

DOCKET NUMBER 50-443444  
PROD. & UTIL. FAC.

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August 1, 1983

Helen F. Hoyt, Chairperson  
Emmeth A. Luebke, Member  
Jerry Harbour, Member  
Atomic Safety and Licensing Board  
U.S. Nuclear Regulatory Commission  
Washington, D.C. 20555



Dear Judges Hoyt, Luebke, and Harbour:

On July 25, 1983, Judge Hoyt ordered NECNP to "inform the parties and the Board immediately whether NECNP intends to file rebuttal testimony." She also established certain procedures to be followed should NECNP choose to file rebuttal testimony. This order arises from the fact that NECNP informed the Board on July 15, 1983, that it did not intend to file direct testimony on its contentions I.B.2, III.12, or III.13. The purpose of the order is "to avoid surprise and any concomittant delay."

NECNP is the only party to have been singled out for this treatment. We believe Judge Hoyt's action to have been precipitous and unnecessary. It may not be unreasonable to establish procedures for addressing foreseeable objections in an expeditious manner. Had that been done as a general matter with respect to all objections to all testimony, we would have no difficulty with Judge Hoyt's order. In context, however, the order appears as a virtual invitation to file objection to any testimony that may be filed by NECNP.

There no justification for this special treatment. There is no general rule against filing rebuttal testimony if a party has not filed direct testimony, and there is no reason to believe that any testimony that might be filed by NECNP would be any more objectionable than direct or rebuttal testimony filed by any other party. There is also no reason to believe that NECNP's filing of rebuttal testimony by the deadline

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established for all parties would result in any surprise, or that the handling of any objections related to that testimony would cause any more delay than the handling of objections to any other testimony. Yet this order is aimed only at NECNP.

The desire to avoid surprise and avoid delay is legitimate and should be accomplished through a generally applicable order governing all parties and all potential objections. It should not be accomplished by unjustly singling out a particular party.

In response to Judge Hoyt's direction for immediate notification of NECNP's intentions, we submit the following. We do not intend to and will not file rebuttal testimony with respect to Contention I.B.2. We have no present intention of filing rebuttal testimony with respect to Contentions III.12 and III.13. We are still reviewing the testimony with respect to those contentions, however, and we will inform the Board and the parties immediately should our intention change before the filing deadline of August 8, 1983. In addition, should we decide to file rebuttal testimony we will comply with the procedures set out in Judge Hoyt's order.

Sincerely,



William S. Jordan, III



Diane Curran

WSJ:DC/cpk