

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-CPA
(WPPSS Nuclear Project No. 1))

LICENSEE'S RESPONSE TO INTERVENOR'S
SECOND SET OF INTERROGATORIES

On June 9, 1983, intervenor served the Washington Public Power Supply System ("Licensee") with its second set of interrogatories. Pursuant to Sections 2.740b(d) and 2.741(d) of the NRC Rules of Practice, Licensee sets forth below its response to each interrogatory.

INTERROGATORY 1: State the full name, address, occupation and employer of each person answering the interrogatories and designate the interrogatory or the part thereof he or she answered.

Response: The individual responsible for answering these interrogatories is Mr. Gerald C. Sorensen, Manager, Regulatory Programs, Washington Public Power Supply System. His business address is 3000 George Washington Way, Richland, Washington, 99352.

INTERROGATORY 2: Identify each and every person you are considering calling as a witness in the event a hearing is held in this proceeding and with respect to each of these witnesses:

- a. State the substance of the facts and opinions to which the witness is expected to testify;
- b. Give a summary of the grounds for each opinion;
and
- c. Describe the witnesses' educational and professional background.

Response: To date, the Licensee has not identified any witnesses.

INTERROGATORY 3: What is the complete basis for your position that Licensee's decision in April, 1982 to "defer" construction for two to five years, and subsequent cessation of construction at WNP-1 was not "dilatory."

Response: The complete basis for Licensee's position is set forth in its April 30, 1982 letter to Mr. Harold R. Denton, Director, Office of Nuclear Reactor Regulation, as noted by the Staff upon its issuance of the June 16, 1983 Order Extending Construction Completion Date.

INTERROGATORY 4: Please explain fully what you mean by the word "defer."

Response: Defer, as used in this proceeding, means to put off to a future time, to postpone, or to delay.

INTERROGATORY 5: Please explain fully what you mean by the word "dilatory."

Response: Dilatory, as used in this proceeding, means intentional delay without a valid purpose.

INTERROGATORY 6: What is the basis for your response to interrogatories 4 and 5?

Response: The basis for Licensee's response to interrogatory 4 is Webster's New World Dictionary, College Edition, 1964. The basis for Licensee's response to interrogatory 5 is Washington Public Power Supply System (WPPSS Nuclear Project No. 2), ALAB-722, ___ NRC ___, April 11, 1983 slip op. at 9.

INTERROGATORY 7: Why do you contend that Licensee has established good cause for an extension of the WNP-1 construction permit? Explain your answer fully.

Response: See Licensee's April 30, 1982 letter to Mr. Harold R. Denton, Director, Office of Nuclear Reactor Regulation, as noted by the Staff upon its issuance of the June 16, 1983 Order Extending Construction Completion Date.

INTERROGATORY 8: What are the reasons Licensee offered to NRC in support of a showing of "good cause" as required by 10 C.F.R. 50.55(b)?

Response: See Licensee's April 30, 1982 letter to Mr. Harold R. Denton, Director, Office of Nuclear Reactor Regulation, as noted by the Staff upon its issuance of the June 16, 1983 Order Extending Construction Completion Date.

INTERROGATORY 9: Is it your position that the reasons offered by Licensee to support a showing of good cause are in fact the only reasons why Licensee had requested an extension of its construction permit?

Response: Licensee requested an extension of its construction permit because it became obvious that construction could not be completed before the latest completion date in the construction permit. The reasons offered by the Licensee to establish good cause were the cause of the delay in construction.

INTERROGATORY 10: If your response to Interrogatory 9 is no, state all other reasons.

Response: No response is required.

INTERROGATORY 11. What is the basis for your response to interrogatories 9 and 10?

Response: 10 C.F.R. Section 50.55(b) requires that the Licensee make a showing of good cause in support of its request to extend its construction permit.

Licensee believes that such a showing was made in connection with its construction permit extension request, as found by the Staff upon its issuance of the June 16, 1983 Order Extending Construction Completion Date.

INTERROGATORY 12: Please explain fully what you mean by a "reasonable period of time."

Response: What constitutes a "reasonable period of time" is a function of the reasons why a construction permit extension is sought.

INTERROGATORY 13: What factors do you contend should be considered when determining if a requested construction permit extension is for a "reasonable period of time"?

Response: The factors to be considered when determining if a requested construction permit extension is for a reasonable period of time are a function of the reasons offered in support of a showing of good cause.

INTERROGATORY 14: What do you contend would constitute a "reasonable period of time" in the case of WNP-1?

