50-367, concerning CPPR-104, thus eliminating any question raised by the "Amended Notice of Opportunity for Hearing (Pilings)", 46 Fed. Reg. 43326 (Aug. 27, 1981), as to what proceedings are pending.

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Second, PCCI urge the Board to defer terminating the proceedings until resolution of one outstanding issue - what is to be done concerning the excavation at the Bailly site. In an effort to reach an amicable resolution of that issue and thus avoid further litigation, counsel for PCCI has talked with counsel for NIPSCO concerning NIPSCO's intentions with regard to the excavation. As of the date of this Response, counsel for NIPSCO has been unable to state NIPSCO's intentions, and thus no agreement has been reached as yet. However, counsel remain hopeful that one can be reached. In any event, by agreement or otherwise, pleadings concerning the excavation will be presented to the Board in the near future and termination of the proceedings should be deferred until that issue is resolved.

DATED: September 10, 1981

Respectfully submitted,*

Robert J. Vollen
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By:


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