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IN THE MATTER OF
ILLINOIS POWER COMPANY,
SOYLAND POWER COOPERATIVE, INC.
and WESTERN ILLINOIS POWER
COOPERATIVE, INC.

Docket No. 50-461 OL

(Operating License for Clinton
Power Station, Unit 1)

TO:

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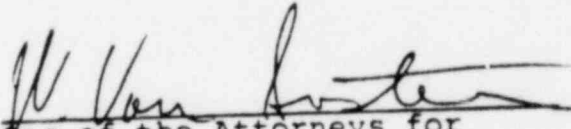


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Atomic Safety and Licensing Board Panel
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

Atomic Safety and Licensing
Appeal Board Panel
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

PLEASE TAKE NOTICE that I have filed with the Secretary of the United States Nuclear Regulatory Commission ANSWER OF APPLICANTS TO THE STATE OF ILLINOIS' MOTION FOR LEAVE TO FILE STATEMENT OF ISSUES in the above-captioned matter. A copy of this document is attached hereto and hereby served upon you.


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Dated: April 12, 1982

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

IN THE MATTER OF)	
ILLINOIS POWER COMPANY,)	
SOYLAND POWER COOPERATIVE, INC.)	
and WESTERN ILLINOIS POWER)	
COOPERATIVE, INC.)	Docket No. 50-461 OL
)	
(Operating License for Clinton)	
Power Station, Unit 1))	

ANSWER OF APPLICANTS TO THE
STATE OF ILLINOIS' MOTION FOR
LEAVE TO FILE STATEMENT OF ISSUES

Illinois Power Company ("Illinois Power"), Soyland Power Cooperative, Inc., and Western Illinois Power Cooperative, Inc. ("Applicants"), pursuant to Section 2.730(c) of the Rules of Practice of the Nuclear Regulatory Commission ("NRC"), hereby answer the State of Illinois' ("the State's") Motion for Leave to File Statement of Issues ("Motion") as follows:

I. GENERAL COMMENTS

A State, or other governmental body admitted to a licensing proceeding under 10 C.F.R. § 2.715(c), which seeks to introduce issues into a proceeding, must comply with the basis and specificity requirements of 10 C.F.R. § 2.714(b) for acceptable contentions. Gulf States Utilities Company (River Bend Station, Units 1 and 2), ALAB-444, 6 NRC 760, 768 (1977); Pacific Gas & Electric Company (Diablo Canyon Nuclear Power Plant, Units 1 & 2), LBP-81-5, 13

NRC 226, 247 (1981). Neither issue submitted by the State meets the requirements of 10 C.F.R. § 2.714(b) since both issues are impermissibly vague. Both issues fail to provide Applicants and Staff with "a fair opportunity to know precisely what the issues are, exactly what proof, evidence, or testimony is required to meet that issue and exactly what support Intervenor intends to adduce for its allegations." River Bend, 6 NRC at 771.

At this late date in the proceeding, with little time remaining before the prehearing conference, a participant faces a much greater burden in drafting contentions (or their equivalent) precisely. Otherwise, the other parties are unable to prepare their cases adequately. The State has not met this burden.

II. SPECIFIC ISSUES

Issue 1: Applicants object to the admission of Issue 1. Issue 1 is impermissibly vague since the State has failed to indicate which criteria set forth in 10 C.F.R. Part 50, Appendix B, Applicants' Quality Assurance/Quality Control Program has failed to meet. Nor does the State indicate which problems the NRC Staff has failed to address adequately in the SER.

Issue 2: Applicants object to the admission of Issue 2. Issue 2 is impermissibly vague because the State has failed to draw the required nexus between the

generic problem of systems interaction, which the Staff is presently addressing as Unresolved Safety Issue A-17, and the Clinton Power Station. The State has failed to indicate any circumstances which would prohibit an operating license from issuing in spite of the unresolved safety issue. Consequently, Issue 2 lacks the required nexus. Virginia Electric and Power Company (North Anna Nuclear Power Station, Units 1 & 2) ALAB-491, 8 NRC 245 (1978).