Response: Based on current conditions, a "reasonable period of time" in the case of WNP-1 would be an extension of the latest construction completion date until June 1, 1991.

INTERROGATORY 15: (a) Is it your position that BPA support is necessary to the financing of WNP-1? (b) If your answer to Interrogatory No. 15(a) is in the affirmative, identify and give full details with respect to all information upon which you base that statement.

Response: (a) Yes. (b) The net billing agreements signed by each of the project participants, the Licensee and the Bonneville Power Administration provide that the participant's portion of WNP-1 capability will be sold to the participant, which will in turn assign the capability to BPA. Participants will then pay the Supply System to enable it to repay the bond holders for their purchase of bonds, by which construction of WNP-1 is financed, and BPA will give credit on respective bills from BPA to each participant for payments made to the Supply System. In addition, BPA is required under the net billing agreement to make cash payments to participants for any net billing deficiencies. Because BPA is so directly and intimately involved in the flow of funds during and after construction, the basis for BPA's involvement in the decisionmaking process is manifest.

INTERROGATORY 16: Is it your position that the financial support or lack of financial support by BPA for WNP-1 would have an effect on the financing costs of WNP-1?

Response: Yes.

INTERROGATORY 17: Is it your position that the opinion of BPA as to when WNP-1 should go into commercial operation would have an effect on the financing costs of WNP-1?

Response: Yes.

INTERROGATORY 18. (a) Is it your belief that BPA has the authority to disapprove any further financing of WNP-1 construction?

(b) If your answer to Interrogatory No. 18(a) is in the affirmative, explain fully the factual basis for that statement.

Response: (a) BPA has authority to disapprove further financing of WNP-1 construction through the sale of bonds. (b) Section 5(b) of the Project Agreement executed between the BPA and the Licensee provides that the sale of bonds will be subject to the approval of BPA.

INTERROGATORY 19: Is it your position that the growth rate of electric power requirements has a business relationship as to when WNP-1 should go into commercial operation.

Response: Intervenor stated in response to interrogatory 7 of the NRC Staff's First Set of Interrogatories that need for power is not an issue in this proceeding. It reaffirmed that position in response to

staff interrogatories 8, 13 and 14. Licensee agrees with intervenor that need for power is not an issue in this proceeding. Accordingly, this interrogatory seeks information not relevant to this proceeding and is, therefore, objectionable.

In Boston Edison Company (Pilgrim Nuclear Generating Station, Unit 2), LBP-75-30, 1 NRC 579, 582 (1973), the Licensing Board stated that "as a rule of necessity, there must be limitations on the concept of relevancy so as ' . . . to keep the inquiry from going to absurd and oppressive grounds' [citation omitted]." Another Licensing Board stated that "§2.740(b)(1) only permits discovery of documents 'relevant to the subject matter involved in the proceeding,' and then further qualifies and limits the term 'subject matter' to the contentions admitted by the presiding officer in the proceeding. . . ." Allied General Nuclear Services (Barnwell Fuel Receiving and Storage Station), LBP-77-13, 5 NRC 489, 492 (1977). Consequently, Licensee objects to interrogatory 19.

INTERROGATORY 20: (a) Is it your position that the January 11, 1983 letter to H. Denton, Director, NRR, NRC from G. D. Bouchey, WPPSS, supports Permittee's assertion that a deferred need for power constitutes "good cause" for deferring construction?

(b) If your answer to Interrogatory No. 20(a) is in the affirmative, set forth and explain fully the factual basis or legal authority for your position.

Response: Yes. (b) 10 C.F.R. Section 50.55(b).

INTERROGATORY 21: (a) Is it your position that a lack of need for power can, as a matter of law, constitute "good cause" under 10 C.F.R. 50.55(b)?

(b) If your answer to Interrogatory No. 21(a) is in the affirmative, set forth and explain fully the factual basis or legal authority for this position.

Response: Licensee objects to interrogatory for the reasons set forth in response to interrogatory 19.

INTERROGATORY 22: (a) Does the lack of need for power in the Northwest justify deferring construction of WNP-1?

(b) Explain fully your answer to Interrogatory No. 22(a).

Response: Licensee objects to interrogatory 22 for the reasons set forth in response to interrogatory 19.

INTERROGATORY 23. Explain the factual basis and/or legal authority which supports the position that six to nine years is a 'reasonable period of time' under 10 CFR 50.55(b).

Response: See Licensee's April 30, 1983 letter to Mr. Harold R. Denton, Director, Office of Nuclear Reactor Regulation, and the June 16, 1983 Order Extending Construction Completion Date.

