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UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION
before the
ATOMIC SAFETY AND LICENSING BOARD

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In the Matter of

VERMONT YANKEE NUCLEAR
POWER CORPORATION

(Vermont Yankee Nuclear
Power Station)

)
)
) Docket No. 50-271-OLA-4
) (Construction Period
) (Recapture)
)
)
)

MOTION TO COMPEL ANSWERS TO INTERROGATORIES
(VYNPC SET NO. 1)

Pursuant to 10 C.F.R. § 2.740(f), the Licensee, Vermont Yankee Nuclear Power Corporation, moves that the Board enter an order compelling the intervenor, the State of Vermont ("SOV") to give proper answers to those of its "Interrogatories Propounded by Vermont Yankee Nuclear Power Corporation to the State of Vermont (Set No. 1)" as are set forth herein. The interrogatories were served by mail on March 21, 1990; the answers were served by mail on April 9, 1990.

I. Introduction - Applicable Legal Principals.

Discovery is an important aspect of contested NRC litigation. It is particularly important where, under the rules of practice prior to the amendments to 10 C.F.R., Part 2 effected by 54 Fed. Reg. 33,168 (8/11/89, effective 9/11/89), an intervenor might successfully urge the admission of a broadly-worded contention, relatively vague in scope, to be fleshed out by the discovery process. *E.g., Texas Utilities Electric Company* (Comanche Peak Steam Electric Station, Unit 1), ALAB-868, 25 NRC 912, 933 (1987). Thus:

"In modern administrative and legal practice, pretrial discovery is liberally granted to enable the parties to ascertain the facts in complex litigation, refine the issue, and prepare adequately for a more expeditious hearing or trial."

Pacific Gas and Electric Co. (Stanislaus Nuclear Project, Unit 1), LBP-78-20, 7 NRC 1038, 1040 (1978), *quoted with approval, Pennsylvania Power &*

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Light Co. (Susquehanna Steam Electric Station, Units 1 and 2), ALAB-613, 12 NRC 317, 322 (1980).

Full, complete and non-evasive response to discovery is equally the obligation of an intervenor as of any other party in NRC litigation:

"A litigant may not make serious allegations against another party and then refuse to reveal whether those allegations have any basis. . . . The [intervenor's] understanding of an intervenor's role is simply wrong. To be sure, the license applicant carries the ultimate burden of proof. But intervenors also bear evidentiary responsibilities. In a ruling that has received explicit Supreme Court approval, the Commission has stressed that an intervenor must come forward with evidence 'sufficient to require reasonable minds to inquire further' to insure that its contentions are explored at the hearing. Obviously, interrogatories designed to discover what (if any) evidence underlies an intervenor's own contentions are not out of order."

*Pennsylvania Power & Light Co. (Susquehanna Steam Electric Station, Units 1 and 2), ALAB-613, 12 NRC 317, 339-40 (1980).*¹ It is therefore entirely permissible for an applicant or Licensee to demand an intervenor to disclose what *if any* evidence the intervenor possesses to back up the claims made in his contentions, and it is entirely permissible for an applicant or licensee to propound "contention" interrogatories to an intervenor.

So-called "contention interrogatories" are the means by which the legitimate and laudable goal of "refining" issues is accomplished and by which potential skirmishes in which the intervenor has lost interest are identified prior to the time that resources have been applied to their rebuttal and hearing. They do not call for a legal opinion, but rather a statement of the opponent's position and intention. An answer to a "contention interrogatory" to the effect that an intervenor has not yet "finalized" its position with respect to a given admitted contention is suspect: if the intervenor has no position, it should say so unambiguously and if it desires to pursue the contention, it must answer the interrogatories to the extent that it is presently able to do so. *Public Service Company of New Hampshire (Seabrook Station, Units 1 and 2), LBP-83-9, 17 NRC 403, 407 (1983).*

In assessing the degree of compliance with the litigant's obligations, the Board must determine whether an answer is responsive, complete and non-

