



COMMONWEALTH OF KENTUCKY
OFFICE OF THE ATTORNEY GENERAL
FRANKFORT

ROBERT F. STEPHENS
ATTORNEY GENERAL

August 23, 1979

Victor Stello, Jr., Director
Office of Inspection and Enforcement
United States Nuclear Regulatory Commission
Washington, D.C. 20555

RE: Public Service Co. of Indiana, Inc., et al.,
(Marble Hill Nuclear Generating Station, Units 1
and 2), Docket Nos. STN 50-546/547

Dear Mr. Stello:

This letter is in response to your "Order Confirming Suspension of Construction", dated August 15, 1979. We are very concerned about the construction problems uncovered at the Marble Hill Nuclear Generating Station site. As the order states, some of the non-compliances are of long duration. Others reflect faulty construction practices and inadequate inspections which could compromise the integrity of safety-related structures. From what we know of the situation, the Commission was correct in confirming by order a halt to safety-related construction until PSI can demonstrate that it will comply with the quality assurance criteria for nuclear power plants contained in Appendix B of 10 C.F.R. Part 50. No balancing of economic or other factors should be considered by the Commission when violations of regulations concerning safety is discovered, for "... [O]nce a regulation is adopted, the standards it embodies represents the Commission's definition of what is required to protect the public health and safety". Vermont Yankee Nuclear Power Corp. (Vermont Yankee Nuclear Power Station), ALAB 138, RAI-73-7, 520, 528 (July, 1973).

The allegations concerning attempts to withhold knowledge of defective concrete from inspectors and the new allegations of falsified test reports are even more distressing. Criminal as well as civil proceedings should be instituted if these allegations turn out to be true. Even if there were no criminal acts committed, we do not understand why the Commission has not, to our knowledge, instituted a proceeding to assess civil penalties

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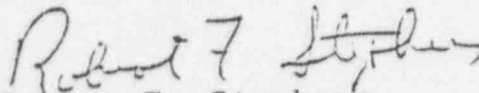
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pursuant to 10 C.F.R. 2.205. We believe the Commission should address this issue publicly.

We note that PSI prepared to go forward with construction several times this summer, only to stop work after finding additional deficiencies in its concrete work. Based on this poor track record, we are concerned that PSI may receive permission from the Commission to resume work before it is capable of doing so in compliance with all Commission requirements. Consequently, we will carefully review the submission by PSI under Part IV of the order and any Commission approval to resume safety-related construction, and will take appropriate legal action to review any Commission action we disagree with.

Since we believe it was proper to halt safety-related construction at the Marble Hill site, we do not seek a hearing under the terms of Part V of the order dated August 15, 1979. However, if a hearing is requested and held, we wish to participate in the hearing as an interested state pursuant to 10 C.F.R. 2.715(c).

Sincerely,


Robert F. Stephens
Attorney General

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