INTERROGATORY 24: What do you believe would be a (maximum) reasonable period of time for extension of the construction completion date for WNP-1.

Response: Under current conditions, a maximum reasonable period of time for extension of the construction completion date for WNP-1 would be until 1991.

INTERROGATORY 25: Explain the difference, if any, between deferral, mothball and preservation.

Response: Licensee objects to interrogatory 25 because it seeks information which is not relevant to the issues in this proceeding, viz., whether Licensee established good cause for the construction permit extension for WNP-1 and whether that extension is for a reasonable period of time. This interrogatory seeks information relevant to the question of whether health and safety requirements will be met during the deferral of WNP-1 by seeking to elicit from Licensee a discussion of its ramp-down activities at WNP-1. These are matters addressed by the Staff in its Safety Evaluation accompanying the June 16, 1983 Order. Further, the Commission in Washington Public Power Supply System (WPPSS Nuclear Projects No. 1

and 2) CLI-82-29, 17 NRC ____, October 8, 1982 slip op. at 13-14, specified that health and safety issues fall outside of the scope of this proceeding. Accordingly, interrogatory 25 is irrelevant and Licensee objects to it. The legal basis for this objection is set forth in our response to interrogatory 19.

INTERROGATORY 26: To what events is the restart of construction on WNP-1 tied? Explain fully your answer.

Response: The restart of construction on WNP-1 is tied to those factors upon which the extension of the WNP-1 construction permit until 1991 was based.

INTERROGATORY 27: What would be the effect of default on WNP-4 and 5 on the restart and completion of WNP 1? Provide all probability analyses, scenarios and time predictions.

Response: Licensee objects to this interrogatory, which seeks information concerning a possible default on WNP-4 and WNP-5. The status of WNP-4 and WNP-5 is not relevant to whether Licensee was properly granted a construction permit amendment for WNP-1. The legal basis for this position is set forth in Licensee's response to interrogatory 19.

INTERROGATORY 28: What is the effect of deferral of construction on WNP-3 on the restart and completion of WNP-1? Give the basis for your response.

Response: Licensee objects to this interrogatory because it seeks information concerning the status of WNP-3. That matter is irrelevant to the issues in this proceeding. The legal basis for Licensee's position is set forth in response to interrogatory 19.

INTERROGATORY 29: What is the effect of bond ratings on WPPSS ability to finance WNP-1? Explain fully and provide the basis for your response?

Response: Bond ratings have an impact on the cost of financing WNP-1 to the extent financing is accomplished through the sale of bonds. The more favorable those ratings are, the less expensive cost of financing will be. The basis for Licensee's response is common business practice.

INTERROGATORY 30: If a bond rating service refused to rate WPPSS bonds would WPPSS be able to finance the construction of WNP-1? Explain your answer.

Response: It would depend on which bond rating service refused to rate Supply System bonds, the basis for its refusal to rate such bonds, the type of bonds in question, and the duration of the derating.

INTERROGATORY 31: Is it your position that the Atomic Safety and Licensing Board Initial Decision (LBP-75-72, 2 NRC 92) for the Construction Permit found that the Bonneville Power Administration had the power to

approve or disapprove the issuance of bonds by WPPSS. If yes, give the reasons in detail for approval and/or disapproval.

INTERROGATORY 32: Is it your position the ASLB Initial Decision (LBP-75-72, 2 NRC 922) found that BPA could control the construction of WNP-1? If yes, in what manner. Explain in detail the basis for your answer.

INTERROGATORY 33: Is it your position that the original findings by the ASLB in its Initial Decision (LBP-75-72, 2 NRC 922) on WPPSS financing ability remains valid? Explain the basis for your answer in detail.

INTERROGATORY 34: Is it your position that the original findings by the ASLB in its Initial Decision (LBP-75-72, 2 NRC 922) on the need for WNP-1 remains valid. Explain the basis for your answer in detail.

INTERROGATORY 35: Is it your position that the only reason the ASLB Initial Decision (LBP-75-72, 2 NRC 922) found WPPSS financially qualified is because of BPA financial backing?

(a) If yes, explain the basis in detail.

(b) If no, cite all the reasons you believe the finding of financial qualification.

Response: Licensee objects to interrogatories 31, 32, 33, 34 and 35 because they seek information which is irrelevant and outside the scope of this

proceeding. The only issues in this proceeding are whether Licensee established good cause for its construction permit extension and whether such extension is for a reasonable period of time. The decision in Washington Public Power Supply System (WPPSS Nuclear Projects No. 1 and 4), LBP-75-72, 2 NRC 922 (1975), simply does not bear on these narrow issues. Accordingly, interrogatories 31, 32, 33, 34 and 35, which seek numerous conclusions as to the content of that decision, are objectionable. Licensee's legal basis for its objection is set forth in its response to interrogatory 19.