¹The decision referred to is *Consumers Power Company (Midland Plant, Units 1 and 2), CLI-74-5, 7 AEC 19, 30-32 & n.27 (1974), reversed sub nom. Aeschliman v. NRC, 547 F.2d 622, 628 (D.C. Cir. 1976), reversed on this point sub nom. Vermont Yankee Nuclear Power Corporation v. NRDC, 435 U.S. 519, 553-54 (1978).*

evasive. "For purposes of this paragraph, an evasive or incomplete answer or response shall be treated as a failure to answer or respond." 10 C.F.R. § 2.740(f). An incomplete answer is thus just as objectionable as a total failure to respond. *E.g.*, *Illinois Power Co.* (Clinton Power Station, Unit 1), LBP-81-61, 14 NRC 1735, 1738 (1981). This is particularly the case with "contention" interrogatories, where the information sought—*i.e.*, what the contentions mean, and what facts (if any) underlie them—is by definition solely within the control of the party asked to respond to the interrogatories.

The reasonableness of a party's discovery requests is measured by "the number and complexity of the issues raised" by the party against whom the discovery is directed. *Pennsylvania Power and Light Company and Allegheny Electric Cooperative, Inc.* (Susquehanna Steam Electric Station, Units 1 and 2), ALAB-613, 12 NRC 317, 335 (1980). "If the interrogatories are relevant, the fact that they involve work, research and expense is not sufficient to render them objectionable [where] much of the information is in the possession or knowledge of the [parties to whom they are directed] and must be compiled in their own preparation for trial." *Id.* at 334 n. 26, quoting *United States v. NYSCO Laboratories, Inc.*, 26 F.R.D. 159, 161-62 (E.D.N.Y. 1960). Finally, even when a party objects to an interrogatory as too broad, it must "interpret the request in a reasonable fashion and . . . answer interrogatories . . . within the realm of reason." *Texas Utilities Electric Co.* (Comanche Peak Steam Electric Station, Units 1 and 2), LBP-85-41, 22 NRC 765, 768 (1985).

II. Specific Interrogatory Answers.

A. Interrogatory No. 1.

Interrogatory:

Please define what SOV contends is included within the scope of the term "program to maintain and/or determine and replace all components found to have aged to a point where they no longer meet the safety standards applicable to this plant" as used by it in its Contention 7, and provide all of the bases for your definition.

Response:

For "maintain," the definition of NRC proposed amendment of 10CFR50.75, item 2 (b), is used. This is found on pages A.21 and A.22 of NUREG/CP-0099, "NRC Rulemaking of Maintenance of Nuclear Power Plants," November 1988. "Determine . . . to have aged to a point" means a demonstration of qualified life, by provision of evidence to support the conclusion that components will be able to perform their safety functions in the end-of-life condition, in the environment that will exist when the safety function must be

performed. The term, "components," means all structures, systems, and components (and their supporting systems) meeting the definition on pages 2 and 3 of NRC Draft Regulatory Guide DG-1001, "Maintenance Programs for Nuclear Power Plants," August 1989. "Aged" means any and all aging mechanisms, including, but not limited to, any mechanism identified as part of Contention VI of "State of Vermont Supplement to Petition to Intervene," October 30, 1989. The term, "safety standards applicable to this plant," is defined as the current licensing basis, as defined by "Nuclear Power Plant License Renewal; Public Workshop on Technical and Policy Consideration." This definition is found as item XX.3 (a) at 54 FR 41984, October 13, 1989.

Argument:

This response is both incomplete and ultimately evasive. No definition of "program" is included. Nor has SOV disclosed how, per its contention, one determines whether a component is "aged;" SOV only defines an aging process, and even that is without substantive content (*i.e.*, "including, but not limited to" examples cited in one of its rejected contentions).

More to the point, SOV's tactic of defining each individual word or sub-clause within the phrase quoted in the interrogatory is a mechanism for evading the thrust of the question. The interrogatory quoted a key phrase from SOV's contention statement, and quite reasonably asked the meaning of, scope of and basis for, that entire phrase.² SOV obviously had something in mind when it used that phrase, and the Licensees have the right to know what that was, since the parties will be litigating it. SOV should be required to define the entire phrase as used by it, not individual bits and pieces, and provide all the bases for the definition, as requested.

