

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matter of )

Vermont Yankee Nuclear )  
Power Corporation )

(Vermont Yankee Nuclear )  
Power Station) )

Docket No. 50-271-OLA

NEW ENGLAND COALITION ON NUCLEAR POLLUTION'S  
REQUEST FOR HEARING ON  
PROPOSED AMENDMENT TO VERMONT YANKEE OPERATING LICENSE

Introduction

On January 21, 1993, the Nuclear Regulatory Commission ("NRC" or "Commission") issued public notice of an operating license amendment request by the Vermont Yankee Nuclear Power Corporation ("Vermont Yankee"), which would permit Vermont Yankee to perform extensive maintenance on the Vermont Yankee Nuclear Power Station's ("VYNPS's") "B" diesel generator for fourteen days during the current operating cycle, while the reactor is operating at power. 58 Fed. Reg. 5,435.<sup>1</sup> Pursuant to Section 189a of the Atomic Energy Act, 42 U.S.C. § 2239(a), the New England Coalition on Nuclear Pollution ("NECNP") hereby requests an adjudicatory hearing on the proposed license amendment.

---

1 The NRC also proposed to make a determination of no significant hazards consideration regarding the proposed license amendment. In a separate pleading filed today, NECNP seeks reversal of the NRC staff's proposed determination. New England Coalition on Nuclear Pollution's Comments in Opposition to Proposed Finding of No Significant Hazards Consideration (February 22, 1993).

I) Description of Petitioner

The New England Coalition on Nuclear Pollution (NECNP), founded in 1971, is a nonprofit educational association based in Vermont, with members throughout the New England states. Its purpose is to inform and educate the public concerning the hazards of nuclear power and the availability and benefits of safer and more efficient energy sources. NECNP has actively participated in many NRC rulemakings and in licensing and enforcement proceedings regarding the safety of nuclear power plants in New England. The health and safety of NECNP's members, most of who reside in the New England states, would be affected by an accident at the Vermont Yankee plant.

II. Nature of NECNP's Right Under the Act to be Made a Party to the Proceeding

In any licensing proceeding for a nuclear facility, Section 189a of the Atomic Energy Act guarantees a hearing "to any person whose interests may be affected" by the licensing action. 42 U.S.C. § 2239(a). The right to intervene under Section 189a is governed by "contemporaneous judicial concepts of standing," i.e., whether (1) the action being challenged could cause injury-in-fact to the petitioner, and (2) such injury is arguably within the zone of interest protected by the Atomic Energy Act or the National Environmental Policy Act. Vermont Yankee Nuclear Power Station (Vermont Yankee Nuclear Power Station), LBP-90-6, 31 NRC 85, 89 (1990), citing Portland General Electric Co. (Pebble Springs Nuclear Plant, Units 1 and 2), CLI-76-27, 4 NRC 610, 613-14 (1976).

NECNP meets the Commission's requirements for asserting standing on behalf of its members. See Houston Lighting and Power Co. (South Texas Project, Units 1 and 2), LBP-79-10, 9 NRC 439, 447-48 (1979), aff'd, ALAB-549, 9 NRC 644 (1979). As demonstrated in the attached affidavits of Charles R. Gorsuch, Jessie Haas, and David N. Pyles, NECNP has members who live within 25 miles of the VYNPS, who have authorized NECNP to intervene in this proceeding on their behalf, and whose safety would be adversely affected by the unsafe operation of the VYNPS under the proposed license amendment.

Moreover, ~~NECNP~~ meets the Commission's special standing test for operating license amendment proceedings, i.e., that the presumption of standing for organizational members who live within 50 miles of a nuclear facility applies only in those cases involving "significant" amendments involving "obvious potential for offsite consequences." Florida Power & Light Co. (St. Lucie Nuclear Power Plant, Units 1 and 2), CLI-89-21, 30 NRC 325, 329-30 (1989). As discussed in detail in New England Coalition on Nuclear Pollution's Comments in Opposition to Proposed Finding of No Significant Hazards Consideration, filed today and attached and incorporated by reference herein, the proposed license amendment raises a significant hazard to public health and safety because it would involve the intentional disabling of an important safety system, the "B" diesel generator, at power operation, in violation of General Design Criterion 17 of Appendix A to 10 C.F.R. Part 50 ("GDC 17"), NRC regulatory guidance, and the

plant's technical specifications. Thus, the proposed license amendment would leave the VYNPS without a backup source of onsite energy in the event of a loss of offsite power and a single failure in the "A" diesel generator, with the potential for a beyond design basis accident involving significant offsite consequences.