Issue 2 also in essence restates Prairie Alliance's Proposed Contention 8 of March 30, 1981, which the Board denied as not setting forth the basis for the contention with the specificity required by 10 C.F.R. § 2.714. Illinois Power Co. (Clinton Power Station, Unit 1 & 2), LBP-81-5, 13 NRC 708, 714 (1981). For the same reason that the Board denied Proposed Contention 8, Issue 2 is impermissibly vague and should be denied.

III. FAILURE TO MEET THE REQUIREMENTS FOR LATE-FILED CONTENTIONS

The State in its Motion indicates that the lateness factors of 10 C.F.R. § 2.714(a) should not apply to its proposed issues because these factors are appropriate only for the admission of contentions by parties participating under 10 C.F.R. § 2.714(a) and not for interested states participating under 10 C.F.R. 2.715(c), citing Cincinnati Gas & Electric Company (William H. Zimmer Nuclear Station)

LBP-79-22, 10 NRC 213 (1979). However, in Zimmer, the Board merely stated that it was inappropriate to apply strictly the 10 C.F.R. § 2.714(a) factors in determining whether to accept the City of Cincinnati's contention. Id. at 216. Moreover, in Zimmer the Board applied the lateness factors to a contention submitted by an interested governmental body. The State has had nearly a year in which to formulate any issues that it may have wished to raise. It should not be permitted to raise new issues at this late date.

Good Cause for Failure to File on Time. The State has failed to show any good cause for the admission of either Issue 1 or Issue 2. Issue 1 is quite similar to Admitted Contention 2. The State concedes this when it states on page 4 of its Motion, "the factual basis for Issue 1 is closely related to that for Prairie Alliance Contention 2, which has already been admitted." To the extent that Issue 1 differs from Contention 2, it could have and should have been submitted at the time that the original proposed contentions were under consideration by the Board. Issue 2 is merely a restatement of Prairie Alliance Proposed Contention 8, which this Board rejected. Clinton Power Station, 13 NRC at 714. The State has failed to give any specific reasons why the Board should reconsider the previous rejection of this issue.

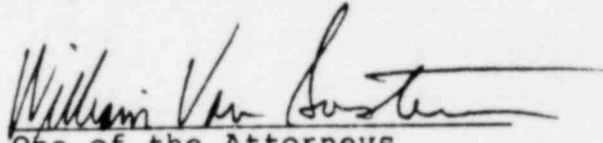
Availability of Other Means by Which Petitioner's Interest Will Be Protected. To the extent that Issue 1 depends on the same facts as Admitted Contention 2, the State's interest in this issue will be protected through the litigation of Admitted Contention 2 in the licensing proceedings. Issue 2, as noted above, is so vague that it is unclear what the State's interest is.

Development of a Sound Record. The State has failed to show the extent to which its participation would be expected to assist in developing a sound record. It has failed to identify the "substantial technical and legal resources" which it claims it will commit to aid in the development of a sound record.

Unnecessary Delay. Both Issues 1 and 2 are re-statements of previously submitted contentions. Any litigation of Issue 1 would either duplicate or confuse litigation of Admitted Contention 2 and thereby delay the proceedings. Issue 2 is impermissibly vague. Any attempt to conduct litigation on this issue would delay the proceedings because of the vagueness.

WHEREFORE, for all the reasons stated above,
Applicants request that the Board deny the State's Motion
for Leave to File Statement of Issues.

Respectfully submitted,

A handwritten signature in dark ink, appearing to read "William Van Susteren", with a long horizontal flourish extending to the right.

One of the Attorneys
for Applicants

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Dated: April 12, 1982

CERTIFICATE OF SERVICE

I hereby certify that an original and two conformed copies of the foregoing document were served upon the following:

Secretary of the Commission
United States Nuclear Regulatory Commission
Washington, D.C. 20555
Attention: Docketing and Service Branch

and that one copy of the foregoing document were served upon each of the following:

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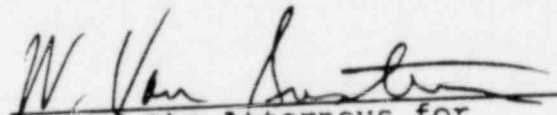
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in each case by deposit in the United States Mail, postage
prepaid on April 12, 1982.


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