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UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION
BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

IN THE MATTER OF:)

ILLINOIS POWER COMPANY, et al)

(Clinton Power Station, Unit 1))

Docket No. 50-461 OL

PRAIRIE ALLIANCE BRIEF IN SUPPORT
OF SUPPLEMENTAL CONTENTIONS

INTRODUCTION

Pursuant to leave of this Board, on March 26, 1982, PRAIRIE ALLIANCE submitted eight supplemental contentions relative to the instant proceeding. During an April 1, 1982, conference call, the parties commented upon said proposed supplemental contentions, generally presenting their respective objections or support for same. At that time, this Board granted the parties leave to file briefs by April 12, 1982, relative thereto.

ARGUMENT

Some of the proposed supplemental contentions ("PSC"), (1, 5 and 6) were submitted upon the authority of this Board's May 29, 1981, Order and because of the inadequate treatment these issues received in the DES and/or SER. Others (2, 3 and 8) were offered solely upon the latter basis. PSC 4 and 7 were filed because of external factors which could have major impact upon the operating license proceedings.

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A. PSC 1, 5 and 6

In its May 29, 1981, Order at Page 10, this Board ruled that old PRAIRIE ALLIANCE contention 5 (beyond design basis accidents) was denied "without prejudice to the profer of a specific contention after PRAIRIE ALLIANCE has had a chance to study the Staff's FES and SER". PSC No. 1 is based upon the inadequate treatment this issue was given in the SER, only as to the failure to consider cases which might warrant installation of additional safety features to mitigate the consequences of serious accidents. The Staff should have considered such cases in the SER. 45 Fed. Reg. 40101, 40103 (June 13, 1980).

"However, it is also the intent of the Commission that the staff take steps to identify additional cases that might warrant early consideration of either additional features or other actions which would prevent or mitigate the consequences of serious accidents. Cases for such consideration are those for which a Final Environmental Statement has already been issued at the Construction Permit stage but for which the Operating License review stage has not yet been reached. In carrying out this directive, the staff should consider relevant site features, including population density, associated with accident risk in comparison to such features at presently operating plants. Staff should also consider the likelihood that substantive changes in plant design features which may compensate further for adverse site features may be more easily incorporated in plants when construction has not yet progressed very far." (emphasis added)

During the April 1st conference call, Applicant and the NRC Staff asserted that the PSC No. 1 lacked specificity. PRAIRIE ALLIANCE respectfully disagrees. The contention draws directly upon the Commission's language in its policy statement and is limited to the particular aspect described therein

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(i.e. additional safety features and such cases as might warrant such features). It alerts all parties to the issues raised therein and is therefore sufficient under the rules.

The contention is germane here even though it is predicated upon Staff responsibilities. Staff reports relate directly to the adequacy and safety of Applicant's plant and the environmental impacts of same. In this sense, objections to the Staff's reports are likewise directed to the safety of the plant and environmental consequences thereof. Contentions have previously been allowed challenging the conclusions or deficiencies in governmental reports, as contrasted to those submitted by the applicants. e.g. Project Management Corporation, et al (Clinch River Breeder Reactor Plant), LBP-76-14 NRCI-76/4, CCH Nuclear Regulation Reporter, Section 30060 (1976, (ERDA F.E.S.)).

PSC Nos. 5 and 6 are generic safety issues (systems interaction and hydrogen control) which have applicability to the Clinton Station. Applicant is not excused from dealing with these issues simply because of their generic application to other plants. Applicant is required to show that the plant's overall solution to these issues has not yet been found. Virginia Electric and Power Company, (North Anna Nuclear Power Station, Units 1 and 2), ALAB-491, 8 NRC 245 (1978). There must be a finding by this Board that the Clinton Station can be

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operated without undue risk to the health and safety of the public. Gulf States Utilities Company, (River Bend Station, Units 1 and 2), ALAB-444, 6 NRC 760 (1977). Accordingly, PSC 5 and 6 are germane to these proceedings. These contentions are further authorized by the May 29, 1981, Order of this Board, at Page 14:

"If, after receipt of the SER, PRAIRIE ALLIANCE wishes to raise one or more generic issues, revised contentions having the required specificity can be filed at that time."

PSC 5 and 6 each contain the requisite specificity. Both contentions set forth specific reasons for PRAIRIE ALLIANCE'S concern on these issues and should therefore not be denied on grounds of lack of specificity or vagueness.

B. PSC 2 and 3

PRAIRIE ALLIANCE acknowledges that recent Commission amendments to 10 CFR Part 51 preclude this Board's consideration of need for power and alternative energy issues in this operating license proceeding. See 47 Fed. Reg. 12940 (March 26, 1982). However, PRAIRIE ALLIANCE respectfully submits that in the interest of "streamlining" the licensing process, the Commission has violated the National Environmental Policy Act of 1969 by these rule changes. Calvert Cliffs Coordinating Committee, Inc. vs AEC, 449 F 2d 1109 (D.C. Cir, 1974). Major changes and improvements in these areas may occur in the several years between the construction permit and operating license stages, and may thereby render inaccurate the construction permit NEPA analysis of these issues.

