

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

DOCKETED  
USNRC

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

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In the Matter of

KANSAS GAS AND ELECTRIC COMPANY  
et al.

(Wolf Creek Generating Station,  
Unit No. 1)

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Docket No. 50-482

INTERVENORS' RESPONSE TO APPLICANTS' RESPONSE TO INTERVENORS'  
OBJECTIONS TO PREHEARING CONFERENCE ORDER

This response is filed in accordance with the Board's Order dated April 8, 1983, whereby all parties were given permission to reply to the Intervenor's Objection to Prehearing Conference Order.

AMENDMENT OF CONTENTIONS

1. The Intervenor offers the following in support of their request to amend the Prehearing Conference Order to reflect "an agreement among the parties regarding amendments to the Stipulation of Contentions."
2. At a recess during the Prehearing Conference on March 10, 1983, the Intervenor's attorney (hereafter called attorney) discussed the filing of "Proposed Stipulation of Contentions" with the Applicants' attorneys and the attorneys for the staff and FEMA. At that discussion, the attorney expressed concern about agreeing to stipulations and then having circumstances arise

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thereafter which would cause the Intervenor's to want to amend the stipulations. The attorney believes that as a result of that discussion there was agreement that the contentions could be amended as requested by the intervenors. When the hearing resumed, the attorney stated to the Board the desire of the Intervenor's to be able to amend the contentions at a later time. (See Transcript, page 139) Since neither the staff, FEMA, or the Applicants objected to the attorney's statement, which came immediately after the recess, he assumed that they had accepted his position and that there was an agreement to permit amendments.

3. Subsequent to the adoption of a stipulation about contentions, the FEMA findings about the adequacy of the emergency plans will be filed, the NRC rules could change, and the plans prepared by Kansas Gas and Electric Company, the State of Kansas, and Coffey County, may be amended. If that occurs, the Intervenor's want to be able to ask the Board to determine that good cause exists to allow the Intervenor's to amend the stipulations to reflect any such event that occurs after the date of the Prehearing Conference. It was the concern of the Intervenor's, and still is, that if they agree to the stipulations, it might be contended by the Applicants, the Board, the staff, or FEMA that the Intervenor's had waived their right to amend those stipulations, based upon due cause, due to a change in circumstances.

4. The Applicants in their response, dated April 15, 1983, page 3, acknowledge that Intervenor's are entitled to amend their contentions upon a showing of good cause. The staff also agrees that there is a basis for the amendment of the contentions (Page 2, Staff's Reply, dated April 15, 1983).

5. Therefore, the Intervenor will withdraw their objection raised in paragraph 2 of their "Objection to Prehearing Conference Order" if the Board will order that upon a showing of good cause, (or as specified on page 2 of the Staff's reply) the contentions of the Intervenor can be amended after the Stipulation of Contentions is accepted.

#### ADDITIONAL WITNESSES

6. The Intervenor offer the following in support of their request that they be allowed to call as witnesses employees of the Kansas Department of Transportation and employees of the Kansas Highway Patrol

7. The Intervenor acknowledge that they received copies of the 1981 draft of the Kansas Plan in 1981 and 1982 as indicated by the Applicants in their response to the Intervenor's Objection

8. The copies of the Kansas draft received by the Intervenor failed to contain substantial detail of the plan. For example, many parts of the Table of Contents stated that material would be "added later". See attached pages ix - xii of the Table of Contents of the 1981 draft of the Kansas Plan.

9. In January and in February 1983, the attorney for Intervenor contacted Leon Mannell, the Kansas Radiological Systems Administrator, who is responsible for drafting the Kansas Plan. Mr. Mannell advised the undersigned that the new draft of the Kansas Plan was being prepared and that it would be substantially different from the 1981 draft.

10. In May 1982 and in January and February, 1983, the Intervenor's attorney contacted Steve Ferris at the FEMA Region 7 office in Kansas City and discussed with him the status of the latest draft of the Kansas Plan. The undersigned was told by Mr. Ferris that the draft would probably be different from the 1981 draft.

11. Therefore, based on the matters set forth in paragraphs 8 - 10, the Intervenor's felt it would be an unwise use of their time to review in detail the 1981 draft that would later be substantially changed.

12. Consequently, the Intervenor's decided to wait until the 1983 draft of the Kansas Plan was available and then review it to determine what contentions to raise about it and which witnesses to call. Immediately after receiving the 1983 draft of the Kansas Plan, it was reviewed by the Intervenor's. On March 30, 1983, (only 21 days after receiving the draft of the plan) the Intervenor's by their Objection to the Prehearing Conference Order notified all parties and the Board that they wish to call the additional witnesses. This was only 20 days after the Applicants and other parties were advised of the other witnesses that the Intervenor's desire to call. This would seem to be adequate notice to all parties. If the Intervenor's are allowed to add the additional witnesses the Applicants and other parties will still have an adequate amount of time to prepare for the hearings commencing in September and will be able to prepare to meet any testimony offered by the additional witnesses.

13. Therefore, the Intervenor's Request to Call Additional Witnesses should be allowed by the Board.

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Dated: April 20, 1983.

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

Before the Atomic Safety and Licensing Board

In the Matter of	)	
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KANSAS GAS AND ELECTRIC COMPANY, <u>et. al.</u>	)	Docket No. 50-482
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Unit No. 1)	)	

CERTIFICATE OF SERVICE

This is to certify that a copy of the "Intervenor's Response to Applicants' Response to Intervenor's Objections to Prehearing Conference Order" has been served on each of the following by deposit in the U.S. Mail, first class on

April 20, 1983.

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# NUCLEAR FACILITIES INCIDENTS RESPONSE PLAN

## ANNEX A

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