

RAS 13527

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

DOCKETED 04/23/07

ATOMIC SAFETY AND LICENSING BOARD
Before Administrative Judges:

SERVED 04/23/07

E. Roy Hawkens, Chairman
Dr. Paul B. Abramson
Dr. Anthony J. Baratta

In the Matter of

AMERGEN ENERGY COMPANY, LLC

(License Renewal for Oyster Creek Nuclear
Generating Station)

Docket No. 50-0219-LR

ASLBP No. 06-844-01-LR

April 23, 2007

NOTICE

(Notice of Opportunity to Make Oral or Written Limited Appearance Statements)

This proceeding concerns the July 22, 2005 application by AmerGen Energy Company, LLC ("AmerGen") to renew its operating license for the Oyster Creek Nuclear Generating Station ("Oyster Creek") for twenty years beyond the current expiration date of April 9, 2009. In response to the September 15, 2005 Notice of Opportunity for Hearing (70 Fed. Reg. 54,585 (Sept. 15, 2005)), two Requests for Hearing and Petitions to Intervene were filed on November 14, 2005. One Petition was filed by the New Jersey Department of Environmental Protection [hereinafter referred to as New Jersey], and the other Petition was filed by the Nuclear Information and Resource Service, Jersey Shore Nuclear Watch, Inc., Grandmothers, Mothers and More for Energy Safety, New Jersey Public Interest Research Group, New Jersey Sierra Club, and New Jersey Environmental Federation [hereinafter referred to collectively as Citizens]. On December 9, 2005, this Atomic Safety and Licensing Board was established to preside over the proceeding.

On February 27, 2006, this Board issued a Memorandum and Order in which we (LBP-06-07, 63 NRC 188 (2006)): (1) denied New Jersey's Request for Hearing and Petition to

Intervene;¹ and (2) granted Citizens' Request for Hearing and Petition to Intervene. We concluded that Citizens' contention was admissible to the extent it challenged AmerGen's aging management program for measuring corrosion in the sand bed region of the drywell liner (*id.* at 217).

Subsequently, on June 6, 2006, this Board issued a Memorandum and Order in which we concluded that Citizens' contention, as admitted by the Board, was a contention of omission that had been cured as a result of newly docketed commitments by AmerGen to perform periodic UT measurements in the sand bed region of the drywell liner throughout the period of extended operation (LBP-06-16, 63 NRC 737 (2006)). Instead of dismissing the proceeding, the Board gave Citizens the opportunity to file a new contention raising one or more specific substantive challenges to AmerGen's new periodic UT program for the sand bed region (*id.* at 744). On June 23, Citizens submitted a Petition to file new contentions, and on October 10, this Board admitted one of the newly proffered contentions; namely, Citizens' assertion that AmerGen's scheduled UT monitoring frequency in the sand bed region of the drywell shell during the renewal period is insufficient to maintain an adequate safety margin (LBP-06-22, 64 NRC 229, 240-44 (2006)).

This Atomic Safety and Licensing Board hereby gives notice that, in accordance with 10 C.F.R. § 2.315(a), the Board will entertain oral limited appearance statements from members of the public in connection with this proceeding at the date, time, and location specified below.

¹ Although New Jersey established standing, the Board concluded that it failed to proffer an admissible contention. The Nuclear Regulatory Commission sustained the Board's ruling. CLI-07-08, 65 NRC __ (slip op.) (Feb. 26, 2007); CLI-06-24, 64 NRC 111 (2006).

A. Date, Time, and Location of Oral Limited Appearance Statement Sessions

The sessions will be held on the following date at the specified location and time:

DATE: Thursday, May 31, 2007

TIME: Session I: 2:00 P.M. EDT until 4:00 P.M. EDT
Session II: 7:00 P.M. EDT until 9:00 P.M. EDT

LOCATION: Ocean County Administration Building
Room 119
101 Hooper Avenue
Toms River, NJ 08754

B. Participation Guidelines for Oral Limited Appearance Statements

Any person not a party, or the representative of a party, to the proceeding will be permitted to make an oral statement setting forth his or her position on matters of concern relating to this proceeding. Although these statements do not constitute testimony or evidence in the proceeding, they nonetheless may assist the Board and/or the parties in their consideration of the issues. In particular, these statements may serve to alert the Board and the parties to areas in which evidence may need to be adduced.

Oral limited appearance statements will be entertained during the hours specified above, or such lesser time as might be necessary to accommodate the speakers who are present.² In this regard, if all scheduled and unscheduled speakers present at the session have made a presentation, the Licensing Board reserves the right to terminate the session before the ending time listed above. In order to allow all interested persons an opportunity to address the Board, the time allotted for each statement normally will be no more than five (5) minutes, but may be further limited depending on the number of written requests to make an oral statement that are

² Members of the public who plan to attend the limited appearance sessions are advised that security measures may be employed at the entrance to the facility, including searches of hand-carried items such as briefcases, backpacks, packages, etc. In addition, although signs no larger than 18" by 18" will be permitted, they may not be waved, attached to sticks, held up, or moved about in the room. See Procedures for Providing Security Support for NRC Public Meetings/Hearings, 66 Fed. Reg. 31,719 (June 12, 2001).

submitted in accordance with Section C below and/or the number of persons present at the designated time.