C. PSC 8

This PSC (socio-economic effects) is based upon the inadequate treatment this issue received in the DES. This issue is appropriate for NEPA consideration in the DES. See Project Management Corporation, et al, (Clinch River Breeder Reactor Plant), LBP-76-14, CCH, Nuclear Regulation Reporter, Section 30095 (1976). The PSC does not suffer from lack of specificity in that it presents several examples of social and economic environmental effects which were not adequately considered in the DES.

D. PSC 4 and 7

These PSCs (General Electric Withdrawal From Market and Psychological Stress) are offered now because of recent external developments which could have a major impact upon these proceedings. 10 CFR 2.714(a)(1) sets forth the requirement for admission of late filed contentions.

Now information may justify admission of late filed contentions. Cincinatti Gas and Electric Co. (Zimmer Nuclear Station), 10 NRC 213 (1979). These contentions should be admitted under 10 CFR 2.714(a)(1) because:

(i) there is good cause for the failure to file these contentions previously, as the information was not then available or did not then exist;

(ii) there are not other means to address this issue, since this is a situation involving an applicant with not previous nuclear operating experience which hopes to operate a reactor which no one has operated as of yet. If not addressed through these licensing proceedings, it will be too late to explore the ramifications of all issues presented;

(iii) PRAIRIE ALLIANCE'S participation on these issues can reasonably be expected to assist in developing a sound record. PRAIRIE ALLIANCE intends to produce witnesses and/or cross examine those of the applicant relative to said issues. As the Staff in its SER and DES has not demonstrated that it will adequately delve into these areas, the record will be developed by PRAIRIE ALLIANCE'S and the State's efforts herein;

(iv) as neither the applicant nor the NRC Staff have adequately dealt with these important issues, only PRAIRIE ALLIANCE or Illinois appears willing to pursue them. While the Staff represents the public interest, it cannot be expected to pursue all issues with the same diligence as an intervenor would pursue its own issue. Cincinatti Gas and Electric Co. (Zimmer Nuclear Station), 10 NRC 213, 215 (1979);

(v) admission of these contentions will not unduly delay the proceedings. There is ample time to complete discovery relative thereto before the August, 1982, scheduled hearings. Even if the prehearing conference and hearing were rescheduled for several months subsequent to their present times, this should not delay start up of the facility. Construction delays have already substantially set back the fuel loading date to September, 1983, and a January 15, 1982, stop-work order by the NRC as to certain electrical work on the facility continues in effect as of this writing.

PSC No. 4 is based upon an article appearing in the December, 1981, issue of Electrical Week, a copy of which is attached as Exhibit "A". Significant questions are raised by GE's announcement as to its ability to carry out design modifications mandated by present and future NRC regulations and orders, as is specifically raised in the contention. Exhibit A does report that General Electric will continue to compete in the "nuclear plant servicing" business. It is unclear whether the servicing business includes such hardware design modifications.

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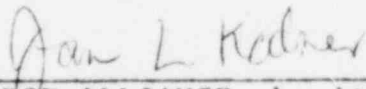
PRAIRIE ALLIANCE stands willing to withdraw PSC No. 4 if, upon clarification of this point by GE or Applicant, it is shown that GE is not discontinuing hardware design modifications.

PSC No. 7 was submitted upon the January 7, 1982, United States Court of Appeals for the District of Columbia Order in People Against Nuclear Energy vs NRC, No. 81-1131. PRAIRIE ALLIANCE had been incorrectly advised that the Court had allowed a psychological stress contention in the Three Mile Island restart proceedings. When PRAIRIE ALLIANCE was unable to obtain a copy of the opinion in the Federal Reporter advance sheets, it was erroneously assumed that the decision would be forthcoming in a later volume. It has now come to PRAIRIE ALLIANCE'S attention that the Court did not order admission of the psychological stress contention, but rather merely directed the NRC to "prepare a statement of the reasons for its determination that psychological health is not cognizable under the Atomic Energy Act." Accordingly, PRAIRIE ALLIANCE withdraws PSC No. 7 at this time, without waiving its right to resubmit the contention subsequent to a final 1st Circuit decision in the People Against Nuclear Energy case.

CONCLUSION

For the reasons above stated, PRAIRIE ALLIANCE respectfully requests that proposed supplemental contentions 1 through 6 and 8 be admitted to these proceedings.

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DATED: April 12, 1982

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GE BOWING OUT OF NUCLEAR HARDWARE MARKET; WESTINGHOUSE WILL STICK

General Electric is bowing out of the nuclear hardware market, sees no domestic reactor orders in sight for a decade and expects to ship out its last nuclear steam supply system in 1986 or shortly thereafter. But the big diversified manufacturer will continue to compete aggressively in the nuclear plant servicing and nuclear fuel businesses including fuel reloadings. Westinghouse, the other major U.S. supplier of nuclear power plants, plans to stick it out — beating the bushes for overseas business until the domestic market comes back. With favorable shifts in political and regulatory attitudes, Westinghouse believes U.S. utilities could resume placing nuclear plant orders in four or five years. For other heavy electric utility equipment, the market ap-

praisals of the top men at GE and Westinghouse are less divergent.

