

September 28, 1978

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matter of
NORTHERN STATES POWER COMPANY
ET AL

Docket No. STN 50-484
Tyrone Energy Park Unit 18787



MOTION BY NORTHERN THUNDER, INC.,
TO COMPEL DISCOVERY

TO: Ivan W. Smith, the Presiding Officer:

Pursuant to 10 CFR § 2.740(f) Northern Thunder, Inc., moves the Atomic Safety and Licensing Board for an order compelling the Permittees and the Staff to respond to certain interrogatories and requests for the production of documents propounded by Northern Thunder, Inc.

With respect to the Permittees.

1. Permittees partially or totally object to the following NT interrogatories and requests for the production of documents: 6, 10, 13, 14, 16, 17, 18, 20, 21, 22, 23, 24, 25, 27, 28, 29, 32, 33, 34 and 38. 10 CFR § 2.740(f) provides in part as follows:

Failure to answer or respond shall not be excused on the grounds that the discovery sought is objectionable unless the person or party failing to answer or respond has applied for a protective order pursuant to paragraph (c) of this section.

The Permittees did not apply for a protective order pursuant to 10 CFR § 2.740(c), therefore, they are obligated to respond the above enumerated interrogatories and requests for the production of documents.

2. Permittees objectionsto interrogatories 10, 13, 14, 16, 17, 18, 22, 23, 24, 32 and 33 are based on the notion the interrogatories go beyond the scope of the remanded issues. In particular, the foregoing interrogatories are objected to insofar as they request information concerning LSDP, CPA, and DPC. Permittees

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are clearly in error in this regard. The Board Contention (specifically paragraph two of the Board Contention) raises the question of the ability of the surviving permittees to raise the necessary funds to design and construct TEP. In this regard information which goes to the financial participation of the surviving permittees in the design and construction of TEP is clearly discoverable. 10 CFR § 2.740(b)(1) provides in part as follows:

It is not grounds for objection that the information sought would be inadmissible at the hearing if the information sought appears reasonably calculated to lead to the discovery of admissible evidence.

Each of the interrogatories enumerated in this paragraph is calculated to lead to the discovery of evidence which would be admissible with respect to the Board Contention, and, therefore, such evidence is discoverable.

3. Northern Thunder, Inc's., interrogatory 25 requests production of "all written title opinions which have been prepared from January 1, 1973 to the current date, by any person on behalf of any Permittee, or actual or potential creditor of any Permittee, with respect to the status of the legal title to any real estate heretofore acquired or purportedly acquired, or to be acquired in the future, for use in connection with the construction of TEP." The Permittees object to this request on the ground it is irrelevant to the subject matter of this proceeding. The subject matter of this proceeding is the financial qualifications of the Permittees. Loans are one source of funds for the Permittees. To the extent such loans are secured, the real estate and associated fixtures which constitute TEP are a likely item of collateral. Whether such collateral would be acceptable to persons who might loan money to the Permittees, will depend in part on whether the Permittees title to the real estate is marketable. The title opinions requested in interrogatory 25 are relevant evidence with respect to the question of marketability of title, and, therefore, are relevant to the subject matter of

this proceeding.

4. Northern Thunder, Inc's., interrogatories 28 and 29 relate to the applicability of the Public Utility Holding Company Act of 1935 to the financial qualifications of the Permittees. The application of such act may prevent the transfer of funds from NSP-MN to NSP-WI and LSDP. Therefore, interrogatories 28 and 29 are relevant to paragraph one of the Board Contention.

With respect to the Staff.

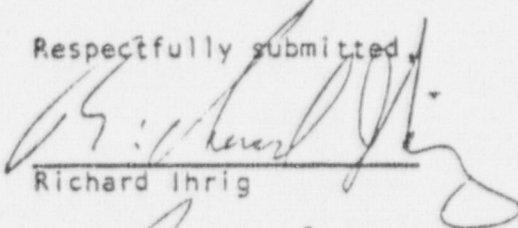
1. The Staff objects to Northern Thunder, Inc's., interrogatories 2, 3, 4, and 5. For the same reason as is set forth in the above paragraph one with respect to the Permittees, the Staff should be ordered to answer NT's interrogatories 2, 3, 4 and 5.

2. NT's interrogatories to the Staff numbered 2, 3, 4 and 5 relate to the application of the Public Utility Holding Company Act of 1935 to the financial qualifications of the Permittees. The application of such act may prevent the transfer of funds from NSP-MN to NSP-WI and LSDP. Therefore, interrogatories to the Staff 2, 3, 4 and 5 are relevant to paragraph one of the Board Contention.

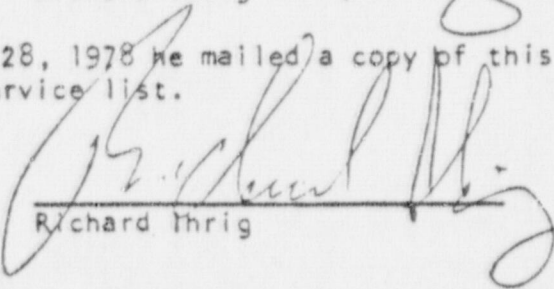
Wherefore, Northern Thunder, Inc., respectfully requests an order directing the Permittees and the Staff to respond to all interrogatories propounded by Northern Thunder, Inc.

September 28, 1978

Respectfully submitted,


Richard Ihrig

Richard Ihrig certifies that on September 28, 1978 he mailed a copy of this motion to the persons indicated on the attached service list.


Richard Ihrig

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NUCLEAR REGULATORY COMMISSION

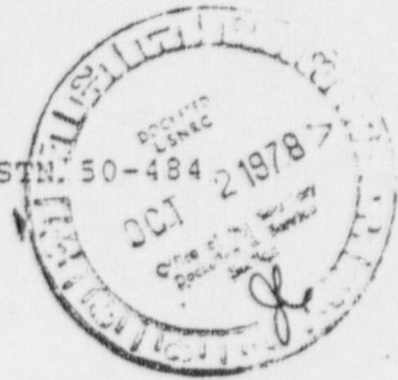
RELATED CORRESPONDENCE

In the Matter of

NORTHERN STATES POWER COMPANY,
ET AL.

(Tyrone Energy Park, Unit 1)

Docket No. STN. 50-484 21978



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