The importance of a full and non-evasive response to this interrogatory is highlighted by SOV's reference to unadopted *proposed* regulations and compounded (see Interrogatory No. 5, *infra*) by SOV's declination to relate its contention to existing legal requirements. As the Licensee has contended earlier, the thrust of this contention is to have this Board impose, *ad hoc*, regulatory requirements that, at least to date, have not been accepted or promulgated by the Commission. This response by SOV proves the point and,

²The term "maintenance program" is not self-defining, and the concept "[that portion of the] maintenance program [applicable to aged components]" is less so. The purpose of this interrogatory was to elicit from SOV the scope of the practices, procedures and requirements that SOV contended had been inclusively captured by the phrase it used. This central inquiry has been wholly evaded.

we respectfully suggest, focuses attention on the question of whether SOV can relate this contention to *existing* Commission requirements.

B. Interrogatory No. 2.

Interrogatory:

Please identify each of the "safety standards" that SOV contends is "applicable to this plant" as these terms are used by it in its Contention 7, and please define the measure of "reasonable assurance" as the term is used by SOV in its Contention 7.

Response:

Vermont objects to this interrogatory to the extent that it seeks a legal opinion. Notwithstanding and without waiving this objection, Vermont offers the following comments: "Safety standards" means the current licensing basis (see item Q.1 above) for each structure, system, and component of the plant. Applicant is responsible to know this current licensing basis but Vermont has not been granted access to information by which it can know the current licensing basis. "Reasonable assurance" is used with the meaning given in 10 CFR 50.57 (a) (3).

Argument:

Insofar as SOV has objected to this contention interrogatory on the ground that it calls for a legal opinion, the objection is entirely misplaced and should be rejected. A statement of a party's contention is not a "legal opinion;" more to the point, a contention interrogatory is a well-recognized and permissible interrogatory.

Insofar as SOV purports to offer a "definition" of "reasonable assurance," the answer is non-responsive. The interrogatory asked SOV to supply its definition of "the *measure* of 'reasonable assurance.'" (Emphasis added.) That is to say, when SOV contends that "reasonable assurance" has or has not been supplied, by what methodology does it make that determination? This aspect of this interrogatory has been evaded and the Board should compel a complete and responsive answer.

Similarly, SOV's response that it does not know the "current licensing basis" for "each structure, system, and component of the plant" is egregiously evasive. In order to assert in good faith that not all of the applicable safety standards would be met, SOV must have had some information about safety standards, and the Licensee is entitled to learn what information SOV possesses now.

Finally, the answer as a whole is evasive. A "licensing basis" is not a safety standard (though safety standards must have a nexus to the licensing basis). Safety standards are those things—typically provisions of the Commission's regulations or the plant's Technical Specifications—that would be cited in a notice of violation. If SOV contends that the existing maintenance program would result in unlawful operation of VYNPS in the extended license period, then it must provide notice of the requirements that would be violated; if SOV does not so contend, then the contention must be dismissed for want of a regulatory basis.³

C. Interrogatory No. 3.

Interrogatory:

For each of the seven "specific weaknesses" enumerated by SOV in sub-paragraph "b" of its Contention 7, state each and every reason why SOV contends (if it does) that that "weakness" would materially impact safety through the balance of the existing VYNPS license term, and also please state each and every reason why SOV contends (if it does) that that "weakness" would materially impact safety through the balance of the extended VYNPS license term.

Response:

Vermont has not made a determination of the manner in which the weaknesses identified in sub-paragraph "b" of Contention VII would materially impact safety, either through the existing license term, or in the extended term, because Vermont is not responsible to maintain, nor has been granted access to the current licensing basis for the plant.

Argument:

This response is completely evasive.