Speaking before some 300 security analysts and newsmen in New York last Tuesday, GE chairman and chief executive officer John Welch said, "Our planning does not anticipate any new nuclear plant orders." He said GE would work off its backlogs and remain in the nuclear fuel and nuclear plant servicing businesses where it expects to turn a profit. "If we were starting again, we would not enter this business," Welch told his attentive audience.

Following the formal presentation, GE executive vice president and power systems sector executive Herman Hill said he expects to ship out the last of the nuclear plants now on order by the end of 1986. Contacted later, Hill said that would include the overseas orders for which GE is presently competing, but extended his deadline to "1986 or in that time frame." He said he doesn't foresee any U.S. nuclear plant orders being placed in the next decade, and he doesn't know whether the nuclear option in the U.S. will be revived after that. He said he will keep an engineering staff together for the servicing activity — hinting this could be a nucleus for expansion if GE sees things differently in the future.

At Westinghouse, power systems president Gordon Hurlbert said he still believes in "the nuclear imperative" and has faith that American citizens will arrive at the "right trade-offs" among safety, economics and fuel conservation. To revive the nuclear power option in the U.S., he said, "we must eliminate the uncertainties" now involved in the permitting process. "If some of these uncertainties are eliminated and inflation comes down," Hurlbert said, "we would expect to see nuclear orders placed by U.S. utilities within four or five years."

Meanwhile, Hurlbert said, Westinghouse will be working the overseas markets — Taiwan, South Korea, Japan, England (which has studied the possibility of going to Westinghouse-type pressurized water reactors) and Italy. Noting that Westinghouse has already closed down its Tampa, Fla., nuclear component production facility, Hurlbert said steam generators and internals are being produced at its Pensacola, Fla., plant. He said the major disadvantage U.S. heavy equipment suppliers have in working the overseas markets is the lack of competitive financing through the Export-Import Bank or other institutions. For some of its overseas work, Hurlbert said, Westinghouse is turning to foreign "sourcing" — manufacturing components in countries which will furnish competitive financing for export deals. He said such "sourcing" may be suggested for U.S. equipment orders, but that will depend on how U.S. buyers feel about such arrangements. "It would take jobs out of this country," he said.

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EXHIBIT "A"

Chairman and Chief Executive Officer
General Electric Company

Presentation to Financial Community Representatives
Hotel Pierre, New York City
December 8, 1981

Good afternoon. Thank you for joining us. Our purpose today is to give you an update on General Electric, how we are doing -- how we've done in 1981 -- then a sense of our positioning -- where we are heading -- where we want to go -- and last, a feel for how we will get there.

Page 15 Question: If you will strive not to hang on to weakness in the Eighties, will you get out of the nuclear power business and, secondly, would you enter that business now?

Mr. Welch: I will start with the second half of that one -- no! And, now, let's go to how we are addressing the first half of the question. In the first several months of my tenure on this job, John Burlingame and I have been spending a lot of time on nuclear power with Herman Hill and his associates. We think we have a realistic plan to participate in that business, because of the obligations that General Electric has taken on, and to deliver nuclear reactors from our backlog throughout the decade. We have a plan which, very candidly, does not anticipate any further new orders for equipment. It also, very candidly, plans to be profitable every single year, beginning with 1981 through the decade, by building off very successful services and fuel businesses. So, General Electric will honor its commitments in this business and deliver the orders we have in the backlog. We will be profitable by operating a very successful fuel and services business. But we aren't expecting any immediate

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NOTICE OF FILING

TO: SEE ATTACHED SERVICE LIST

PLEASE TAKE NOTICE that on this date,
I am filing on behalf of PRAIRIE ALLIANCE, INC., an original and
two copies of PRAIRIE ALLIANCE BRIEF IN SUPPORT OF

SUPPLEMENTAL CONTENTIONS

with the Secretary of the United States of America Nuclear Regu-
latory Commission, a copy of which is attached hereto and is
herewith served upon you.

JAN L. KODNER, Attorney for
PRAIRIE ALLIANCE, INC.

STATE OF ILLINOIS)

COUNTY OF COOK)

SS.

PROOF OF SERVICE

The undersigned certifies that he caused a copy of _____
PRAIRIE ALLIANCE BRIEF IN SUPPORT OF SUPPLEMENTAL
CONTENTIONS

filed on behalf of PRAIRIE ALLIANCE, INC., to be served upon:

SEE ATTACHED SERVICE LIST

by depositing in the U.S. Mail at 173 West Madison Street,
Chicago, Illinois, with proper postage prepaid, on _____
April 12, _____, 1982.

Subscribed and Sworn to before me
this 12th day of April, 1982.

Victoria Lindstrom

Notary Public

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