C. Submitting a Request to Make an Oral Limited Appearance Statement

Persons wishing to make an oral statement who have submitted a timely written request and who are present when their names are called will be given priority over those who have not filed such a request. To be considered timely, a written request to make an oral statement must be mailed, faxed, or sent by e-mail so as to be received by 5:00 P.M. EDT on Friday, May 25, 2007. The request must specify the requestor's name, and session (Session I or II) during which the requestor wishes to make an oral statement. Written requests to make an oral statement should be submitted to:

Mail: Office of the Secretary
Rulemakings and Adjudications Staff
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555-0001

Fax: (301) 415-1101 (verification (301) 415-1966)

E-mail: hearingdocket@nrc.gov

In addition, using the same method of service, a copy of the written request to make an oral statement should be sent to the Chairman of this Licensing Board as follows:

Mail: Administrative Judge E. Roy Hawkens
c/o: Debra Wolf, Esq., Law Clerk
Atomic Safety and Licensing Board Panel
Mail Stop T-3 F23
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555-0001

Fax: (301) 415-5599 (verification (301) 415-6094)

Email: daw1@nrc.gov

D. Submitted Written Limited Appearance Statements

A written limited appearance statement may be submitted to the Board regarding this proceeding at any time, either in lieu of or in addition to any oral statement. Such statements should be sent to the Office of the Secretary using the methods prescribed above, with a copy to the Licensing Board Chairman.

E. Availability of Documentary Information Regarding the Proceeding

Documents relating to this proceeding are available for public inspection at the Commission's Public Document Room (PDR), located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland, or electronically from the publicly available records component of NRC's document system (ADAMS). ADAMS is accessible from the NRC web site at www.nrc.gov/reading-rm/adams.html (Electronic Reading Room). Persons who do not have access to ADAMS or who encounter problems in accessing the documents located in ADAMS should contact the NRC PDR reference staff by telephone at (800) 397-4209 or (301) 415-4737, or by e-mail to pdrc@nrc.gov.

F. Scheduling Information Updates

To the extent updated/revised scheduling information exists regarding the limited appearance session, it can be found on the NRC website at www.nrc.gov/public-involve/public-meetings/index.cfm or by calling (800) 368-5642, extension 5036, or (301) 415-5036.

FOR THE ATOMIC SAFETY
AND LICENSING BOARD³

/RA/

E. Roy Hawkens, Chairman
ADMINISTRATIVE JUDGE

Rockville, Maryland
April 23, 2007

³ Copies of this Notice were sent this date by Internet e-mail to counsel for: (1) Citizens; (2) AmerGen; (3) the NRC Staff; and (4) New Jersey.

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

In the Matter of)
)
AMERGEN ENERGY COMPANY, LLC) Docket No. 50-219-LR
)
)
(Oyster Creek Nuclear Generating Station))

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing LB NOTICE (NOTICE OF OPPORTUNITY TO MAKE ORAL OR WRITTEN LIMITED APPEARANCE STATEMENTS) have been served upon the following persons by U.S. mail, first class, or through NRC internal distribution.

Office of Commission Appellate
Adjudication
U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001

Administrative Judge
E. Roy Hawkens, Chair
Atomic Safety and Licensing Board Panel
Mail Stop - T-3 F23
U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001

Administrative Judge
Paul B. Abramson
Atomic Safety and Licensing Board Panel
Mail Stop - T-3 F23
U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001

Administrative Judge
Anthony J. Baratta
Atomic Safety and Licensing Board Panel
Mail Stop - T-3 F23
U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001

Mitzi A. Young, Esq.
Mary C. Baty, Esq.
Office of the General Counsel
Mail Stop - O-15 D21
U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001

Richard Webster, Esq.
Rutgers Environmental Law Clinic
123 Washington Street
Newark, NJ 07102-5695

Paul Gunter, Director
Reactor Watchdog Project
Nuclear Information
and Resource Service
1424 16th Street, NW, Suite 404
Washington, DC 20036

Donald J. Silverman, Esq.
Kathryn M. Sutton, Esq.
Alex S. Polonsky, Esq.
Morgan, Lewis, & Bockius LLP
1111 Pennsylvania Ave., NW
Washington, DC 20004

Docket No. 50-219-LR
LB NOTICE (NOTICE OF OPPORTUNITY TO MAKE ORAL
OR WRITTEN LIMITED APPEARANCE STATEMENTS)

Bradley M. Campbell, Commissioner
New Jersey Department of
Environmental Protection
P.O. Box 402
Trenton, NJ 08625-0402

Jill Lipoti, Director
New Jersey Department of
Environmental Protection
Division of Environmental Safety and Health
P.O. Box 424
Trenton, NJ 08625-0424

Ron Zak
New Jersey Department of
Environmental Protection
Nuclear Engineering
P.O. Box 415
Trenton, NJ 08625-0415

J. Bradley Fewell, Esq.
Exelon Corporation
4300 Warrenville Road
Warrenville, IL 60555

Suzanne Leta
NJPIRG
11 N. Willow St.
Trenton, NJ 08608

John A. Covino, Esq.
Ellen Barney Balint, Esq.
Valerie Anne Gray, Esq.
Caroline Stahl, Esq.
Deputy Attorneys General
New Jersey Office of the Attorney General
Environmental Permitting &
Counseling Section
Division of Law
Hughes Justice Complex
P.O. Box 093
Trenton, NJ 08625

[Original signed by Evangeline S. Ngbea]

Office of the Secretary of the Commission

Dated at Rockville, Maryland
this 23rd day of April 2007