

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

Before the Atomic Safety and Licensing Board

In the Matter of)	
)	
Philadelphia Electric Company	,	Docket Nos. 50-352
)	50-353
(Limerick Generating Station,)	
Units 1 and 2))	

APPLICANT'S ANSWER TO LIMERICK ECOLOGY
ACTION'S RESPECIFICATION OF CONTENTION I-41

Preliminary Statement

On September 28, 1983, Limerick Ecology Action ("LEA") submitted a respecification of Contention I-41 entitled "Exacerbation of Accidents." It is essentially the same contention filed by LEA on April 12, 1983 with the addition of a quotation from the NRC Staff's Safety Evaluation Report Related to the Operation of Limerick Generating Station, Units 1 and 2, NUREG-0991 (August 1983) ("SER").

In its Memorandum and Order Confirming Schedules Established During Prehearing Conference (May 16, 1983) (slip op. at 8), the Licensing Board stated that this contention could be respecified and refiled at an appropriate time after the Staff's analyses of these issues as applied to Limerick became available. In its Memorandum and Order Shortening Schedule for Answers to Respecification of LEA Contention I-41 (October 3, 1983) (slip op. at 1), the Board directed that Applicant's answer to this

contention be received by the NRC Staff by October 7, 1983 and by the Board and LEA by October 11, 1983.

Argument

Applicant opposes admission of respecitied Contention I-41. Applicant submits that the Staff's analysis of Unresolved Safety Issues ("USI") A-17 and A-47, the subject of this contention, meets the requirements of North Anna^{1/} in that the Staff's perception of the nature and extent of the relationship between each significant unresolved generic safety question and the operation of the reactor under scrutiny has been adequately analyzed and discussed in the SER. The Staff's presentation is a reasonable discussion of the considerations which led it to the conclusion that an operating license can be issued even if the generic issues remain unresolved. The discussion of the matters in the SER is more than simply boilerplate, as alleged by LEA.

It is Applicant's position that adherence to the Commission's current licensing requirements assures that systems interaction has been adequately taken into account in the facility design. The Commission has explicitly stated that the Staff should continue to use conformance to

^{1/} Virginia Electric and Power Company (North Anna Nuclear Power Station, Units 1 and 2), ALAB-491, 8 NRC 245, 248 n.6 (1978).

regulatory requirements as the exclusive licensing basis for nuclear power plants.^{2/}

In assessing the adequacy of the proposed contention against the requirements of 10 C.F.R. §2.714, it must be recognized that the nature of the action plan for USI A-17 is different than most USI's in that it seeks to identify undetected problems rather than solve a specific problem.^{3/} LEA has failed to identify any systems interaction that has not been considered and, additionally, has failed to identify any structure, system, or component that is improperly classified. Thus, this contention would place the Applicant and Staff in the position of having to prove the negative, i.e., that there are no undiscovered system interactions of importance.

This contention must be viewed against the state of the Limerick application. There is sufficient information in the docket that, consistent with the requirements of Catawba^{4/} LEA should have alleged specific structures, systems or components it believed to be improperly

^{2/} Policy Statement on Safety Goals for the Operation of Nuclear Power Plants, 48 Fed. Reg. 10772 (March 14, 1983).

^{3/} Long Island Lighting Company (Shoreham Nuclear Power Station, Unit 1), LBP-83-57 (September 21, 1983) (slip op. at 162).

^{4/} Duke Power Company (Catawba Nuclear Station, Units 1 and 2), CLI-83-19, 17 NRC ____ (June 30, 1983).

classified, or systems interactions not properly considered. Further, LEA should have identified, with particularity, the nature of such alleged inadequacies. The existence of a specific Probabilistic Risk Assessment (including the original Probabilistic Risk Assessment as supplemented by the Severe Accident Risk Assessment ("SARA")) for the Limerick Station, which utilizes a sophisticated fault tree and event tree methodology,^{5/} creates an obligation on the part of an intervenor to submit more than a general allegation of inadequacy. The SARA analysis included a fire hazards and flooding analysis. A complete fire hazards study was also separately conducted.^{6/} Furthermore, analyses of such items as high energy line breaks,^{7/} TMI-2 implications,^{8/} studies of the potential for, and effects of, both internal and external missiles,^{9/} analysis of heavy loads^{10/} and analysis of failure of all nonseismic

^{5/} These trees, which include proprietary material, were made available to LEA during informal discovery.

^{6/} Fire Protection Evaluation Report. This report is a part of the application for an operating license.

^{7/} FSAR Section 3.6. See also Response to Question 410.16.

^{8/} FSAR Section 1.13.

^{9/} FSAR §3.5.

^{10/} See submittals dated June 18, 1981, September 22, 1981, April 2, 1982 and January 31, 1981 in response to NRC Letter dated December 22, 1980.

Category I equipment^{11/} provide assurance that system interactions have been adequately considered at Limerick.

When viewed against this background, the Staff's analysis of USI A-17 is substantive, informative and fulfills the requirements of North Anna. Even if LEA's general complaint that the Staff's treatment of systems interaction might be applicable to any other plant were correct, that fact alone does not raise a litigable issue. It merely amounts to LEA's acknowledgement that the Commission's handling of these issues is consistent and that no particular problem has been identified at Limerick. In short, LEA has wholly failed to satisfy the requirements of specificity and bases in proposing this contention.

