

RAS 14005

# Official Transcript of Proceedings

## NUCLEAR REGULATORY COMMISSION

Title: Oyster Creek Nuclear Generating Station

Docket Number: 50-0219-LR

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USNRC

August 21, 2007 (10:02am)

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TEMPLATE = SECY-032

SECY-02

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

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BEFORE THE ATOMIC SAFETY AND LICENSING BOARD PANEL

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In the Matter of: ) Docket No.  
AMERGEN ENERGY CO., LLC ) 50-0219-LR  
(Oyster Creek Nuclear )  
Generating Stations) )  
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Tuesday, August 14, 2007

9:20 a.m.

BEFORE:

PAUL B. ABRAMSON, Administrative Judge

ANTHONY J. BARATTA, Administrative Judge

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## 1 APPEARANCES:

2 On Behalf of Amergen Energy Co., LLC:

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4 KATHRYN SUTTON, ESQ.

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10 Resources Service:

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1 ALSO PRESENT:

2 JAMES DAVIS

3 PAUL GUNTER

4 LOUISE LUND

5 MICHAEL MODES

6 TIMOTHY O'HARA

7 ARTHUR SALOMON

8 KAREN VALLOCH

9 DEBRA WOLF

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P-R-O-C-E-E-D-I-N-G-S

9:33 a.m.

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JUDGE ABRAMSON: Let's go on the record.

This is a conference call in Docket No. 50-0219-LR, the Matter of Amergen Energy Company's licensing renewal application for Oyster Creek Nuclear Generating Plant. Today is the 14<sup>th</sup> of August.

Let's go through a roll call with the parties here. Here with me in the hearing room is our law clerk, Debra Wolf, and our able managing assistant, Karen -- What is it?

MS. VALLOCH: Valloch.

JUDGE ABRAMSON: Valloch, right. How's that for drawing a blank? Judge Baratta is on the line. Judge Hawkens will not be joining us. Let's go down the names of the parties and I'll ask you that you spell your names for the court reporter please. Start with Amergen, Morgan Lewis.

MR. POLONSKY: This is Alex Polonsky. The last name is spelled P as in Peter, O-L-O-N-S-K-Y.

MS. SUTTON: And Kathryn Sutton, K-A-T-H-R-Y-N S-U-T-T-O-N.

JUDGE ABRAMSON: And is there anybody on from your client?

MS. SUTTON: No sir.

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1 JUDGE ABRAMSON: Okay. For NIRS?

2 MR. WEBSTER: This is Richard Webster and  
3 that's W-E-B-S-T-E-R, from Rutgers Environmental Law  
4 Clinic.

5 JUDGE ABRAMSON: And you have one of your  
6 clients on with you.

7 MR. WEBSTER: And I believe that Paul  
8 Gunter is on the line, although I haven't heard him  
9 yet.

10 MR. GUNTER: Yes. Paul Gunter on behalf  
11 of Nuclear Information and Resource Service, G-U-N-T-  
12 E-R, and I'll be on mute.

13 JUDGE ABRAMSON: And for the staff?

14 MS. YOUNG: Good morning. This is Mitzi  
15 Young, M-I-T-Z-I Y-O-U-N-G, counsel for the NRC Staff.  
16 With me is Mary Baty, B-A-T-Y. Also in the room here  
17 listening are technical members of the staff, James  
18 Davis, Michael Modes, Arthur Salomon.

19 JUDGE ABRAMSON: Will you spell the names  
20 for us please, Ms. Young?

21 MS. YOUNG: Sure. James Davis, J-A-M-E-S  
22 D-A-V-I-S. Michael Modes. Modes is M-O-D-E-S.  
23 Arthur Salomon. Salomon is S-A-L-O-M-O-N. And Louise  
24 Lund. Lund is L-U-N-D. And listening on mute will be  
25 Timothy O'Hara who also called in, O'H-A-R-A. That

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1 completes the staff list.

