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UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION



BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matter of :
OFFSHORE POWER SYSTEMS : Docket No. STN 50-437
(Manufacturing License for :
Floating Nuclear Power Plants) :

RESPONSE OF APPLICANT TO NRC STAFF'S
PROPOSED PARTIAL FINDINGS OF FACT

Offshore Power Systems ("Applicant") submits the following response to the "Nuclear Regulatory Commission Staff's Proposed Partial Findings of Fact in the Form of a Proposed Initial Decision" ("Staff's Proposed Findings") dated August 24, 1979:

1. Applicant objects to the NRC Staff's proposed modifications to "Applicant's Proposed Partial Findings of Fact in the Form of a Proposed Initial Decision" ("Applicant's Proposed Findings") which are set forth in paragraphs 20.D. and 20.E.(2) of the Staff's Proposed Findings at pp. 18-19. The modifications proposed by the Staff pertain to the Atlantic County Board of Chosen Freeholders ("Atlantic County") resort economics contention. At the outset it should be noted that the Staff agrees that the record fully

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supports Applicant's proposed finding of fact in paragraph 400 (Applicant's Proposed Findings, p. 173) that:

"the potential impact of siting an FNP on a resort economy which is characterized by the presence of tourists and leisure seekers is very small and well within the year to year fluctuations in the local economic activity of the coastal resort area."

While the Staff agrees with the foregoing proposed finding, it has proposed findings of fact in paragraphs 20.D. and 20.E.(2) which request the Board to disregard or discount certain testimony of Applicant relating to the Las Vegas weapons testing experience which Applicant submits adds additional support to Applicant's proposed finding of fact paragraph 400 quoted above. Applicant submits that the Board should reject the Staff's proposal in paragraph 20.D. and the Staff's proposed finding of fact in paragraph 20.E.(2).

In paragraph 20.D., the Staff has requested the Board to delete paragraphs 391 through 394 of Applicant's Proposed Findings, wherein Applicant requested the Board to find that the presence of nuclear weapons testing at the Nevada Test Site in the vicinity of a resort area (Las Vegas, Nevada) made Las Vegas analogous to a resort community having a nuclear plant nearby. Further, Applicant requested the Board to find that the evidence Applicant presented established that despite the presence of

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nuclear weapons testing near Las Vegas, its resort economy had flourished. The record fully supports these proposed findings (see, e.g., "Applicant's Testimony Regarding XVI. Impact on Resort Economics" at pp. 8-10).

Applicant notes that intervenor Atlantic County Citizens Council on Environment ("ACCCE") made a motion at the hearing on May 17, 1977 to exclude from admission into evidence Applicant's testimony concerning the Las Vegas-nuclear weapons testing analogy (Tr. 6233-35). ACCCE claimed, inter alia, that such testimony was not relevant to the Atlantic County contention. That motion, which was opposed by both Applicant and Staff, was rejected by the Board (Tr. 6242). Applicant's testimony concerning the analogy between the Las Vegas-nuclear weapons testing circumstance and the situation of a nuclear plant located near a resort community was presented by a panel of expert witnesses which included experts in demography, Dr. Dennis Mileti and Mr. K. T. Mao (see Tr. 6388, 6679). The Staff did not cross-examine Applicant's panel on the Las Vegas-nuclear weapons testing analogy; and no party presented testimony which challenged the testimony of Applicant's panel concerning the Las Vegas-nuclear weapons testing analogy. Applicant submits that this analogy is valid and clearly constitutes additional support for the Board finding proposed by both Applicant and Staff that the potential

impact of siting an FNP on a resort economy which is characterized by the presence of tourists and leisure seekers is very small and well within the year-to-year fluctuation in the local economic activity of the coastal resort area.

2. Applicant also objects to the NRC Staff's proposed finding of fact paragraph 20.E.(1) (p. 18) for the following reasons:

In proposed finding of fact 20.E.(1), the Staff alleges that Applicant's premise that "growth in population is an indicator of growth in tourism . . . was never firmly established". Moreover, the Staff claims that on at least two occasions, Applicant's panel contradicted itself on this point and urges the Board to give lesser weight to Applicant's testimony than to the Staff's testimony on the resort economics contention.

