

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY
AND LICENSING BOARD



In the Matter of)
)
WASHINGTON PUBLIC POWER)
SUPPLY SYSTEM) Docket No. 50-460-OL
)
(WPPSS Nuclear Project No. 1))

APPLICANT'S SECOND MEMORANDUM REGARDING
PETITIONER'S STANDING TO INTERVENE

On March 15, 1983, the Licensing Board in the captioned proceeding issued a Memorandum and Order reciting actions taken at the Special Prehearing Conference and issuing a Protective Order. The Protective Order stated that petitioner "will disclose to the Board and lead counsel for the [Washington Public Power Supply System ("Applicant")] and NRC the name and address of at least one of those individuals upon whom it based its representational standing" ¹ Subsequently, in its April 26, 1983 Memorandum and Order, the Board provided that petitioner had until May 8, 1983 to disclose such information. It further provided that Applicant had until May 20, 1983 to file a memorandum addressing whether in light

¹ Washington Public Power Supply System (WPPSS Nuclear Project No. 1), Memorandum and Order (Reciting Actions Taken at Special Prehearing Conference and Issuing Protective Order), ASLBP No. 82-479-06 OL, March 15, 1983 slip op. at 16 ("March 15, 1983 Memorandum and Order").

of this disclosure, petitioner had established standing to intervene.² In accordance with that Order, the Applicant filed on May 20, 1983 such a memorandum. Applicant posited that because petitioner had not disclosed the identity of any such individual, petitioner could rely only on the individual already identified on the record.

After filing its May 20, 1983 memorandum, Applicant learned for the first time that petitioner had in fact disclosed to the Board Chairman the name of one individual upon whom it based its representational standing. However, despite the Board's clear instruction in its March 15, 1983 Memorandum and Order cited above, intervenor did not serve lead counsel for the Applicant with its disclosure.

Applicant's counsel has since obtained a copy of petitioner's disclosure statement directly from the Board, in accordance with its May 25, 1983 Memorandum and Order. Applicant's counsel discussed that statement with petitioner and received assurances from petitioner's representative (Ms. Bell) that it will submit another disclosure statement under oath to the Board and serve it on

² Washington Public Power Supply System (WPPSS Nuclear Project No. 1), Memorandum and Order (Denying Applicant's Alternative Motions for Reconsideration or Certification), ASLBP No. 82-479-06 OL, April 26, 1983 slip op. at 5.

Applicant.³ On the basis of this assurance, Applicant concludes that petitioner has established the requisite interest to support representational standing.

However, Applicant continues to object to petitioner's admission to this proceeding as a party. 10 C.R.F. Section 2.714(b) requires that a petitioner to intervene propose at least one litigable contention. For the reasons set forth in Applicant's Response in Opposition to Supplement to Request for Hearing and Petition for Leave to Intervene, filed on January 24, 1983, petitioner has not met this requirement. Accordingly, it should be denied intervenor status in this proceeding.

Moreover, Applicant strongly objects to the highly irregular manner in which petitioner chose to "comply" with the March 15, 1983 Memorandum and Order. Such Order stated expressly that lead counsel for Applicant and the NRC Staff were to be served with a copy of petitioner's statement in which it identified the undisclosed individual upon whom its representational standing was based.⁴

³ June 7, 1983 telephone conversation between Mr. Hartman and Ms. Bell.

⁴ See footnote 1 and accompanying text.

If petitioner objected to such procedure, it could have brought those objections to the attention of the Board by submitting an appropriate motion on the record. Indeed, the March 15 Memorandum and Order provided expressly that the parties had ten days to request modification of the Protective Order.⁵

Instead, petitioner forwarded its response to the March 15, 1983 Memorandum and Order exclusively to the Licensing Board Chairman's home. As a result, Applicant was not advised of this response in a timely manner and was put to the time and expense of filing a Memorandum which now must be superceded.

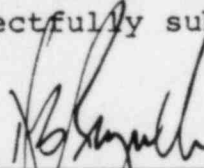
In its October 13, 1983 Memorandum and Order, the Licensing Board in this proceeding insisted "that the parties meet the standards of appearance and practice before the Commission in adjudicatory proceedings as required by 10 C.F.R. Section 2.713."⁶ Manifestly, petitioner's failure to comply with the March 15, 1983

⁵ March 15, 1983 Memorandum and Order at 18.

⁶ Washington Public Power Supply System (WPPSS Nuclear Project No. 1), ASLBP No. 82-479-06 OL, Memorandum and Order, October 13, 1983 slip op. at 3.

Memorandum and Order violated the Board's directive. Accordingly, the Board should admonish petitioner of the need to comply meticulously with its directives or face appropriate sanctions.

Respectfully submitted,



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June 8, 1983

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CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing "Applicant's Second Memorandum Regarding Petitioner's Standing to Intervene" in the captioned matter were served upon the following persons by deposit in the United States mail, first class, postage prepaid this 8th day of June, 1983:

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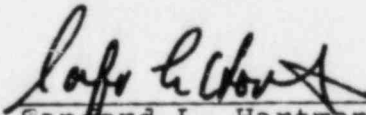
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