INTERROGATORY 36: What constitutes "good business sense" in decisions on nuclear plant deferral?

Response: Licensee does not understand whether intervenor is requesting its opinion as to what constitutes "a valid business purpose" as used in ALAB-722, supra, or whether the phrase "good business sense" is referenced from another unidentified document. Upon clarification, Licensee will respond to this interrogatory.

INTERROGATORY 37: What constitutes "BPA support?"

Response: Participation in the net billing arrangement, including its agreement to pay all net billing deficiencies, constitutes "BPA support."

INTERROGATORY 38: How is "BPA support" recognized in the Initial Decision (LBP-75-72, 2 NRC 922) on the Construction Permit for WNP-1?

Response: Licensee objects to interrogatory 38 for the reasons set forth in its response to interrogatories 31, 32, 33, 34, and 35.

INTERROGATORY 39: Is cost of financing an issue in this proceeding? If so, why?

Response: The issues in this proceeding are defined specifically by intervenor's contention. Licensee served intervenor with a set of interrogatories and requests to produce designed to elicit information regarding the scope and bases of that contention. Because intervenor's response to such discovery was inadequate, Licensee is unable to answer interrogatory 39.

INTERROGATORY 40: Is need for power an issue in this proceeding? If so, what are the issues which should be litigated with regard to need for power?

Response: Licensee agrees with the position of intervenor that need for power is not an issue in this proceeding. See the response to interrogatory 19.

INTERROGATORY 41: What is the legal basis for your answer to Interrogatory 40?

Response: A response to this interrogatory is not required.

INTERROGATORY 42: Was the construction of WNP-3 (Satsop) halted because of no need for its power?

(a) If so, how does this affect the five-year deferral of WNP-1?

(b) If not, what were the reasons and how will they affect the deferral of WNP-1?

Response: Applicant objects to interrogatory 42. The scope of this proceeding is limited to WNP-1 and does not permit an unlimited inquiry into the status of other Supply System projects. As such, the interrogatory seeks information which is irrelevant to this proceeding and is, therefore, improper. The legal basis for Licensee's objection is set forth in response to interrogatory 19.

INTERROGATORY 43: Is the ultimate cost of power from WNP-1 a factor in the need for the plant? Should it be a factor in the business decisions affecting continued construction?

Response: Licensee does not understand what the intervenor means by the term "ultimate cost of power." Therefore, upon adequate clarification by intervenor, Licensee will respond to this interrogatory. In any event, it is apparent that this interrogatory raises a

need for power issue. Therefore, Licensee objects to it for the reasons set forth in its response to interrogatory 19.

INTERROGATORY 44: Does Licensee now have the ability to finance any of its projects?

(a) If yes, name the projects, methods of financing and state whether or not BPA approval is necessary and whether or not approval has been granted.

(b) If not, state why, including any BPA disapproval of financing.

INTERROGATORY 45: If the answer to Interrogatory 44 states that financing is not available now for WNP-1, state: (a) when will the circumstances identified, change (b) why will they change and (c) what assurance is there that they will be changed five years from the deferral of WNP-1?

Response: For the reasons set forth in response to interrogatory 42, Licensee objects to this interrogatory. Interrogatory 44 and interrogatory 45 clearly contemplate a general inquiry into Supply System financing. The scope of this proceeding, however, is limited to WNP-1. Accordingly, Licensee objects to this interrogatory. The legal basis for Licensee's objection is set forth in its response to interrogatory 19.

INTERROGATORY 46: What is the difference between BPA withholding approval for financing and BPA disapproving of financing?

Response: To withhold approval contemplates that approval is required for financing to move forward. To disapprove financing contemplates that absent an affirmative action objecting to financing, such financing will proceed.

INTERROGATORY 47: What level of staffing is necessary at WNP-1 to maintain the construction site and equipment without deterioration?

Response: Licensee objects to this interrogatory for the reasons set forth in response to interrogatory 25.

INTERROGATORY 48: Is it your position that the only obstacle to financing of the WNP-1 was/is the BPA recommendation?

Response: No.

