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December 28, 1983

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Washington, D.C. 20555

Administrative Judge Ernest E. Hill
210 Montego Drive
Danville, California 94526

Administrative Judge Paul W. Purdom
235 Columbia Drive
Decatur, Georgia 30030

Re: Duquesne Light Company, et al. (Beaver
Valley Unit 2) Docket No. 50-412 OL

Gentlemen:

The Licensing Board's November 28, 1983 Order to Show Cause directed the Environmental Coalition on Nuclear Power ("ECNP") to show cause why the Board should not rule on the issues of ECNP's interest and standing and on its proposed Contentions 6, 7, 8, 10 and 11 based on the written pleadings filed prior to the Special Prehearing Conference and the presentations given at that conference. ECNP was given 14 days to respond.

Applicants have received no response from ECNP. This marks the second time that ECNP has failed to respond. It is therefore appropriate that the Board rule on ECNP's participation, taking into account ECNP's failure to submit the revised affidavit of Dr. Robert Freeman and its failure to add specificity to its contentions. For the reasons which Applicants have previously set forth, we believe that ECNP has not shown appropriate standing and interest and has not adequately set forth admissible contentions.

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Although Applicants have received no submittal from ECNP, we have received a document entitled "Statement of Concerns of the Commonwealth of Pennsylvania," dated November 30, 1983. In that document, the Commonwealth indicated that it has "a particular interest" in matters raised by four of ECNP's proposed contentions, and urged the Board to consider its "concerns" in the forthcoming ruling on contentions. The Commonwealth had not commented on any of these four contentions during the Special Pre-hearing Conference.

The Commonwealth indicated that it was advising the Board of its interest in these matters because boards in other NRC licensing proceedings had asked for such an expression of interest, citing an unpublished order of July 27, 1981, in Pennsylvania Power & Light Co. (Susquehanna Steam Electric Station, Units 1 and 2). In that case, however, the order was issued more than two years after the Licensing Board had ruled on the admissibility of contentions, see LBP-79-6, 9 N.R.C. 291 (1979), and only two months before the start of the evidentiary hearings, see LBP-82-30, 15 N.R.C. 771 (1982).

Applicants believe that ECNP's interest and standing, and its proposed contentions, must be evaluated on their own merits. Only if ECNP's participation passes the tests established by 10 C.F.R. § 2.714 are its contentions admitted. Indeed, since ECNP has failed to perfect its standing, the Licensing Board need not even reach the admissibility of its contentions. The Commonwealth has not sought to intervene in this proceeding nor has it requested that a hearing be held. The Commonwealth's November 30 pleading nowhere indicates that it wishes to change its participation from a 10 C.F.R. § 2.715(c) participant to a 10 C.F.R. § 2.714 intervenor. Nor would the Commonwealth's generalized statements on the four proposed ECNP contentions constitute adequately framed contentions, even if the Commonwealth were seeking intervention status. If the Commonwealth had wished to raise any of these issues as its own contention, "it

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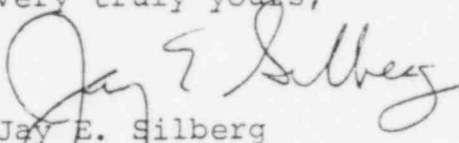
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would be required to raise that issue itself by way of a contention meeting the pleading requirements of 2.714(a)." Project Management Corp. (Clinch River Breeder Reactor Plant), ALAB-354, 4 N.R.C. 383, 393 n.14 (1976); Gulf States Utilities Co. (River Bend Station, Units 1 and 2), ALAB-444, 6 N.R.C. 760, 768 (1977).

Applicants respectfully submit that the Commonwealth's November 30 pleading does not cure the deficiencies in ECNP's proposed contentions or in ECNP's standing. ECNP's petition for leave to intervene must therefore be denied.

Very truly yours,


Jay E. Silberg

cc: Service List

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matter of)
DUQUESNE LIGHT COMPANY, ET AL.) Docket No. 50-412 OL
(Beaver Valley Power Station)
Unit 2))

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