

RELATED CORRESPONDENCE

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION
BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matter of)
)
PENNSYLVANIA POWER & LIGHT COMPANY)
)
and)
)
ALLEGHENY ELECTRIC COOPERATIVE, INC.)
)
(Susquehanna Steam Electric Station,)
Units 1 and 2)

Docket Nos. 50-387
50-388

APPLICANTS' ANSWER TO CITIZENS AGAINST
NUCLEAR DANGERS' MOTIONS

In a filing entitled "Citizens Against Nuclear Dangers Notice of Appearance for the Purpose of Presenting Direct Testimony and Motions before the ASLB", dated September 12, 1981, Citizens Against Nuclear Dangers ("CAND") presented four motions to the Licensing Board.^{1/} Applicants oppose each of these motions for the reasons set forth below.

^{1/} CAND's filing also identified two individuals as witnesses on Contentions 2 (radiological) and 17, respectively. In addition to being untimely, CAND's witness identification also failed to provide the witnesses' qualifications, as required by the August 14, 1981 Memorandum and Order on Prehearing Conference. (CAND in fact states that the resume of each individual "will be attached to his statement and affidavit to be presently submitted"). Applicants reserve the right to seek appropriate relief from CAND's failure to comply with the Licensing Board's directive if testimony by either of these two individuals is proffered.



I. Consolidation of Contentions 4 and 14

CAND argues that these two contentions should be consolidated "because they are both dealing with economic cost-benefit analysis." Applicants oppose this motion. Testimony has already been filed on both these contentions. CAND has failed to set forth any useful purpose which consolidation would serve and any explanation of how it might be disadvantaged by failure to consolidate. CAND is not the sponsor of either contention ^{2/} and therefore is not a proper party to make such a motion. The motion is also untimely since it could have been made at any time after March 1979, when the contentions were admitted and defined.

II. Additional Prehearing Conference Sessions

CAND requests that the Licensing Board set aside October 6 and 7, 1981 for additional prehearing conference sessions. CAND asserts that such sessions would be needed "in order to deal fairly and honestly with the existing backlog of filings as well as the anticipated eleventh hour filings by the parties". Applicants object to this motion. CAND neither identifies the filings which are backlogged nor explains why the Licensing Board cannot deal fairly and honestly with all filings in

^{2/} Due to its discovery defaults, CAND's sponsorship of environmental contentions has been limited to contentions of which it is the sole sponsor. Second Prehearing Conference Order, LBP-80-13, 11 NRC 559, 556 (1980). Neither Contention 4 nor Contention 14 was solely sponsored by CAND. The latter contention was sponsored by intervenors Marsh et al. while the former was originally sponsored by all four intervenors. See Special Prehearing Conference Order, LBP-79-6, 9 NRC 291, 302, 318 (1979).

advance of the scheduled start of the evidentiary hearings. If the Licensing Board believes that any filings require discussion from the parties, it will no doubt set aside appropriate time for such discussion in the course of the hearings.

III. Deferral of Emergency Planning Contentions

CAND's motion calls for the Licensing Board to defer consideration of emergency planning contentions until the Spring of 1982. CAND asserts that consideration of these contentions is premature since "the existing plans are strickly [sic] on paper". CAND further claims that there is no "need to rush by leaps and bounds through a public hearing before the plans are properly organized, fully explained to the communities, and feedback received from the local agencies responsible for implementation." CAND's most disturbing comment, however, is that it will "await a decision on this motion before proceeding with preparing testimony". Applicants urge that the motion be denied and that the Licensing Board reject CAND's unilateral change in the schedule for filing testimony.

CAND has been identified as the lead intervenor for Contention 6. ASLB Memorandum and Order on Hearing Schedule, p. 2 (September 8, 1981). That contention was first admitted as an issue in March 1979. Contention 20, which CAND did not sponsor, was proposed as a new contention in May 1981 and admitted in July 1981. CAND has had more than ample opportunity to suggest a schedule change. Instead it waited until less than a month prior to the start of the evidentiary hearing. CAND can, of course, try to demonstrate in the course of the hearing that emergency evacuation planning is too preliminary to meet the allegations of Contentions 6 and 20.

This right does not entitle it to delay the hearing on these contentions.

CAND's filing of this motion does not permit it to unilaterally suspend the schedule for filing testimony. That schedule was established by the Licensing Board in its August 14, 1981 Memorandum and Order on Prehearing Conference. However, CAND has been on notice since March 1979 that it would have to file written testimony in advance. Special Prehearing Conference Order, LBP-79-6, 9 NRC 291, 328 (1979). Commission regulations provide that the filing of a motion does not stay the proceeding or extend the time for performance of any act. 10 CFR § 2.730(g).^{3/} CAND cannot bootstrap its claim that hearings on Contentions 6 and 20 be delayed by unilaterally announcing that it will delay preparing its own testimony.

IV. Schedule of Limited Appearance Statements

CAND requests that the Licensing Board extend the schedule for receiving limited appearance statements to include October 8, 9, and 10, both during the day and in the evening. The Licensing Board's September 8, 1981 Memorandum and Order on Hearing Schedule established two sessions for limited appearance statements, October 8 in Wilkes-Barre and October 23 in Berwick. While Applicants support additional sessions to accommodate persons wishing to make limited appearance statements, setting aside additional hearing time would best be decided during the hearing itself.

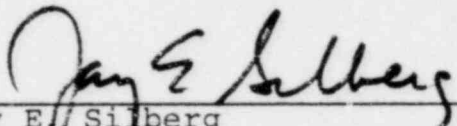
^{3/} The Appeal Board explicitly informed CAND two years ago that it was obliged to familiarize itself with NRC's rules. ALAB-563, 10 NRC 449, 450 n. 1 (1979).

V. Conclusion

For the reasons set forth above, Applicants respectfully request that the Licensing Board deny CAND's motions.

Respectfully submitted,

SHAW, PITTMAN, POTTS & TROWBRIDGE



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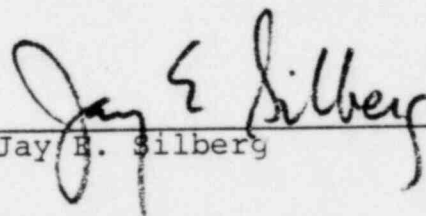
Dated: September 22, 1981

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CERTIFICATE OF SERVICE

This is to certify that copies of the foregoing "Applicants' Answer to Citizens Against Nuclear Dangers' Motions", were served by deposit in the U.S. Mail, First Class, postage prepaid, this 22nd day of September 1981, to all those on the attached Service List.



Jay E. Silberg

Dated: September 22, 1981

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