2 JUDGE ABRAMSON: Okay. Good. Let's  
3 proceed with this. This conference call was convened  
4 at the request of Morgan Lewis who I understand made  
5 some attempt to contact either of the parties. Staff,  
6 were you contacted directly by Morgan Lewis about  
7 this?

8 MS. YOUNG: Yes, we were.

9 JUDGE ABRAMSON: And, Mr. Webster, were  
10 you contacted?

11 MR. WEBSTER: Well, Morgan Lewis and I did  
12 speak this morning. Yes.

13 JUDGE ABRAMSON: All right. The purpose  
14 of this and the sole purpose of this is to try to  
15 resolve any question you may have about our August 9  
16 Memorandum and Order. So let's proceed with this.  
17 Since Amergen asked for this call, why don't we start  
18 with Amergen. What questions do you have and what can  
19 we do to help clarify this?

20 MR. POLONSKY: Thank you, Judge. We have  
21 two primary questions. The first one can be found on  
22 page four and there's a statement from the Board that  
23 says, "Four May citizens argue that Amergen's input  
24 are not sufficiently accurate." We interpret the word  
25 "input" as Amergen's or not necessarily Amergen's but

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1 Oyster Creek Nuclear Generating Station's raw UT data  
2 and we just want to make sure we are correct in that  
3 interpretation.

4 JUDGE ABRAMSON: That was the intent of  
5 the Board that the raw data is not to be challenged,  
6 but its interpretation and the uncertainties  
7 associated with are in play. Is that correct, Judge  
8 Baratta?

9 JUDGE BARATTA: Yes, that's correct.

10 MR. POLONSKY: Thank you. The second  
11 question we had goes to question 12 of the twelve  
12 questions that the Board asked at the end of its  
13 August 9<sup>th</sup> Order. Question 12 which has five subparts  
14 we have interpreted as asking questions specifically  
15 about the derivation of the acceptance criteria, both  
16 the buckling criteria and the pressure criteria.

17 JUDGE ABRAMSON: No, that's not correct.  
18 What we -- This question is an effort by the Board to  
19 resolve questions in our minds about how the data  
20 should be presented and whether it matters at all  
21 whether the data should be viewed as presented by Dr.  
22 Hausler in the contour plots or whether it's quite  
23 sufficient to do the averaging that Amergen or that  
24 the Oyster Creek Generating Station has done. For  
25 that reason, we are interested in and we think it

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1 necessary to understand the size and shape of the  
2 elements in the finite element methodology. Are we  
3 correct that this was a finite element methodology?

4 MR. POLONSKY: I couldn't answer that  
5 question for you.

6 JUDGE ABRAMSON: And you have not talked  
7 to your technical people to find that out.

8 MR. POLONSKY: We have talked with them,  
9 but I couldn't answer that specific question for you.

10 JUDGE ABRAMSON: We're assuming that this  
11 was done by finite element methodology which means  
12 that the shell is divided into finite pieces with  
13 certain dimensions and that within those dimensions  
14 the physical properties are averaged and, if that's  
15 the case, then what we are after is whether or not it  
16 would matter at all if the data had been dealt with by  
17 contour plots or by the simple averaging methodology  
18 that Oyster Creek Generating Station used or that GE  
19 used in its original analysis.

20 So this question is aimed at understanding  
21 the size and shape of the elements in the region of  
22 interest. You don't need to talk about the elements  
23 over the whole dry well shell, just the region where  
24 the corrosion has been, and what we want to know is  
25 what are the size and shape of those elements and

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1 would it matter and our questions are quite clear, I  
2 think, on that point.