In its contention, SOV contended that an operating license amendment should be denied on account of the propensity of seven supposed "weak-

³SOV's response is also, we respectfully submit, not credible. In the first instance, SOV does not explain how any portion of the VYNPS "licensing basis" is not revealed by the documents on file in the Public Document Room, including the VYNPS FSAR and the VYNPS Technical Specifications (copies of which have been provided to SOV in the past). Second, Vermont Yankee agreed to an informal discovery mechanism at the outset of this matter, of which SOV availed itself on more than one occasion; all documents requested were made available.

nesses" to affect safety. (If a program not required by the regulations has no effect on safety, it may not be the subject of contested litigation because no licensing action may be denied on the basis thereof.) This interrogatory in a reasonably straightforward manner sought to elicit whether SOV contended that such a safety relationship exists, and, if so, how. Likewise, the interrogatory sought to elicit whether SOV contended that the supposed "weakness" related to the proposed amendment (since something not related to the proposed amendment, but rather affecting the plant generally, is not admissible). SOV's response sheds *no* light on either of these critical issues. If and to the extent that there is any substance to the contention, then SOV must answer; if, on the other hand, SOV has nothing to offer on the point, then this aspect of the contention must be dismissed. The Board should compel a complete and responsive response to this interrogatory.

D. Interrogatory No. 4.

Interrogatory:

Does SOV adopt as true and correct, as of the date of its publication, all of the findings and conclusions of the NRC Staff contained in IR 89-80? If your answer is anything other than an unqualified affirmative, please identify each of the findings and conclusions of the NRC Staff contained in IR 89-80 that SOV contends is (or on the date of the publication thereof was) not correct and for each such finding or conclusion, state all of the reasons why SOV contends the finding or conclusion is not correct.

Response:

No. Vermont has not made and cannot make a final determination regarding the findings and conclusions contained in IR 89-90 without review of the information reviewed by the Maintenance Team Inspectors.

Argument:

SOV makes no objection to the plainly permissible interrogatory.⁴

⁴This interrogatory is not only categorically permissible, since the document was explicitly relied upon by the intervenor in its proffered "basis" for the contention, but it is particularly relevant in a case such as this, where the intervenor has, at least on its face, *misused* the document on which it relied. The very document on which the intervenor urged admission of this contention concluded that there were no defects in the Vermont Yankee maintenance program that precluded the program from being acceptable or from satisfying whatever regulatory requirement might exist for a maintenance program. SOV thus elected to rely on portions of the documents,

Neither does it answer it. Rather, it offers the inherently suspect "no final position" response. The Board should require SOV to make a complete response to this interrogatory as a condition of participating further in this proceeding.

E. Interrogatory No. 5.

Interrogatory:

Does SOV agree that NRC Temporary Instruction 2515/97 ("NRC Maintenance Inspection Guidance") is an adequate assessment tool for use in determining the adequacy of a plant's maintenance program? If your response is anything other than an unqualified affirmative, then please identify each and every respect in which SOV contends that NRC Temporary Instruction 2515/97 ("NRC Maintenance Inspection Guidance") is not an adequate assessment tool for use in determining the adequacy of a plant's maintenance program, and, for such respect, state all of the reasons why SOV contends that it is not adequate.

Response:

Vermont has not reviewed NRC Temporary Instruction 2515/97, and to the extent that the request is for a judgment from Vermont that NRC Temporary Instruction 2515/97 is an adequate instruction, it is objected to in that it calls for a legal conclusion.

Argument:

This response is evasive. Given that there are no NRC regulations specifying the minimum requirements for a maintenance program, a central issue in this matter is what the requirements for a maintenance program (assuming that such requirements should be imposed by an ASLB *ad hoc*)⁵ are. This interrogatory takes a publicly available document directly on point and tries to elicit SOV's concession that the document is adequate (or why it is not). This is a perfectly permissible contention interrogatory, and the fact that it incorporates a document by reference (rather than repeating its content) is not relevant. The Board should require SOV to respond to this

while rejecting other portions (including the overall conclusions). This highly selective (and arguably distorted) reading of the document warrants a complete explanation in response to a direct interrogatory.