In response to the foregoing, Applicant submits that the testimony of its expert witness panel clearly established that population growth is an indicator of growth in tourism in a resort economy, and that its witness panel never contradicted itself on this point.

The topic of the interrelationship between population growth and tourism in a resort economy was the subject of lengthy cross-examination by counsel for ACCCE (see Tr. 6289-6320). The Staff's proposed finding

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of fact paragraph 20.E.(1) demonstrates that the Staff is confused about the import of the dialogue which ensued between the Applicant's witness panel and ACCCE counsel on this point. Applicant's panel repeatedly testified that a growth in population is an indicator of a growth in tourism in a resort economy (see Tr. 6313-14, 6318-19). Contrary to the Staff's understanding, however, Applicant's panel never testified that a "growth in population is an indicator of a growth in tourism" without adding the qualifying words "in a resort economy". Moreover, Applicant's witness panel testified at length concerning factors which identify an economy as a resort economy (see Tr. 6320-30). Further, while Applicant's panel did testify that population growth is an indicator of growth in tourism in a resort economy, it did not testify that population growth in a resort economy causes a growth in tourism in that economy. As explained by Applicant's panel, when an attempt is made to assess the vitality of a resort economy, one looks at the factor of population growth in that economy as a significant factor or indicator which allows one to make a reasoned judgment as to whether tourism is increasing, decreasing or remaining about the same. However, when the Applicant's panel was asked the question of whether a growth in the population of a resort economy would cause an increase in the tourism at that resort, they were being

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asked a significantly different question, one they answered the negative (Tr. 6316). Applicant's panel's answer to this latter question in no way contradicts its expert opinion, repeatedly stated, that population growth in a resort economy is an indicator of growth in tourism in that economy. In its proposed finding, the Staff, because it failed to comprehend the significant difference between the word "cause" and the word "indicate", erroneously requests a finding that Applicant's panel contradicted itself. The Board should reject such proposed finding.

Furthermore, with regard to the testimony of Applicant's panel on this subject, it should be noted that counsel for ACCCE moved to strike that testimony, based on the same misunderstanding of Applicant's testimony which the Staff has expressed in its proposed finding of fact in paragraph 20.E.(1) (Tr. 6307-12). In fact, Staff counsel supported that ACCCE motion to strike. The Board properly rejected that motion to strike (Tr. 6312). It should also be noted that the Staff never cross-examined Applicant's panel concerning this matter even though Applicant's testimony on this subject was available to the Staff for more than a year.¹ Moreover, no party presented any testimony

¹Applicant's witness panel on the resort economics contention testified on May 17-20, 1977. When the hearing resumed more than a year later on July 10, 1978 with Applicant's panel on the witness stand, the Staff advised that it had no cross-examination (Tr. 6699).

which challenged Applicant's testimony regarding Applicant's panel's professional opinion that population growth in a resort economy is an indicator of an increase in tourism in that economy.

For the foregoing reasons, Applicant submits that the Board should reject Staff proposed finding of fact paragraph 20.E.(1).

Respectfully submitted,

/s/ Barton Z. Cowan/JRK

/s/ Thomas M. Daugherty/JRK

/s/ John R. Kenrick

Counsel for Applicant
Offshore Power Systems

Dated: September 14, 1979

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NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matter of :
OFFSHORE PCWER SYSTEMS : Docket No. STN 50-437
(Manufacturing License for :
Floating Nuclear Power Plants) :

CERTIFICATE OF SERVICE

I hereby certify that copies of the "Response of Applicant to NRC Staff's Proposed Partial Findings of Fact" were served upon the persons listed on Attachment 1 to this Certificate of Service by deposit in the United States mail (First Class), postage prepaid, this 14th day of September, 1979.

/s/ John R. Kenrick

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