3 MR. POLONSKY: Thank you for the  
4 clarification, Your Honor. The concern I have, I  
5 guess, is in how we answer this. We think we need  
6 to go into the discussion of the GE analyses which are  
7 the basis of Amergen's acceptance criteria. The Board  
8 has asked that those answers be included not only in  
9 the brief but in the testimony and we feel that by  
10 discussing how GE came upon its analysis or how it  
11 based its analysis and then we put that in our  
12 testimony we're then opening up the GE analysis to  
13 sur-rebuttal by citizens and, in effect, we will then  
14 have opened up a part of the proceeding which we  
15 thought the Board had closed which was the derivation  
16 of the acceptance criteria.

17 JUDGE ABRAMSON: Yes, and we are not  
18 interested in the derivation of the acceptance  
19 criteria. We're really quite --

20 JUDGE BARATTA: Or what our criticisms of  
21 it are. This is Judge Baratta. What Judge Abramson  
22 points out what we're looking is really something  
23 about the interpretation of the UT data to make sure  
24 that whatever is being done is consistent with that.  
25 That's basically what we're looking for. So any

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1 discussion really should be directed in that manner,  
2 I think, or once the basic model, I guess, is  
3 described. Is that correct, Judge Abramson?

4 JUDGE ABRAMSON: I think our questions are  
5 self-explanatory, Mr. Polonsky, and if you had taken  
6 the trouble to talk to your technical experts you  
7 might have been able to realize this. Our final  
8 question in Item 12 was whether or not this was  
9 treading on the current licensing basis and we're  
10 quite aware that the current licensing basis is  
11 founded in the GE methodology.

12 So we're not -- We want to make sure there  
13 is no challenge to the current licensing basis because  
14 that's not proper fuel for this proceeding and by  
15 focusing on the shapes of the elements, now remember,  
16 your technical people have suggested that the  
17 appropriate way to view this data is by how much  
18 volume is missing from certain shell regions due to  
19 corrosion. That to us if I put my technical hat on  
20 sounds very much like what they're saying to you and  
21 to us is that they're looking at a finite element and  
22 they're looking at the physical properties of the  
23 particular element that's been corroded.

24 We would expect these elements are very  
25 large because of the technology that was available at

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1 the time GE did this. So you need to speak with your  
2 technical people. If you come back convinced that  
3 this winds up going into derivation of the acceptance  
4 criteria, you're welcome to send us a memorandum to  
5 that effect and we'll consider it.

6 MR. POLONSKY: Thank you.

7 JUDGE ABRAMSON: I'm very unhappy with the  
8 fact that you raised legal questions without talking  
9 to your technical people about the nature of these  
10 questions.

11 MR. POLONSKY: Your Honor, I have  
12 contacted the technical people. Unfortunately, the  
13 experts here we believe are at GE, not at Amergen, and  
14 those experts are currently unavailable. So we're  
15 trying to contact and work with them. We may end up  
16 supplying testimony by someone from Amergen to the  
17 best that they can answer these questions.

18 JUDGE ABRAMSON: If you need more time to  
19 properly answer them, certainly you may ask.

20 MR. POLONSKY: I understand. We'll do our  
21 best with the testimony that we can by this Friday and  
22 inform the Board if we can't provide an adequate  
23 answer.

24 MS. YOUNG: Judge Abramson, the Staff has  
25 a question.

1 JUDGE ABRAMSON: Yes.

2 MS. YOUNG: Staff counsel's understanding  
3 is that the dry well shell was broken into pie shaped  
4 elements to do the finite model that was done by GE  
5 before, I guess, 36 degree sections. So I'm having  
6 trouble understanding what the Board's question  
7 regarding the shape and size of elements. It seems  
8 that the Board is asking really the shape and size of  
9 the degradation modeled by GE, not the sections across  
10 which the degradation was modeled.

11 JUDGE ABRAMSON: I don't believe that  
12 that's correct, but are your technical people -- Do  
13 you have any structural people in your technical group  
14 that's there? Are any of these four people  
15 structural?