⁵Unlike the unadopted *proposed* regulations relied upon by SOV (see *supra* at 4), the document referred to in this Interrogatory deals with the legal requirements as they presently exist, not as they may someday in the future exist.

interrogatory prior to the close of discovery in this matter as a condition of its further participating in this proceeding.

F. Interrogatory No. 6.

Interrogatory:

Does SOV contend that a maintenance program can never be adequate if it has "weaknesses" as that term is used in IR 89-80?

- a. If your answer to the foregoing interrogatory is negative, then please explain all of the bases that SOV contends are properly applicable to the question of whether identified weaknesses are or are not negating of adequacy.
- b. If your answer is affirmative, does it not necessarily follow that, if a reviewer pronounces a maintenance program to be adequate, any suggestions for improvement he may simultaneously have identified are not "weaknesses?" Please explain the rationale for your answer.

Response:

The interrogatory is not answerable as given because it asks what the author meant by the word, "weakness," and this is unknown to Vermont. Nevertheless, Vermont believes the answer to the intended question is, No. Vermont would understand the terms, "weaknesses," to negate adequacy when reasonable assurance (see Q.2 above) has not been demonstrated that protection of public health and safety will be provided. Vermont objects to this question to the extent that a legal definition of "weakness" is requested, since this will be determined at the end of the hearing by the Board.

Argument:

This response is utterly evasive.

The context is that SOV has pressed the admission of a contention that, because the Vermont Yankee maintenance program supposedly has "weaknesses" (a term used by SOV in its contention), the proposed operating license amendment should not be approved. Indeed, the context is also that SOV offered by way of basis a document that, while purporting to identify "weaknesses" in the maintenance program, simultaneously found that program acceptable for licensing. Thus, the question of what is a "weakness," and, in particular, the differentiation between something that someone might think to be an improvement (on the one hand) and something that stands in the way of acceptability under some legally required minima is raised starkly in this

proceeding. This interrogatory was designed to elicit SOV's position on this issue, so that Vermont Yankee might prepare its response.

Thus, insofar as SOV contends that the interrogatory is "unanswerable" because SOV doesn't know what the author of a document (the SOV contentions) it authored meant by a word used therein, that response should be rejected and SOV should be required to provide a complete and responsive answer.

Likewise, SOV's frivolous objection to providing its position on "a legal definition of 'weakness,'" where that objection is based on the nonsensical ground that "this will be determined at the end of the hearing by the Board," should be rejected. If something is to be determined by the Board, then by definition it is relevant to the contention; if something is relevant to the contention, then Vermont Yankee is entitled to know what SOV's position in the matter is.

G. Interrogatory No. 7.

Interrogatory:

Does SOV concede that one cost of proceduralization is its tendency to suppress the application of initiative, judgment and discretion on the part of employees, and that, therefore, before a judgment can prudently be made to require proceduralization in any given situation a careful assessment must be made of the benefits and costs of doing so? Please state the reasons for your answer.

- a. Please describe in detail the complete extent, if any, to which SOV determined, assessed and evaluated the costs of the proceduralization that it advocates in this contention.
- b. Please provide the technical qualifications (education, employment history, licenses and certificates, experience, or other information which SOV contends establishes the qualifications of the person), of each person who assisted SOV in making the foregoing determinations, assessments and evaluations or upon whose expertise SOV relies for the same, or state that SOV does not rely upon the expertise of any person for the determination.

Response:

No. Vermont has made no determination regarding the philosophy or costs of proceduralization.

Argument:

This response is not a response at all.

The context is that SOV has advanced the concept that maintenance operations must be highly and rigidly proceduralized. Most knowledgeable people in the field understand that, while proceduralization brings a number of benefits, it also has some inherent costs, and, therefore, the degree of proceduralization that is "right" in any given application is the result of a knowledgeable balancing. This interrogatory seeks to learn (i) whether SOV will contest this basic point and (ii), assuming not, what SOV intends to rely upon to defend the balance that is implicit in the degree of proceduralization implicit in its contention. SOV has evaded the question.

