

7/26/85

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

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USNRC

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In the Matter of)
)
GEORGIA POWER CO.)
 et al.)
)
(Vogtle Electric Generating Plant,)
 Units 1 and 2))

Docket Nos. 50-424
50-425
(OL)

OFFICE OF SECRETARY
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NRC STAFF RESPONSE TO APPLICANTS' MOTION
FOR SUMMARY DISPOSITION OF CONTENTION 10.3
(CABLE IN MULTICONDUCTOR CONFIGURATION)

I. INTRODUCTION

On July 1, 1985, Applicants filed a Motion for Summary Disposition of Joint Intervenor's Contention 10.3 alleging inadequacies in the testing of cables in multiconductor configurations at the Vogtle facility. The Staff offers the following response to Applicants' Motion and, for the reasons presented below, submits that the Motion should be granted.

II. LEGAL STANDARDS GOVERNING SUMMARY DISPOSITION

The Commission's Rules of Practice provide that summary disposition of any matter involved in an operating license proceeding shall be granted if the moving papers, together with the other papers filed in the proceeding, demonstrate that there is no genuine issue of material fact and that the movant is entitled to a favorable decision as a matter of law. 10 C.F.R. § 2.749(d). The Rules also provide for summary

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disposition as to any portions of a matter involved in a proceeding as to which there is no genuine issue of material fact. 10 C.F.R. § 2.749(a). See, e.g., Public Services Company of Oklahoma, et al., (Black Fox Station, Units 1 and 2), LBP-77-46, 6 NRC 167 (1977); Toledo Edison Company (Davis-Besse Nuclear Power Station), LBP-73-30, 6 AEC 691, 699 (1973).

The use of summary disposition has been encouraged by the Commission and the Appeal Board to avoid unnecessary litigation over contentions for which an intervenor has failed to establish the existence of a genuine issue of material fact. See, e.g., Statement of Policy on Conduct of Licensing Proceedings, CLI-81-8, 13 NRC 452, 457 (1981); Houston Lighting & Power Company (Allens Creek Nuclear Generating Station, Unit 1), ALAB-590, 11 NRC 542, 550-01 (1980). A material fact is one that may affect the outcome of the litigation. Mutual Fund Investors Inc. v. Putnam Management Co., 553 F.2d 620, 624 (9th Cir. 1977).

Although the burden of showing the absence of any genuine issue of material fact is upon the moving party, and the record will be viewed in the light most favorable to the party opposing the motion, ^{1/} "a party opposing the motion . . . must set forth specific facts showing that there is a genuine issue of fact," 10 C.F.R. § 2.749(b), and may not rest upon the "mere allegations or denials" of his answer. Virginia Electric and Power Company (North Anna Nuclear Power Station, Units 1 and

^{1/} Cleveland Electric Illuminating Co., et al. (Perry Nuclear Power Plant, Units 1 and 2), ALAB-443, 6 NRC 741, 753-54 (1977).

2), ALAB-584, 11 NRC 451, 453 (1980). Any facts set forth in the statement of material facts required to be served by the movant will be deemed to be admitted if not controverted by the opponent. 10 C.F.R. § 2.749(a). Any answers supporting or opposing a motion for summary disposition must be served within twenty days after service of the motion. Id. If no answer properly showing the existence of a genuine issue of material fact is filed, the decisions sought by the movant, if properly supported, shall be rendered. 10 C.F.R. § 2.749(b).

III. APPLICANTS' MOTION

Contention 10.3 is a subpart of Joint Intervenors' Proposed Contention 10, which asserted:

Applicant has not shown that safety-related electrical and mechanical equipment and components will be environmentally qualified at the onset of operations and throughout the life of the plant as required by General Design Criteria 1, 2 and 4 of 10 CFR 50, Appendix A and other applicable NRC rules.

All the parties agreed that Contention 10 should be subdivided into eleven specific subcontentions. Subcontention 10.3 focused on the testing performed for multiconductor cable configurations. In admitting the Contention, the Board noted:

Again, Petitioners cite a Sandia study (not identified) for the proposition that in tests of EPR cable material, multiconductor configurations performed "substantially worse" than single conductor configurations and that qualification testing employing only single conductors may not be representative of multiconductor performance. Petitioners further allege that the results of this report have not been considered in Applicants' testing program. The Staff does not object to the admission of this subcontention, nor do Applicants.

Based on the foregoing reasons, we admit
Subcontention 10.3.

Memorandum and Order of September 5, 1984 on Special Prehearing
Conference, at 26.

In their Motion, Applicants describe in detail the relevant Sandia studies describing the testing of multiconductor configurations. The Staff agrees completely with the Applicants' description of these studies. (Affidavit of Hukam C. Garg, ¶ 4). In brief, Sandia tested a number of multiconductor cable configurations. One cable, consisting of ethylene-propylene rubber (EPR) insulation on the inner conductors and an outer thermoplastic jacket of chlorinated polyethylene (CPE) evidenced greater degradation in the multiconductor configuration than in the single conductor configuration. The other cables, including a number containing EPR insulation with outer jackets of hypalon or neoprene, showed no greater degradation in the multiconductor configuration than in the single conductor configuration (Id.).

Prior to the Sandia testing, the Staff accepted IEEE Standard 383-1974 which allows for single conductor testing to be applied to multiconductor configurations. The Sandia results do not call into question the adequacy of single conductor testing for the environmental qualification of multiconductor cables with hypalon or neoprene outer jackets. Accordingly, the Staff continues to believe the IEEE standard properly allows for single conductor testing of multiconductor testing for cables with hypalon or neoprene outer jackets. (Garg Affidavit, ¶¶ 3,4,8).

The Staff is currently evaluating the Sandia results as they apply to multiconductor configurations with thermoplastic CPE outer jackets. The Staff believes excessively high steam pressure during the testing may have been responsible for the failure of this material; further testing using more realistic steam pressures to simulate LOCA conditions is planned. (Garg Affidavit, ¶¶ 5,6).

For purposes of evaluating both Applicants' Motion and the safety of the Vogtle facility, it is unnecessary to speculate on whether future research will result in the acceptance or rejection of multiconductor configurations with thermoplastic CPE outer jackets. Applicants have indicated that all the multiconductor cables at Vogtle contain either hypalon or neoprene outer jackets. (Applicants' Motion at 13; Affidavit of Joel Kitchens appended to Applicants' Motion at ¶ 13). As noted above, the Sandia studies did not call into question the adequacy of multiconductor configurations using hypalon or neoprene outer jackets. The Staff will verify, as part of its review and audit of the Vogtle environmental qualification program, that the multiconductor cables at Vogtle do not use thermoplastic CPE outer jackets. (Garg Affidavit, ¶ 7).

To summarize the above discussion, the Sandia tests called into question the reliance upon single conductor testing for the environmental qualification of multiconductor configurations only where such multiconductor configurations contain outer jackets of thermoplastic CPE. Applicants have indicated that they will only use multiconductor configurations employing hypalon or neoprene outer jackets at Vogtle. The Sandia tests did not call into question the appropriateness of single conductor testing for multiconductor configurations using these materials

for outer jackets. Consequently, Applicants' use of single conductor testing for the environmental qualification of the multiconductor configurations to be used at Vogtle is acceptable, and Applicants' Motion for Summary Disposition of Contention 10.3 should be granted.

Respectfully submitted,

A handwritten signature in dark ink, appearing to read 'Robert G. Perlis', is written above the typed name.

Robert G. Perlis
Counsel for NRC Staff

Dated at Bethesda, Maryland
this 26th day of July, 1985