INTERROGATORY 49: In response to Interrogatory 4 of "Intervenor's First Set of Interrogatories" you stated that the last sale of bonds for WNP-1 was February 11, 1982:

(a) provide a copy of the prospectus that accompanied that bond sale;

(b) state what the revenues from that bond sale were to be used for;

(c) what were the revenues used for if different than that in (b);

(d) at that time, when was the next bond issuance contemplated?

Response: (a) A copy of the prospectus that accompanied that bond sale will be made available on July 15, 1983. The procedures to be followed are set forth in Licensee's Response to Intervenor's First Set of Interrogatories with the following modification, viz., licensee will make and supply copies of requested documents at intervenor's expense and at a rate of 15¢ per page.

(b) Revenues from that bond sale were to be used in connection with the construction of WNP-1.

(c) Revenues from that bond sale were in fact used in connection with the construction of WNP-1.

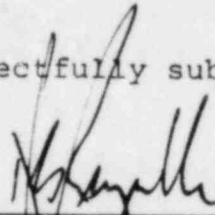
(d) At that time, no management decision had been made to proceed with the next bond issuance, although the Supply System recognized that additional sales would be necessary.

INTERROGATORY 50: Do you agree that the passage of Washington Initiative 395 affected the ability of WPPSS to issue bonds. Explain your answer fully giving the basis and identify all documents relied upon.

Response: Licensee is not aware of Washington Initiative 395. However, if this interrogatory addresses Initiative 394, then the following response is submitted. Any perceived impediment to the repayment of bonds used to finance the construction of WNP-1 would make their sale more difficult. Initiative 394 would clearly have constituted such a perceived impediment. In view of these facts, the basis for this response is clear on its face.

In any event, Licensee notes that Initiative 394 was declared unconstitutional in Continental Illinois National Bank & Trust Co. of Chicago v. State of Washington, 696 F.2d 692 (9th Cir. 1982) appeal dismissed sub. nom. Don't Bankrupt Washington Committee v. Continental Illinois Bank, 51 U.S.L.W. 3756, rehearing denied, 51 U.S.L.W. 3841 (1983).

Respectfully submitted,



Nicholas S. Reynolds
Sanford L. Hartman
DEBEVOISE & LIBERMAN
1200 Seventeenth St., N.W.
Washington, D. C. 20036
202/857-9817

Counsel for Licensee

June 28, 1983

STATE OF WASHINGTON)
COUNTY OF BENTON)

Telecopied Facsimile

G. C. Sorensen, being duly sworn, deposes and says:

That he is Manager, Regulatory Programs, for the Washington Public Power Supply System, and knows the contents of the foregoing Licensee's Response to Intervenor's First Set of interrogatories; that the same is true of his own knowledge except as to matters therein stated on information and belief, and as to that, he believes them to be true.

A. C. Sorensen

Sworn to and subscribed before me
on this 2nd day of June, 1983.

J. R. Martin, Richland WA
Notary Public 12/86

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matter of)	
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WASHINGTON PUBLIC POWER)	Docket Nos. 50-460-CPA
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(WPPSS Nuclear Project No. 1))	

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing "Licensee's Response to Intervenor's Second Set of Interrogatories" in the captioned matter were served upon the following persons by deposit in the United States mail, first class, postage prepaid, this 28th day of June, 1983:

Herbert Grossman, Esq.
Chairman, Atomic Safety and
Licensing Board
U.S. Nuclear Regulatory
Commission
Washington, D.C. 20555

Mr. Glenn O. Bright
Atomic Safety and Licensing
Board
U.S. Nuclear Regulatory
Commission
Washington, D.C. 20555

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

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

Mitzi A. Young, Esq.
Office of the Executive
Legal Director
U.S. Nuclear Regulatory
Commission
Washington, D.C. 20555

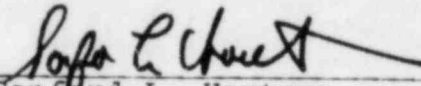
Chairman, Atomic Safety and
Licensing Board Panel
U.S. Nuclear Regulatory
Commission
Washington, D.C. 20555

Mr. Gerald C. Sorensen
Manager of Licensing
Washington Public Power
Supply System
3000 George Washington Way
Richland, Washington 99352

Mr. Scott W. Stucky
Docketing & Service Branch
U. S. Nuclear Regulatory
Commission
Washington, D. C. 99352

Nicholas D. Lewis, Chairman
Energy Facility Site
Evaluation Council
State of Washington
Mail Stop PY-11
Olympia, Washington 98504

Mr. Eugene Rosolie
Coalition for Safe Power
Suite 527
408 South West 2nd
Portland, Oregon 97204



Sanford L. Hartman