

RAS 1728

May 15, 2000
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UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matter of)	
)	Docket No. 50-400-LA
CAROLINA POWER & LIGHT)	
COMPANY)	ASLBP No. 99-762-02-LA
)	
(Shearon Harris Nuclear Power Plant))	
)	

NRC STAFF RESPONSE TO THE ATOMIC SAFETY AND LICENSING BOARD'S SECOND REQUEST FOR ADDITIONAL INFORMATION

I. INTRODUCTION

On May 5, 2000, the Atomic Safety and Licensing Board's (Board) issued a Memorandum and Order (Requesting Additional Information), seeking the parties' views on the relevance, if any, of the Advisory Committee on Reactor Safeguards' comments (ACRS Letter)¹ on the Nuclear Regulatory Commission staff's (Staff) "Draft Final Technical Study of Spent Fuel Pool Accident Risk at Decommissioning Nuclear Power Plants" (February 2000) (Study), to the issues pending before the Board concerning the Board of Commissioners of Orange County's (BCOC) motion requesting the admission of late-filed contentions. The Staff submits that the ACRS Letter is not relevant to the issues before the Board.

¹ As of this date, the Staff has not responded to the ACRS letter.

II. DISCUSSION

The issue before the Board is whether BCOC has submitted admissible contentions, pursuant to NRC regulations and case law, regarding its claim that an Environmental Impact Statement (EIS) is required in connection with Carolina Power & Light's license amendment application to expand spent fuel pool capacity at the Shearon Harris facility. As discussed more fully in the "NRC Staff Response to Intervenor's Request for Admission of Late-Filed Contentions," (Response to Request for Admission) (March 3, 2000), the "NRC Staff Response to the Atomic Safety and Licensing Board's Request for Additional Information," (March 29, 2000) (Response to Board), and the "NRC Staff Reply to Orange County's Response to The Board's Request for Additional Information" (April 5, 2000) (Reply), BCOC has not submitted an admissible contention. The contentions proffered do not meet the standards for admission in an NRC proceeding. Nothing contained in the Study or the ACRS Letter alters that conclusion. As the Staff stated in the Response to the Board and the Reply, the Study is not directly relevant to the issues pending before the Board.² In fact, all parties have asserted that the Study is of little or no relevance to the issues in this case. See *e.g.* "Orange County's Response to Board Information Request," (March 29, 2000). The ACRS Letter, which provides comments on the Study, has no relevance to the issues before the Board.

The Study analyzes and discusses SFP accident risk at decommissioning plants. Its scope was specifically limited to "the risk associated with wet storage of spent fuel during decommissioning" and it did not alter the conclusions contained in the reports

² The Staff has previously set forth its position regarding the relevancy of the Study to the issues before the Board and will not repeat those arguments herein. See Response to Board; Reply.

dealing with spent fuel pools (SFP) at operating reactors, which remain valid for SPF risk at operating plants. Study at 22-23.

The ACRS Letter does not imply or suggest that the Study is or should be applicable to SFPs at operating reactors. Nor is there anything in the letter which addresses the degraded core scenario postulated by BCOC.³

BCOC did not meet its burden to demonstrate that there is a credible basis for its postulated accident scenario and nothing in the Study or the ACRS Letter provides a basis for the contentions. Consequently, the ACRS Letter is irrelevant to the Harris case.

In sum, the ACRS Letter, which provides comments on the Study, is not relevant or material to the issues before the Board in this proceeding.

³ Neither the Study nor the ACRS Letter address the occurrence of BCOC's postulated event: degraded core accident with containment bypass or failure, causing inaccessibility to the SFP building, complete loss of SFP cooling for an extended period of time causing the SFP coolant to heat up to the boiling point and then boil down, and finally, a self-perpetuating exothermic reaction in SFPs C and D. In fact, both assume that a drain down event has already occurred.

As discussed in the Staff's Response to Request for Admission, BCOC provided no facts or expert opinion to support its assertion that the loss of water to the Harris SFPs is an "almost certain" result of a degraded core accident. See Staff Response at 14-16. Without some credible basis for a contention, it cannot be admitted for hearing. Response to Request for Admission at 4-7.

CONCLUSION

The Study is limited to SFP accident risks at decommissioning plants and is not directly relevant or material to the issues before the Board. The ACRS Letter, which provides comments on the Study, is not relevant or material to the issues before the Board.

Respectfully submitted,

Susan L. Uttal */RA/*
Counsel for NRC staff

Dated at Rockville, Maryland
this 15th day of May 2000.

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CERTIFICATE OF SERVICE

Thereby certify that copies of "NRC STAFF RESPONSE TO THE ATOMIC SAFETY AND LICENSING BOARD'S SECOND REQUEST FOR ADDITIONAL INFORMATION" in above-captioned proceeding have been served on the following through deposit in the NRC's internal mail system, or by deposit in the NRC's internal mail system, with copies by electronic mail, as indicated by an asterisk, or by deposit in U.S. Postal Service as indicated by double asterisk, with copies by electronic mail as indicated this 15TH day of May, 2000:

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