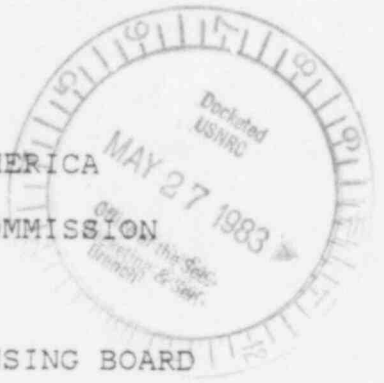
Filed: May 24, 1983



UNITED STATES OF AMERICA

NUCLEAR REGULATORY COMMISSION

before the

ATOMIC SAFETY AND LICENSING BOARD

In the Matter of	)	
PUBLIC SERVICE COMPANY OF NEW HAMPSHIRE, et al.	)	Docket Nos. 50-443 OL 50-444 OL
(Seabrook Station, Units 1 & 2)	)	

APPLICANTS' ANSWER TO
"SAPL's MOTION TO AMEND
PETITION TO INTERVENE"

The Applicants hereby answer "SAPL's Motion to Amend Petition to Intervene" (hereinafter "Motion"), and say that, for the reasons set forth herein, the Motion should be denied on grounds of timeliness.

D503

The Proposed Contention

SAPL has proposed a very simple contention, namely that a particular piece of paper (or information) has not been submitted to the Staff. This form of contention does not raise any question regarding the compliance of the Seabrook design with any applicable regulation, nor does it raise any question about the Applicants' compliance with any applicable regulatory standard. Indeed, it would be -- or will be -- a complete answer to the contention (were it admitted), that the piece of paper was submitted; this form of contention does not admit of any contest about the sufficiency of the contents of the piece of paper when and if submitted.

The Contention is Untimely

Obviously, the form of contention proposed by SAPL does not require any technical analysis. One need not learn anything about the Seabrook design, nor need one possess any level of technical understanding at all, the lack of which might be urged in support of an excuse for tardiness.

SAPL's proffered excuse for tardiness is limited to the publication in early March, 1983, of the SER. It

relies on nothing else. Yet, as SAPL itself points out, the regulatory requirement for the submission of the piece of paper to which it refers was promulgated on October 31, 1980, some 2½ years ago. The application for the operating license (including the FSAR) was filed in October, 1981, some 19 months ago. The FSAR constitutes the Applicants' technical submissions to the Staff. SAPL does not make and it does not attempt any showing that these documents were inadequate to reveal the supposed failure to have made the NUREG-0737, Item II.F.2 submission. There was, therefore, no need of SAPL to await the summary of open items contained in the SER in order to advance a contention that something was still open.

We submit that it is fundamental that, if there are two or more successive notices of a possible contention, only the first one can legitimate a late-filed contention under Catawba.[1]

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[1] "Where, however, the non-existence or public unavailablity of relevant documents made it impossible for a sufficiently specific contention to have been asserted at an earlier date, that factor must be deemed controlling . . . ." Duke Power Company (Catawba Nuclear Station, Units 1 and 2), ALAB-687, 16 NRC ___, ___, CCH Nuc. Reg. Rptr. ¶ 30,725, at p. 30,531 (August 19, 1982) (emphasis added).

Moreover, even if somehow the SER provided SAPL with the first ability to advance the presently proposed contention,[2] the SER was published March 7, 1983. That was some 70 days before SAPL filed the motion at bar. Given the utter simplicity of the contention proposed, it is simply inadequate to assert that "This contention is filed as the result of SAPL's ongoing review of the Staff's Safety Evaluation Report, issued in March of this year," which is the entirety of SAPL's proffered justification for tardiness. SAPL has not offered -- and, frankly we do not see how it could -- any explanation for why it took more than two or three months to file a contention to the effect that a particular piece of paper hasn't been filed.

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[2]SAPL's apparently implicit assertion that it had no notice of this particular matter prior to the publication of the SER is mistaken. On February 17, 1983, the Yankee Atomic Project Manager for Seabrook wrote to the Staff concerning "the open item regarding NUREG-0737, Item II.F.2," stating, inter alia, that "[w]hen detailed information on the Inadequate Core Cooling Instrumentation become available, the OL Application will be amended." A copy of this letter was served on all parties, including SAPL. (A copy of the letter is attached.)