### III. ASPECTS OF PROCEEDING ON WHICH NECNP WISHES TO INTERVENE.

NRC regulations at 10 C.F.R. § 2.714(a)(2) require a petitioner to set forth "the specific aspect or aspects of the subject matter of the proceeding as to which petitioner wishes to intervene." A petitioner may satisfy this requirement by "identifying general potential effects of the licensing action or areas of concern that are within the scope of matters that may be considered in the proceeding." Vermont Yankee Nuclear Power Corporation, supra, 31 NRC at 89, citing Virginia Electric and Power Co. (North Anna Power Station, Units 1 and 2), ALAB-146, 6 AEC 631, 633 (1973).

NECNP seeks to litigate the questions of whether the proposed license amendment violates GDC 17 and Regulatory Guide 1.93, is beyond the scope of actions permitted by the plant's technical specifications, and poses an undue risk to public health and safety.

Respectfully submitted,



Diane Curran  
HARMON, CURRAN, GALLAGHER &  
SPIELBERG  
2001 "S" Street N.W.  
Washington, D.C. 20009  
(202) 328-3500

Counsel to NECNP

February 22, 1993

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matter of

Vermont Yankee Nuclear  
Power Corporation

(Vermont Yankee Nuclear  
Power Station)

Docket No. 50-271-OLA

AFFIDAVIT OF CHARLES R. GORSUCH

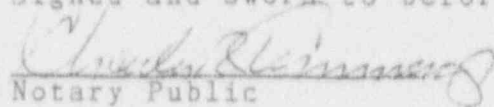
CHARLES R. GORSUCH deposes and states:

My name is Charles R. Gorsuch. My address is Box 2434, Orchard Street, West Brattleboro, Vermont, 05303. My home lies within 10 miles of the Vermont Yankee nuclear power plant. I am a member of the New England Coalition on Nuclear Pollution ("NECNP"). I have authorized NECNP to represent my interests in this proceeding before the U.S. Nuclear Regulatory Commission ("NRC"), for the consideration of Vermont Yankee Nuclear Power Corporation's application for a license amendment that would permit it to perform maintenance on the "B" diesel generator for fourteen days while the reactor is at power.

I have authorized NECNP to represent me in this proceeding because I am concerned that the intentional disabling of one of Vermont Yankee's two diesel generators, during power operation of the reactor, would violate NRC regulations intended to protect my safety, and would expose me and my family to an unacceptably high risk of a serious nuclear accident.

  
CHARLES R. GORSUCH

Signed and sworn to before me this 17<sup>th</sup> day of February, 1993.

  
Notary Public

My commission expires 2-10-95.



UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matter of

Vermont Yankee Nuclear  
Power Corporation

(Vermont Yankee Nuclear  
Power Station)

Docket No. 50-271-OLA

AFFIDAVIT OF JESSIE HAAS

JESSIE HAAS deposes and states:

My name is Jessie Haas. My address is Barnes Road, Westminster West, Vermont, 05158. My home lies within 25 miles of the Vermont Yankee nuclear power plant. I am a member of the New England Coalition on Nuclear Pollution ("NECNP"). I have authorized NECNP to represent my interests in this proceeding before the U.S. Nuclear Regulatory Commission ("NRC"), for the consideration of Vermont Yankee Nuclear Power Corporation's application for a license amendment that would permit it to perform maintenance on the "B" diesel generator for fourteen days while the reactor is at power.

I have authorized NECNP to represent me in this proceeding because I am concerned that the intentional disabling of one of Vermont Yankee's two diesel generators, during power operation of the reactor, would violate NRC regulations intended to protect my safety, and would expose me and my family to an unacceptably high risk of a serious nuclear accident.

