

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

IN THE MATTER OF)
ILLINOIS POWER COMPANY,)
SOYLAND POWER COOPERATIVE, INC.)
and WESTERN ILLINOIS POWER)
COOPERATIVE, INC.)

) Docket No. 50-461 OL

(Operating License for Clinton)
Power Station, Unit 1))

RESPONSE OF APPLICANTS TO PRAIRIE
ALLIANCE'S AFFIDAVIT IN OPPOSITION TO
APPLICANTS' MOTION FOR SUMMARY DISPOSITION
OR FOR CONTINUANCE PENDING DISCOVERY

Illinois Power Company, Soyland Power Cooperative, Inc., and Western Illinois Power Cooperative, Inc. ("Applicants") hereby respond to Prairie Alliance's Affidavit in Opposition to Applicants' Motion For Summary Disposition or For Continuance Pending Discovery of March 5, 1983 ("Affidavit") as follows:

1. On January 17, 1983, Applicants filed their Motion for Summary Disposition of Prairie Alliance Contention VI ("Motion for Summary Disposition"). Under 10 C.F.R. § 2.749(a), a party opposing a motion for summary disposition is given two deadlines within which to file responses. The first deadline is that a party "may serve an answer supporting or opposing the motion, with or without affidavits, within twenty (20) days after service of the motion". Prairie Alliance met this deadline by submitting its Answer in Opposition to Applicants' Motion for Summary Disposition of Prairie Alliance Contention

VI on February 3, 1983.

2. The second deadline provided by 10 C.F.R.

§ 2.749(a) is:

"The opposing party may within ten days after service respond in writing to new facts and arguments presented in any statement filed in support of the motion. No further supporting statements or responses thereto shall be entertained."

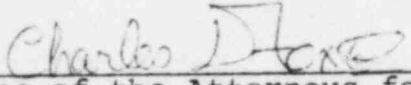
The only statement filed in support of Applicants' Motion for Summary Disposition was the NRC Staff Support of Applicants' Motion for Summary Disposition of Prairie Alliance Contention VI ("NRC Staff Support") which was served on all parties on February 14, 1983. Any response of Prairie Alliance to the NRC Staff Support had to have been served by March 1, 1983 (This date is determined by adding the ten day deadline provided by 10 C.F.R. § 2.749(a) to the additional five days allowed by 10 C.F.R. § 2.710 for service by mail). Assuming that Prairie Alliance's Affidavit was in response to the NRC Staff Support (and this is not clear from the face of the Affidavit)*, the Atomic Safety and Licensing Board ("the Board") may not consider it, since the Affidavit was not served within the deadline set forth in 10 C.F.R. § 2.749(a). 10 C.F.R. § 2.749(a) specifically provides that only responses filed within the ten day deadline may be considered when it

*If the Affidavit is not in response to the NRC Staff Support, then the Affidavit is a filing which is not allowed by 10 C.F.R. § 2.749 and must be rejected for that reason.

states that "[n]o further supporting statements or responses thereto shall be entertained." Thus the Board is permitted no leeway in determining whether it should consider a late-filed response to a statement in support of a motion for summary disposition.

WHEREFORE, for the Reasons stated above, Applicants submit that the Board may not consider Prairie Alliance's Affidavit in these proceedings.

Respectfully submitted,



One of the Attorneys for
Applicants

Sheldon A. Zabel
Charles D. Fox IV
SCHIFF HARDIN & WAITE
7200 Sears Tower
233 South Wacker Drive
Chicago, Illinois 60606
(312) 876-1000

Dated: March 11, 1983

CERTIFICATE OF SERVICE

I hereby certify that an original and two con-
formed copies of the foregoing document were served upon
the following:

Secretary of the Commission
United States Nuclear Regulatory Commission
Washington, D.C. 20555
Attention: Docketing and Service Branch

and that one copy of the foregoing document was served upon
each of the following:

Hugh K. Clark, Esq., Chairman
P.O. Box 127A
Kennedyville, Maryland 21645

Dr. George A. Ferguson
School of Engineering
Howard University
2300 Sixth Street, N.W.
Washington, D.C.

Dr. Oscar H. Paris
Atomic Safety and Licensing Board
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

Executive Legal Director
United States Nuclear Regulatory Commission
Washington, D.C. 20555

Philip L. Willman
Assistant Attorney General
Environmental Control Division
188 West Randolph Street
Suite 2315
Chicago, Illinois 60610

Jean Foy
511 W. Nevada
Urbana, Illinois 61808

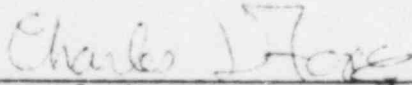
Prairie Alliance
Box 2424
Station A
Champaign, Illinois 61820

Herbert H. Livermore
U.S. Nuclear Regulatory Commission
RR 3, Box 229A
Clinton, Illinois 61727

Atomic Safety and Licensing Board Panel
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

Atomic Safety and Licensing
Appeal Board Panel
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

in each case by deposit in the United States Mail, postage
prepaid on March 11, 1983.



One of the Attorneys for
Applicants

Sheldon A. Zabel
Charles D. Fox IV
SCHIFF HARDIN & WAITE
7200 Sears Tower
233 South Wacker Drive
Chicago, Illinois 60606
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NOTICE

TO: Hugh K. Clark, Esq., Chairman
P.O. Box 127A
Kennedyville, Maryland 21645

Dr. George A. Ferguson
School of Engineering
Howard University
2300 Sixth Street, N.W.
Washington, D.C. 20059

Dr. Oscar H. Paris
Atomic Safety and Licensing Board
U.S. Nuclear Regulatory Commission
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DSi 3

Prairie Alliance
Box 2424
Station A
Champaign, Illinois 61820

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U.S. Nuclear Regulatory Commission
Clinton Nuclear Power Station
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PLEASE TAKE NOTICE that I have filed with the Secretary of the United States Nuclear Regulatory Commission RESPONSE OF APPLICANTS TO PRAIRIE ALLIANCE'S AFFIDAVIT IN OPPOSITION TO APPLICANTS' MOTION FOR SUMMARY DISPOSITION OR FOR CONTINUANCE PENDING DISCOVERY in the above-captioned matter. A copy of this document is attached hereto and hereby served upon you.



One of the Attorneys for
Applicants

Sheldon A. Zabel
Charles D. Fox IV
SCHIFF HARDIN & WAITE
7200 Sears Tower
233 South Wacker Drive
Chicago, Illinois 60606
(312) 876-1000

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