H. Interrogatory No. 12.

Interrogatory:

Does SOV adopt as true and correct, as of the date of its publication, all of the findings and conclusions of each of the LRS documents cited by SOV in its basis for Contention 7? If your answer is anything other than an unqualified affirmative, please identify each of the findings and conclusions of each of the LRS documents that SOV contends is (or on the date of the publication thereof was) not correct, and for each such finding or conclusion, state all of the reasons why SOV contends the finding or conclusion is not correct.

Response:

Vermont cited LRS documents in its basis for Contention VII because, on face, they contain a certain legitimacy, having been prepared by respectable individuals with experience in the nuclear field. The facts stated in the basis for Contention VII illustrate the conflict which exists between the degree of reliance that the applicant places on maintenance, surveillance and the determination qualified life of equipment in its application, and the actual state of these activities. While Vermont accords the existence of this conflict through the findings and conclusions contained in LRS documents, we cannot make a determination regarding all of the findings and conclusions without review of the information reviewed by the LRS reviewers, and contact with the personnel interviewed.

Argument:

This response is evasive. Given that SOV purports to rely upon these documents as a basis for its assertion that the subject license amendment should be denied, it is entirely proper that Licensee explore SOV's know-

ledge of, and position as to, the accuracy and reliability of these documents. That SOV may not be able to answer as to *all* findings and conclusions contained in *every* document is no excuse for SOV to withhold what it *does* now know and/or believe. The Board should require SOV to make a complete response to this interrogatory at or before the date on which discovery closes as a condition of participating further in this proceeding.

1. Interrogatory No. 13.

Interrogatory:

Does SOV adopt as true and correct, as of the date of its publication, all of the findings and conclusions of the each of the LERs cited by SOV in its basis for Contention ?? If your answer is anything other than an unqualified affirmative, please identify each of the findings and conclusions of each of the LERs that SOV contends is (or on the date of the publication thereof was) not correct, and for each such finding or conclusion, state all of the reasons why SOV contends the finding or conclusion is not correct.

Response:

Vermont cited LERs in its basis for Contention VII because, on face, they contain a certain legitimacy, having been prepared by respectable individuals with experience in the nuclear field, and having been filed with the Nuclear Regulatory Commission. The facts stated in the basis for Contention VII illustrate the conflict which exists between the degree of reliance that the applicant places on maintenance, surveillance and the determination qualified life of equipment in its application, and the actual state of these activities. While Vermont accords the existence of this conflict through the findings and conclusions contained in LERs, we cannot make a determination regarding all of these findings and conclusions. Vermont generally accepts as true and correct the portions of LER's describing the event and identifying the corrective action taken. Vermont cannot make a determination regarding the accuracy of the cause of events and the analysis of events without access to material available to the preparers of the LER and specifically the current licensing basis for the components of the plant.

Argument:

As with the prior one, this response is evasive. Given that SOV purports to rely upon these documents as a basis for its assertion that the subject license amendment should be denied, it is entirely proper that Licensee explore SOV's knowledge of, and position as to, the accuracy and reliability of these documents. That SOV may not be able to answer as to *all* findings and conclusions contained in *every* document is no excuse for SOV to

withhold what it *does* now know and/or believe. The Board should require SOV to make a complete response to this interrogatory at or before the date on which discovery closes as a condition of participating further in this process.

J. Interrogatory No. 14.

Interrogatory:

Please describe each and every change to the VYNPS maintenance program or surveillance program that SOV contends, had such change been implemented earlier, would have precluded the occurrence of the matters described in the Licensee Event Report described in the foregoing interrogatory.

Response:

Vermont cannot identify changes which would have precluded the occurrence of the events described in the LER's without access to the details of the VYNPs maintenance program and surveillance program, and to the material available to the preparers of the LERs.

