

July 20, 2000

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

RAS 1942

DOCKETED 7/21/00

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 COMMENTS ON ADVISORY COMMITTEE
ON REACTOR SAFEGUARDS LETTER OF JUNE 20, 2000

I. INTRODUCTION

On July 13, 2000, the Atomic Safety and Licensing Board (Board) issued a Memorandum and Order (Granting Motion for Leave to Comment), in which it permitted the parties to address a June 20, 2000, letter from Advisory Committee on Reactor Safeguards (ACRS) Chairman Dana A. Powers to NRC Chairman Richard Meserve regarding spent fuel pool accidents. Pursuant to the Board's July 13 Memorandum and Order, the Nuclear Regulatory Commission's staff (Staff) hereby comments on the relevance of the June 20 ACRS letter (ACRS Letter) with respect to the Board of Commissioners of Orange County's (BCOC) motion requesting the admission of late-filed contentions.¹ For the reasons set forth below, the ACRS Letter is not relevant to the issues before the Board.

¹ See "Orange County's Request for Admission of Late-Filed Contentions" (January 29, 2000).

II. DISCUSSION

The issue before the Board is whether BCOC has submitted admissible contentions pursuant to NRC regulations and case law. As explained in the “NRC Staff Response to Intervenor’s Request for Admission of Late-Filed Contentions” (Staff Response) (March 3, 2000), BCOC has not submitted an admissible contention. The contentions proffered do not meet the standards for admission in an NRC proceeding. See Staff Response at 4, *et seq.* Nothing contained in the ACRS Letter alters that conclusion.

The ACRS Letter relates to the staff’s proposal to close Generic Safety Issue 173A, “Spent Fuel Storage Pool for Operating Reactors.” The issue identified in the ACRS Letter with respect to that proposal is the nature of the source term in a spent fuel pool accident involving zircaloy cladding oxidation. ACRS letter at 2. The nature of the source term, however, is simply not relevant to the issue before the Board, namely, whether BCOC has met its burden to demonstrate that there is a credible basis for its postulated accident scenario. The ACRS Letter does not provide any basis for the accident scenario that BCOC postulates.² In addition, the mere fact that the Staff is considering whether to evaluate severe accident phenomenology in general with respect to spent fuel pools,

² The ACRS Letter does not address the occurrence of BCOC’s postulated severe accident, which is a sequence involving (1) a degraded core accident with (2) containment bypass or failure, causing, in turn, (3) inaccessibility to the SFP building and (4) complete loss of SFP cooling for an extended period time, which results in (5) the heat up of SFP coolant to the boiling point and (6) boil down of the coolant to uncover the spent fuel, and, finally, (7) a self-perpetuating exothermic reaction in SFPs C and D. The ACRS Letter presumes that a drain down event has already occurred, and makes no statement whatsoever with regard to the mechanism by which such a drain down might occur.

As discussed in the Staff’s Response, BCOC provided no facts or expert opinion to support its assertion that a loss of water in the Harris SFPs is an “almost certain” result of a degraded core accident. See Staff Response at 14-17. Without some credible basis for a contention it cannot be admitted for hearing. See *id.* at 4-7.

whether at the ACRS's recommendation or not, does not provide any basis for BCOC to meet the Commission's standards for the admissibility of contentions.

CONCLUSION

In view of the foregoing, the ACRS letter is irrelevant to this proceeding, and the Board need not consider it in deciding the issues before it.

Respectfully submitted,

Robert M. Weisman */RA/*
Counsel for NRC staff

Dated at Rockville, Maryland
this 20th day of July 2000.

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

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

CERTIFICATE OF SERVICE

I hereby certify that copies of "NRC STAFF COMMENTS ON ADVISORY COMMITTEE ON REACTOR SAFEGUARDS LETTER OF JUNE 20, 2000" 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 20TH day of July, 2000:

G. Paul Bollwerk, III, Chairman*
Administrative Judge
Atomic Safety and Licensing Board
Mail Stop: T 3F-23
U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001

Frederick J. Shon*
Administrative Judge
Atomic Safety and Licensing Board
Mail Stop: T-3F-23
U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001

Dr. Peter Lam*
Administrative Judge
Atomic Safety and Licensing Board
Mail Stop: T 3F-23
U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001

Office of the Secretary*
ATTN: Rulemaking and Adjudications
Staff
Mail Stop: O 16-C-1
U. S. Nuclear Regulatory Commission
Washington, DC 20555-0001

Office of the Commission Appellate
Adjudication
Mail Stop: O 16-C-1
U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001

James M.Cutchin, Jr.*
Mail Stop: T 3F-23
U.S. Nuclear Regulatory Commission
Washington, DC 20555

Diane Curran, Esq.**
Harmon, Curran, Spielberg
& Eisenberg, L.L. P.
1726 M. Street, N.W., Suite 600
Washington, DC 20025

John H. O'Neill, Jr.**
William R. Hollaway**
Counsel for Licensee
Shaw Pittman Potts & Trowbridge
2300"N" Street, N.W.
Washington, DC 20037-1128

Steven Carr**
Legal Department
Carolina Power and Light Co.
411 Fayetteville Street Mall
P.O. Box 1551 - CPB 13A2
Raleigh, North Carolina 27602

Atomic Safety and Licensing Board Panel
U.S. Nuclear Regulatory Commission
T-3F23
Washington, DC 20555

Robert M. Weisman */RA/*
Counsel for NRC Staff