

BEFORE THE STATE OF WASHINGTON
ENERGY FACILITY SITE EVALUATION COUNCIL

In re Application No. 93-2)	PREHEARING ORDER NO. 5	677
)		
of)		
)		
KVA RESOURCES, INC., and)		
CSW ENERGY, INC.)	PREHEARING CONFERENCE ORDER	
)	AMENDING SCHEDULE	
For Site Certification)		
NORTHWEST REGIONAL)		
POWER FACILITY)		
.....)		

The Council entered its Prehearing Conference Order No. 4 on April 11, 1995. Within the ten days provided by statute for objecting to the order, Counsel for the Environment filed with the Council a Motion to Amend the order.

Counsel asks that the time for filing be extended from May 1 to May 12. Counsel represents that the continuance is required because the applicant has failed to present a more detailed plan for ancillary facilities such as a natural gas pipeline and because another person, whose connection with the proceeding is not clear, is preparing a report on need for the facility.

The request should be denied. Counsel has demonstrated that additional information may be available at a later time. She has not demonstrated that the information is essential -- or even relevant -- to the motions she seeks to bring.¹

The time established was for presentation of motions that would dispose of the proceeding, such as motions for a summary order. Such motions are often appropriate when there is no issue

¹The motions discussed as possibilities were, (a) whether the adjudicative hearing should be stayed until the applicant submits a more detailed plan for ancillary facilities -- i.e., the transmission facilities and natural gas pipeline, and whether the application is incomplete without that information; and (b) whether the Council must follow substantive environmental laws and regulations in siting an energy facility.

of fact, and only a question of law remains. They could be equated with motions for summary judgment or motions to dismiss for failure to state a claim.

Neither Counsel's motion nor the "memorandum of authority" accompanying it indicate how the availability of additional factual detail would affect Counsel's ability or need to file a motion. There is no contention that extraneous matters such as trial schedule interfere with Counsel's ability to meet the schedule.

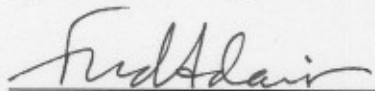
Counsel may choose whether to file or not to file any dispositive motion by the time proposed. Failure to file will not forever bar any motion. If such a motion is made at a later time, the Council would expect the movant to explain what cause exists for failure to meet the time established. If such a motion is not made, Counsel would not be barred from arguing the issue at the conclusion of the proceeding.

Counsel also asks that a schedule be established for replies to answers to motions. The request reflects discussions at the prehearing conference and is granted. Replies, if any, shall be due in the Council's offices no later than June 16, 1995.

O R D E R

THE COUNCIL ORDERS That the motion of Counsel for the Environment for an extension of time to file motions is denied.

DATED and effective at Olympia, Washington this 19th day of April, 1995.



FRED ADAIR, Chairman

NORTHWEST REGIONAL POWER FACILITY

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