Argument:

The response is wholly unacceptable. SOV has contended that the matters contained in these LERs indicate that Licensee's maintenance program is inadequate for operation during the amendment term. Presumably SOV had some good faith basis for so asserting. See 10 C.F.R. § 2.708(c). Having made this assertion, SOV cannot now blandly decline to state what changes, if any, to Licensee's maintenance program would obviate the problems SOV alleges. The Board should compel SOV to provide a complete and responsive answer to this interrogatory, on pain of having its contention basis stricken as abandoned.

K. Interrogatory No. 16.

Interrogatory:

Please state each and every reason SOV contends that "no confidence exists" in VYNPC's statement that there is "no present safety problem from paint chips and no future loss of integrity," and, for each reason, please:

- a. State each and every fact on which your reason is based.
- b. Describe all of the evidence in SOV's possession or of which SOV has knowledge that SOV contends establishes each such fact.

- c. For each reason, either provide the technical qualification (education, employment history, licenses and certificates, experience, or other information which SOV contends establishes the qualifications of the person), of any person on whose expertise SOV relies for the reason or state that SOV does not rely upon the expertise of any person for the reason.

Response:

The statement in sub-paragraph "n." of Contention VIII that "no confidence exists" in the statement by the applicant that there is "no present safety problem from paint chips and no future loss of integrity" is made as a result of the statements in BVY 89-69, indicating a long awareness of paint chipping problems, and previous unsuccessful attempts at resolving the problems. Based on the continuing problem, Vermont is not confident that the present resolution will be effective in preventing future loss of integrity. Vermont has not been granted access to additional evidence other than BVY 89-69. Vermont relies on the expertise of Mr. H. Shannon Phillips, whose qualifications are included as Attachment 1.

Argument:

This response is evasive. BVY-89-69 includes a detailed technical analysis leading to the conclusion that no safety issue is presented by the condition of paint in the Vermont Yankee drywell. Vermont Yankee is entitled to know what response, if any, SOV intends to make to this technical analysis: will SOV contend that the analysis is wrong (and that there is, in fact, a safety implication) and, if so, on what grounds and with what basis?

L. Interrogatory No. 18.

Interrogatory:

If, in response to any of the foregoing interrogatories, SOV has responded that it cannot answer or that it cannot answer completely without the acquisition by it of additional information, then for each such response:

- a. Describe the additional information that SOV contends is required in order for it to answer or to answer completely the interrogatory.
- b. State each and every reason why SOV contends that the acquisition of such information is necessary in order for it to answer or to answer completely the interrogatory.

- c. State the steps that SOV is taking to acquire the information, and, for each step, the anticipated date on which it will be completed.
- d. State the intentions, if any, of SOV concerning supplementation of its answer to the interrogatory, including (if supplementation is intended), the date on which it is anticipated that SOV will serve its supplemental response.

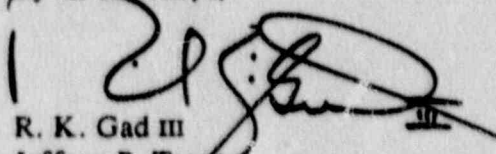
Response:

Vermont has not determined the additional information necessary to respond to interrogatories 2, 3, 4, 5, 7, 10, 11, 12, 13, 14, 15, and 16. Vermont is following the schedule identified in the prehearing conference by telephone of March 8, 1990. We expect to have identified our first round of document production requests and interrogatories by April 26, 1990. Vermont intends to supplement these interrogatories to coincide with the second round of discovery, to begin approximately May 26, 1990. This schedule assumes that all requested information is provided without resort to motions to compel.

Argument:

This response, arguably prolix, is nonetheless not responsive to the precise questions asked in sub-parts (a), (b), and (d), and it responds to sub-part (c) only by inference that SOV must make express (to wit, that it intends to do nothing other than to propound interrogatories).

By its attorneys,



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Dated: April 24, 1990.

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Certificate of Service

I, R. K. Gad III, hereby certify that on April 24, 1990, I made service of the within Motion to Compel, by mailing copies thereof, first class mail, postage prepaid, as follows:

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