16 MS. YOUNG: No, the structural people  
17 weren't able to participate this morning.

18 JUDGE ABRAMSON: Okay. I think you also  
19 need to talk to your structural people. My guess is  
20 that they did this bay by bay as we understood it and,  
21 yes, we understood they took certain radial segments.  
22 But my guess is they're also vertical delineations  
23 within that. You can't do a finite element, buckling  
24 load analysis on one single vertical slice that goes  
25 all the way to the top. So I think you need to talk

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1 to your technical people.

2 MS. YOUNG: Could you hold on for one  
3 moment please?

4 (Pause.)

5 MS. YOUNG: Judge Abramson?

6 JUDGE ABRAMSON: Yes.

7 MS. YOUNG: This is Ms. Young for the  
8 Staff again.

9 JUDGE ABRAMSON: Yes.

10 MS. YOUNG: My understanding that the  
11 Board's question is asking whether Dr. Hausler's  
12 contour plot is a better way of representing the  
13 pattern of degradation for the dry well shell than  
14 what the GE analysis modeled and to that extent, it  
15 would be challenging the current licensing basis, but  
16 we can --

17 JUDGE ABRAMSON: That is not what we're  
18 asking. What we're asking is what's the size of the  
19 elements and the shape of the elements over which  
20 physical properties were averaged when GE did its  
21 original analysis. Once you understand that, you will  
22 know whether it matters at all how this data is  
23 averaged or viewed. But you can't know that until you  
24 answer the first question.

25 And if, in fact, it doesn't matter then

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1 the whole point is mute. If it matters, then it will  
2 be as you say a challenge to the CLB and we'll deal  
3 with that at that point. This is a technical matter  
4 and, Counsel, you must be well aware. This is a court  
5 dealing with technical issues. Let's make sure we get  
6 the technical information right.

7 MR. WEBSTER: Judge, could I just ask a  
8 question here because -- This is Richard Webster from  
9 representing citizens.

10 JUDGE ABRAMSON: Yes.

11 MR. WEBSTER: My understanding is that  
12 although the CLB is based upon the GE model the  
13 current pattern of degradation is not part of the CLB.  
14 Is that correct?

15 JUDGE ABRAMSON: The degradation that has  
16 occurred to date, I think we'll have to deal with this  
17 one perhaps in a hearing if this piece goes this far,  
18 whether or not the current degradation is part of CLB.  
19 Certainly, it is a matter of ongoing operation and  
20 maintenance. So to the extent -- Remember that the  
21 renewal proceeding is only dealing with what happens  
22 during the license extension term. So the license  
23 extension term starts from the current conditions. I  
24 think that that's not -- That's not, however, the  
25 point we are worried about here. The current

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1 licensing basis relies on the GE analysis and the GE  
2 analysis used certain assumptions about the size of  
3 how small it had to do to divide the structure in  
4 order to get an accurate structure analysis. No  
5 structure analysis treats this as a continuum. It  
6 also divides it into what are called finite elements.

7 MR. WEBSTER: Right.

8 JUDGE ABRAMSON: And the older technology  
9 that was used at the time of this application had less  
10 capable computers and probably therefore used  
11 relatively large elements. If those elements are  
12 indeed very large, then the volume and surface area  
13 over which these physical properties were averaged  
14 when they did the analysis is very large and that's  
15 the question we're trying to resolve.

16 Because if those areas, for example, are  
17 80 feet by 90 feet, then changes in corrosion over a  
18 one foot or two feet area won't matter. If those  
19 elements are one foot by two feet, then differences in  
20 corrosion pattern will matter and that's what we're  
21 trying to find out. And that's, I believe, the basis  
22 for the response we saw that said that the view of  
23 this is that a certain volume of material is missing  
24 from a region or from an element. But we don't know  
25 this until we get proper answers from the people who



1 did the analysis or understand the analysis.

2 MR. WEBSTER: Okay.

3 JUDGE ABRAMSON: It's not a matter for  
4 lawyers to deal with. We'll deal with the legal  
5 issues after we have the technical information.

