

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

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5/17/78

In The Matter Of )

PUBLIC SERVICE ELECTRIC & )  
GAS COMPANY )

(Salem Generating Station, )  
Unit #1) )

DOCKET NO. 50-272

TOWNSHIP OF LOWER ALLOWAYS CREEK  
MEMORANDUM IN SUPPORT OF  
CONTENTIONS

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On March 9, 1978, the Township of Lower Alloways Creek ("Township") petitioned the Nuclear Regulatory Commission ("NRC") for leave to intervene in the matter of the expansion of the capacity of the spent fuel pool at Salem Unit No. 1. This petition included eleven contentions of the Township.

On April 26, 1978, the Atomic Safety and Licensing Board issued a Memorandum and Order setting forth its views regarding the acceptability of these contentions. The present Memorandum is intended to clarify certain of the Township's contentions and to demonstrate their import and relevance in the current proceedings.

Contention 2: In this Contention, the Township holds to the view that Public Service Electric and Gas Company ("Licensee") has not set forth in its submissions to the

NRC precisely what its intentions are regarding the utilization of the proposed expanded spent fuel pool. Such utilization is germane to any consideration of the acceptability of the proposed expansion of the capacity of the fuel pool.

It should be emphasized that the NRC licensing process includes consideration of the utilization of any proposed facility. In 10CFR 50.33(e), an applicant is required to state "the use for which the facility is to be put."

The NRC licensing process considers not only the need for a facility and its utilization, but also its final disposition at the end of its useful life. This is the reason why the NRC requires a decommissioning plan to be submitted by an applicant for an NRC license.

In short, it is the Township's view that the proper consideration of the proposed amendment must include the utilization and final disposition of the expanded spent fuel pool.

In the present case, the Licensee has not made clear its intentions regarding the utilization of the expanded pool. Indeed, in its submission for NRC dated November 18, 1977, Revision 1, page 6, the Licensee

states "The modification would give PST and G greater operating flexibility which would be desirable even if adequate off-site storage facilities should later become available." (Emphasis added.)

Spent fuel pools are facilities which are traditionally and by design intended for the temporary storage of spent fuel. It is not clear that the Licensee does not intend to leave open the option of retaining spent fuel in the pool even at a time when an off-site repository or other disposal arrangement becomes available. In the view of the Township, it is incumbent upon the Board to consider and foreclose this possibility before approving the issuance of the amendment.

It should further be noted that a facility Operating License, by its nature, regulates activity at the facility. Temporary storage of spent fuel for one year is one form of activity; storage for longer periods is another, which should be carefully examined by the Board. No one complains when a neighbor retains garbage pending scheduled disposal, but long-term storage of garbage is a wholly different matter.

The basic difference in opinion between the Town-

ship and the Board is that the Board apparently views the amendment sought as limited to fuel storage until off-site disposition is available, while the Township sees no such limitation.

If the Licensee will agree to expressly limit its requested amendment by the following condition, the Township will withdraw this contention:

"At such time as space becomes available <sup>permanent</sup> in an off-site spent fuel repository or any means of <sup>permanent</sup> spent fuel disposal becomes <sup>to licensee</sup> available outside the Township, the Licensee shall immediately (allowing for normal spent fuel cooling time) take steps to transfer its spent fuel to the repository or disposal site. In short, the Licensee agrees not to continue to store spent fuel beyond its normal cooling time at the Salem site when off-site storage or disposal facilities are <sup>to it</sup> available."

Contention 4: The statement regarding this contention in the Board's Memorandum and Order of April 26, 1978, that "NRC has already reviewed the extent to which spent fuel can be stored in the pool for the length of

time requested, . . ." (emphasis added) is difficult for the Township to comprehend. The NRC could not possibly have resolved this question at earlier proceedings on the Licensee's Construction Permit or Operating License, since the currently proposed spent fuel pool loading and storage period were not contemplated at the time of the earlier proceedings.

Furthermore, had this issue been raised at the Construction Permit or Operating License stage, this contention would have been disallowed as pertaining to a utilization of the facility which was not contemplated nor sought by the applicant. Thus any consideration of storage beyond the usual one-year period was beyond the scope, uncontested and superfluous at an earlier time. Had the Licensee planned or intended to store fuel beyond the usual one-year period, it would have provided the necessary space in the fuel pool at the start and the present proceedings would be unnecessary.

Clearly, the granting of a 40 year Operating License for Salem Unit No. 1 did not automatically carry with it any sort of provision for the storage of fuel for 40 years, since storage beyond the usual one-year period was not envisioned or requested at the

earlier proceedings.

This situation is distinguishable from the recent Supreme Court case in that the increased fuel storage and increased duration of storage were not issues that were or should have been raised at the earlier proceedings since they were not properly part of that application.

Contention 5: Ditto, remarks for Contention 4.

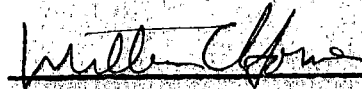
Contention 8: This contention had been previously stipulated to by the NRC Staff, Portland General Electric Company (Licensee), and the State of Oregon (Intervenor) in similar proceedings regarding the re-racking of the spent fuel pool at the Licensee's Trojan Nuclear Plant (Docket No. 50-344; Stipulations dated August 1, 1977, Appendix A, item 5(c)). The issue is simply as follows: In the event of a LOCA, with the fuel pool full and containing a just-unloaded group of assemblies, will there be sufficient cooling of the pool available to assure no boiling or loss of coolant water in the pool?

Contention 9: It is the Township's understanding that no experimental verification of the multiplication factor calculations has been carried out for the

proposed new rack design. The essence of this contention is that the multiplication factor can easily be determined by performing a simple  $1/M$  experiment. This entails placing a neutron detector in the assembly, perhaps with a small neutron source, and recording the neutron flux as new spent fuel is placed in the racks. This would not be a major undertaking; it would confirm the neutronics calculations; and it would serve to verify in a positive way the materials actually used in the construction of the racks. The first two sentences of Contention #9 are hereby deleted.

Dated: May 17, 1978      LOWER ALLOWAYS CREEK TOWNSHIP

BY:



William C. Horner  
Its Attorney