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UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

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OFFICE OF SECRETARY
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In the Matter of

NORTHERN INDIANA PUBLIC SERVICE
COMPANY

(Bailly Generating Station,
Nuclear 1)

SERVED MAY 23 1985

Docket No. 50-367

ORDER

The Business and Professional People for the Public Interest (BPI) lodged with the Commission a request for attorney fees under the Equal Access to Justice Act (EAJA), 5 U.S.C. § 504, in connection with its participation in the licensing proceeding relating to the Bailly Generating Station. By Commission order, the BPI was informed that its application for attorney fees was being held in abeyance pending the resolution of a request by the NRC for an opinion by the Comptroller General of the United States regarding the Commission's ability to pay such funds. Subsequently, the Comptroller General rendered a decision barring the Commission from paying EAJA funds because of language in the Commission's appropriation act for fiscal year 1982 prohibiting funding of intervenors (which language has been continued in subsequent appropriation acts). The Comptroller General left open the possibility

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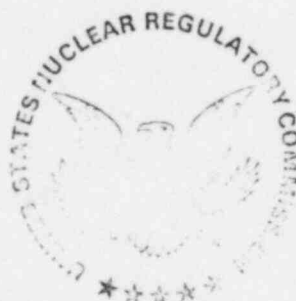
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of paying EAJA awards from Commission money appropriated before fiscal year 1982, if available. The Director of the Commission's Office of Resource Management, however, has determined that no such funds are available.

Under these circumstances, the Commission denies the EAJA application of BPI.

It is so ORDERED.

For the Commission




SAMUEL J. CHILK
Secretary of the Commission

Dated at Washington, D.C.

this 23 day of May, 1985.