February 17, 1983 was 88 days -- nearly three months -- prior to the filing of the pending motion by SAPL. SAPL does not offer any excuse for not proceeding on the basis of this notice, nor could it:

SAPL is Not Without Other Means
of Having its Interest Protected

If, as SAPL contends, the making of the NUREG-0737, Item II.F.2 submission to the Staff is a regulatory condition precedent to the issuance of an operating license, then there can be no legitimate doubt that the Director of Nuclear Reactor Regulation will not issue the license until the submission has been made. There is, therefore, no need of litigation on the point in order to protect the interests of SAPL insofar as they are affected by the very limited contention it now proposes, and, a fortiori, it cannot be said that the interests of SAPL in this regard will be wholly unprotected if the scope of litigation is not opened up to include this issue.

"[A]n intervention petitioner has an ironclad obligation to examine the publicly available documentary material pertaining to the facility in question with sufficient care to enable it to uncover any information that could serve as the foundation for a specific contention." Catawba, op. cit., supra, at p. 30,530.

Conclusion

For the foregoing reasons, SAPL has failed to satisfy the requirements of 10 CFR § 2.714 regarding late-filed contentions, and this motion should be denied.

Respectfully submitted,

Thomas G. Dignan, Jr.
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Dated: May 24, 1983

CERTIFICATE OF SERVICE

I, Robert K. Gad III, one of the attorneys for the Applicants herein, hereby certify that on May 24, 1983, I made service of the within "APPLICANTS' ANSWER TO 'SAPL's MOTION TO AMEND PETITION TO INTERVENE'" by mailing copies thereof, postage prepaid, to:

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T.F. B7.1.2
G.S. Thomas

February 17, 1983

SBN-472
T.F. B7.1.2

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Washington, DC 20555

Attention: Mr. George W. Knighton, Chief
Licensing Branch 3
Division of Licensing

References: (a) Construction Permits CPPR-135 and CPPR-136, Docket Nos. 50-443 and 50-444

Subject: Open Item Response: (SRP 4.4; Core Performance Branch)

Dear Sir:

In response to the open item regarding NUREG-0737, Item II.F.2, Instrumentation for the Detection of Inadequate Core Cooling, we have enclosed a commitment to utilize the following instrumentation:

- Reactor Coolant Inventory Monitor
- Saturation Monitor
- Core Exit Thermocouples

When detailed information on the Inadequate Core Cooling Instrumentation becomes available, the OL Application will be amended.

Very truly yours,

YANKEE ATOMIC ELECTRIC COMPANY

John DeVincentis
Project Manager

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JD/fb

cc: Atomic Safety and Licensing Board Service List

8305240331

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4.4 ICC Instrumentation

Instrumentation that will be available to provide an unambiguous, easy-to-interpret indication of inadequate core cooling (ICC) include:

1) Reactor coolant inventory monitor

2) Saturation monitor

3) Core exit thermocouples

We are in the process of selecting the instrumentation that will meet the requirements of the NRC letter, dated November 9, 1979(Saturation monitor, item 2.1.3.b) and NUREG 0737 (Instrumentation for detection of inadequate core cooling (ICC), item II.F.2) with additional clarification for the reactor coolant inventory monitor in NRC Generic Letter 82-28, dated December 10, 1982 (Inadequate Core Cooling Instrumentation System). The following is the available information on the ICC instrumentation. Detailed design information, including the information required by the documents previously mentioned, will be provided when it is available.

1) Reactor coolant inventory monitor

The Westinghouse Reactor Vessel Level Instrumentation System (RVLIS) and the Combustion Engineering Heated Junction Thermocouple System (HJTC) are being evaluated for selection of a reactor vessel inventory system. As these systems operate on entirely different principles, further information cannot be provided until a system is selected.

2) Saturation Monitor

The saturation monitor will receive inputs from redundant, safety grade, hot leg temperature and reactor coolant pressure instruments as well as core exit thermocouples. There will be a dedicated display to indicate the saturation margin. A pressure-temperature display with a saturation curve will also be available on the plant computer.

The device to calculate the saturation margin has not been selected as the decision may be affected by the reactor coolant inventory monitor selection.

3) Core Exit Thermocouples

Core exit temperature is monitored by thermocouples that are part of the fixed/moveable incore detector system. There are 58 thermocouples mounted at the tip of the bottom entry detector string, about 2 inches above the fuel.

All of the thermocouples will be displayed on a spatially oriented core map generated by the plant computer. The display as well as direct readout, hard copy, trends, and selective readings will be available on demand. Appropriate alarms will be available on the Video Alarm System (VAS).

A safety grade backup display will be provided where the readings of at least 16 thermocouples, 2 per quadrant per train, can be obtained in less than 6 minutes. The backup display method has not been determined as the decision may be affected by the reactor coolant inventory monitor selection.

The integration of all of the ICC instrumentation into the Seabrook Station will include considerations of human factors relating to use during normal and abnormal conditions, integration into the emergency procedures and operator training, and the relation to other alarms and indications.