With regard to Subsection (b) of Contention I-41, there is no discussion whatsoever regarding any inadequacy in the Staff's presentation regarding USI A-47 appearing on pages C-14 through C-16 of the Staff SER, nor is any specificity or bases provided for this portion of the contention.

The Commission's precedents regarding contentions raising such generic issues are clear that this lack of specificity and bases is fatal. In the Clinton proceeding, the Licensing Board rejected practically the same contention

^{11/} See Response to Question 410.78.

on systems interaction.^{12/} Moreover, in the Diablo Canyon proceeding, the Appeal Board affirmed a determination by the Licensing Board that there is no "requirement in the regulations" for a system interaction analysis.^{13/} Relying upon this holding, the Licensing Board in the Seabrook proceeding likewise agreed that intervenor "has not identified any statutory or regulatory basis to establish that 10 CFR Part 50, Appendix A requires analysis of systems interaction."^{14/}

In addition to lacking any regulatory basis, the proposed contention lacks bases and specificity. In rejecting a like contention in Catawba, the Board ruled:

[Intervenor] makes no attempt to establish a nexus between the undefined systems interaction problems encountered at other reactors and Catawba, to

^{12/} Illinois Power Company (Clinton Power Station, Unit No. 1), LBP-82-103, 16 NRC 1603, 1608 (1982). The Board cited and relied upon the Appeal Board decisions in Gulf States Utilities Company (River Bend Station, Units 1 and 2), ALAB-444, 6 NRC 760 (1977) and North Anna, supra. See also Wisconsin Electric Power Company (Point Beach Nuclear Plant, Units 1 and 2), ALAB-739, 18 NRC _____ (September 7, 1983) (slip op. at 8, n.8); Jersey Central Power and Light Company (Oyster Creek Nuclear Generating Station), ALAB-645, 13 NRC 1024 (1981).

^{13/} Pacific Gas and Electric Company (Diablo Canyon Nuclear Power Plant, Units 1 and 2), LBP-81-27, 14 NRC 325, 331 (1981), aff'd, ALAB-728, 17 NRC _____ (May 18, 1983) (slip op. at 57-59).

^{14/} Public Service Company of New Hampshire (Seabrook Station, Units 1 and 2), LBP-82-76, 16 NRC 1029, 1034 (1982), recon. denied, LBP-82-106, 16 NRC 1649, 1658 (1982).

identify the specific systems of concern, or to postulate the kind of impact that might endanger the safety and health of the general public. Consequently, this contention is much too vague to be admitted and is disallowed.^{15/}

Similarly, in the Shearon Harris proceeding, the Licensing Board rejected a contention which failed "to identify specific problems or particular systems that might interact, and to postulate the possible consequences as a basis."^{16/} Thus, even if LEA did not have to meet the special requirements for raising a generic issue, its mere allusion to possible problems is too vague to be admissible.^{17/}

^{15/} Duke Power Company (Catawba Nuclear Station, Units 1 and 2), LBP-82-16, 15 NRC 566, 586 (1982), recon. denied, LBP-82-51, 16 NRC 167, 173 (1982).

^{16/} Carolina Power & Light Company (Shearon Harris Nuclear Power Plant, Units 1 and 2), Docket No. 50-400-OL, "Memorandum and Order (Reflecting Decisions Made Following Prehearing Conference)" (September 22, 1982) (slip op. at 37).

^{17/} E.g., Carolina Power and Light Company (H.B. Robinson Steam Electric Plant, Unit 2), Docket No. 50-261-OLA, "Memorandum and Order (Report on Special Prehearing Conference Held Pursuant to 10 CFR 2.751a)" (April 12, 1983) (slip op. at 25-26).

Conclusion

For the foregoing reasons, respecified Contention I-41
should be denied.

Respectfully submitted,

CONNER & WETTERHAHN, P.C.

A handwritten signature in dark ink, appearing to read "Mark J. Wetterhahn", with a stylized flourish at the end.

Mark J. Wetterhahn
Counsel for the Applicant

October 6, 1983

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CERTIFICATE OF SERVICE

I hereby certify that copies of:

1. Applicant's Notification of Transmittal of Additional Material Regarding Limerick Ecology Action's Contention I-42;
2. Applicant's Answer to Limerick Ecology Action's Respecification of Contention I-41;
3. Letter to Docketing and Service Section enclosing "Affidavit of Vincent S. Boyer, Senior Vice President, Nuclear Power, Philadelphia Electric Company";
4. Applicant's Answer to Motions to Reword Contentions I-62 and V-4;
5. Applicant's Answer to Friends of the Earth Petition for Extension of Time and Scheduling of Evidentiary Hearings After January 1, 1984 and Motion to Dismiss Contentions V-3a and V-3b or, Alternatively, for Other Sanctions,

all dated October 6, 1983 in the captioned matter have been served upon the following by deposit in the United States mail this 6th day of October, 1983:

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