Jessie Haas  
JESSIE HAAS

Feb 18, 1993

Signed and sworn to before me this 18 day of February, 1993.

Margaret C. Hunt  
Notary Public - Windsor County, Vt.

My commission expires 2/16/1995.

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matter of

Vermont Yankee Nuclear  
Power Corporation

(Vermont Yankee Nuclear  
Power Station)

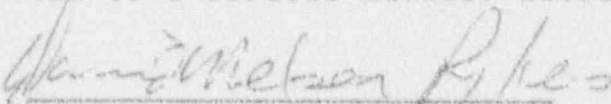
Docket No. 50-271-OLA

AFFIDAVIT OF DAVID N. PYLES


DAVID N. PYLES deposes and states:

My name is David N. Pyles. My address is 67 Main Street, Apt. #31, Brattleboro, Vermont, 05301. My home lies within 10 miles of the Vermont Yankee nuclear power plant. I am a member of the New England Coalition on Nuclear Pollution ("NECNP"). I have authorized NECNP to represent my interests in this proceeding before the U.S. Nuclear Regulatory Commission ("NRC"), for the consideration of Vermont Yankee Nuclear Power Corporation's application for a license amendment that would permit it to perform maintenance on the "B" diesel generator for fourteen days while the reactor is at power.

I have authorized NECNP to represent me in this proceeding because I am concerned that the intentional disabling of one of Vermont Yankee's two diesel generators, during power operation of the reactor, would violate NRC regulations intended to protect my safety, and would expose me and my family to an unacceptably high risk of a serious nuclear accident.

  
DAVID N. PYLES

Signed and sworn to before me this 18<sup>th</sup> day of February, 1993.

  
Notary Public

My commission expires 2/10/95.



UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matter of

Vermont Yankee Nuclear  
Power Corporation

(Vermont Yankee Nuclear  
Power station)

Docket No. 50-271-OLA

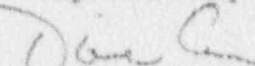
NOTICE OF APPEARANCE

Notice is hereby given that the undersigned attorney, an attorney-at-law in good standing admitted to practice in the District of Columbia, herewith enters an appearance in the above-captioned matter. In accordance with 10 C.F.R. § 2.713(b), the following information is provided:

NAME: Diane Curran  
ADDRESS: Harmon, Curran, Gallagher & Spielberg  
2001 S Street, N.W. Suite 430  
Washington, D.C. 20009  
(202) 328-3500

NAME OF PARTY: New England Coalition on Nuclear Pollution

Respectfully submitted:

  
Diane Curran

February 22, 1993

CERTIFICATE OF SERVICE

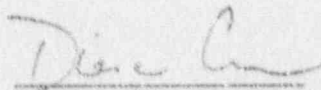
I certify that on February 22, 1993, copies of NEW ENGLAND COALITION ON NUCLEAR POLLUTION'S COMMENTS IN OPPOSITION TO PROPOSED FINDING OF NO SIGNIFICANT HAZARDS CONSIDERATION, NEW ENGLAND COALITION ON NUCLEAR POLLUTION'S REQUEST FOR HEARING ON PROPOSED AMENDMENT TO VERMONT YANKEE OPERATING LICENSE, and NOTICE OF APPEARANCE were served by first-class mail on all parties listed below. In addition, as required by the hearing notice at 58 Fed. Reg. 5,427, 5,428 (January 21, 1993), on February 19, 1993, I notified the NRC Project Manager, Walter R. Butler, of NECNP's intention to request a hearing on the proposed license amendment.

Rules and Directives Review Branch  
Division of Freedom of Information  
and Publication Services  
Office of Administration  
U.S. Nuclear Regulatory Commission  
Washington, D.C. 20535

Office of the General Counsel  
U.S. Nuclear Regulatory Commission  
Washington, D.C. 20555

Thomas G. Dignan, Esq.  
Ropes & Gray  
225 Franklin Street  
Boston, MA 02110

Office of the Secretary  
Attn: Docketing and Service  
U.S. Nuclear Regulatory Commission  
Washington, D.C. 20555

  
Diane Curran