6 MR. WEBSTER: Thank you. Could I ask one  
7 question?

8 JUDGE ABRAMSON: Certainly.

9 MR. WEBSTER: This is again with regard to  
10 Section 4 about the local buckling acceptance criteria  
11 on pages five and six. I think from our perspective  
12 we've shown that there was some inconsistency in both  
13 the definition of what the acceptance criteria were  
14 and in their application. The question I have is how  
15 do we go from there to resolve which is the approach  
16 acceptance criterion without getting into derivation.  
17 We did take the route of looking at the SER and seeing  
18 what the SER says. But it appears that NRC's  
19 testimony is somewhat -- There is some tension there  
20 between the NRC's testimony, the Staff testimony, and  
21 the SER specific wording.

22 JUDGE ABRAMSON: I think we've been pretty  
23 clear from the outset of this proceeding that citizens  
24 can't challenge the derivation of the acceptance  
25 criteria. You certainly may argue that they've been

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1 applied inconsistently and you can speak to which  
2 criteria you think is better and why without going  
3 into the derivation. I mean, the problem is we can't  
4 go into the derivation. There are -- That's a limit  
5 that we've established from the beginning.

6 MR. WEBSTER: But just to clarify then, we  
7 can draw conclusions about which would be the  
8 appropriate criterion to use of the various criteria  
9 that have been suggested.

10 JUDGE ABRAMSON: Excuse us a moment.

11 (Pause.)

12 JUDGE ABRAMSON: I think we're going to  
13 have to deal with this question more in depth at the  
14 point it comes up, Mr. Webster. It is a difficult  
15 question, but we clearly are expecting the citizens  
16 will challenge that the acceptance criteria have not  
17 been consistently applied and that will undoubtedly  
18 lead us to have to deal with what are the appropriate  
19 margins.

20 MR. WEBSTER: Okay. Thank you.

21 JUDGE ABRAMSON: Does Staff have any  
22 questions?

23 MS. YOUNG: No, we think we understand the  
24 Board's question.

25 JUDGE ABRAMSON: Anything further from

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1 Amergen?

2 MR. POLONSKY: No, we'll do the best  
3 answer to the question if we can't get our GE experts  
4 in line in time and, if so, we'll notify the Board.

5 JUDGE ABRAMSON: Okay. And anything  
6 further from the Interveners?

7 MR. WEBSTER: No, Judge. Thank you.

8 MS. SUTTON: Can we hold on for one  
9 second?

10 JUDGE ABRAMSON: Go ahead.

11 (Pause.)

12 JUDGE ABRAMSON: Judge Baratta, do you  
13 have anything you want to add here?

14 JUDGE BARATTA: No. Are we going to talk  
15 afterwards though?

16 JUDGE ABRAMSON: Yes, we can do that. One  
17 thing that Ms. Wolf has noted that we don't want to  
18 find ourselves in a last minute no man's land. So we  
19 would ask Amergen that you let us know by close of  
20 business on Thursday, 5:00 p.m. on Thursday, whether  
21 or not you're going to need more time and whether or  
22 not you're going to be able to give an answer that  
23 you're comfortable with.

24 MS. SUTTON: Your Honor, we will do that.

25 JUDGE ABRAMSON: Thank you. Okay. With

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1 that.

2 (Off the record discussion.)

3 JUDGE ABRAMSON: Okay. The hearing is  
4 finished. Thank you all for participating. Off the  
5 record.

6 Whereupon, at 9:55 a.m., the above-  
7 entitled matter was concluded.)

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CERTIFICATE

This is to certify that the attached proceedings  
before the United States Nuclear Regulatory Commission  
in the matter of:


Name of Proceeding: Oyster Creek Nuclear

Generating Station

Docket Number: 50-0219-LR

Location: (Teleconference)

were held as herein appears, and that this is the  
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