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December 6, 1971

Samuel W. Jensch, Esq.
Chairman
Atomic Safety & Licensing Board
U.S. Atomic Energy Commission
Washington, D.C. 20545

Dear Mr. Chairman:

This letter is in response to applicant's letter of November 29th regarding scheduling and applicant's Motion To Close Hearing Record On Radiological Safety. The letter accurately reflects our views with one exception. In Paragraph 1, the applicant indicates that its submission of proposed findings on December 8 "may also deal with full-term, full-power operation" (emphasis added). To the extent the Applicant does not state its proposed findings on all radiological safety issues, we reserve our right to submit proposed findings of facts and conclusions of law on the issues not covered no sooner than 20 days after Applicant's submitted with respect to those issues.

Applicant's Motion to close the record seems at best premature and extremely inappropriate. As Applicant concedes a number of issues are still subject to further factual presentation by Applicant. This factual presentation may lead to further factual submissions by other parties on many subjects. In addition, the AEC has announced that it is conducting a full public hearing complete with cross-examination on the ECCS Interim Acceptance Criteria. We, of course, were urging just such a review in this proceeding and our cross-examination was directed at certification of this issue to the Commission. The Commission has, in effect, granted our request sua sponte and obviously the record developed in that rule-making proceeding and the decision reached will have a direct bearing on the issues here.

Applicant's motion is inappropriate because it mistakenly assumes that this proceeding is a contest in which each team is given a specific number of minutes to win the game. What is at stake is the health and safety of the public and if, prior or subsequent to this Board's decision, data is uncovered which pertains to the safety of this plant, it is the duty of the AEC Staff, of the Intervenors and even of the Applicant to advise the Board or the Commission of that data. Applicant's view is that if the pending ECCS public hearing determines that the maximum safe clad temperature for fuel rods in a LOCA is 1600°F that determination will be irrelevant for this proceeding because the record in this proceeding on ECCS has been closed. Obviously, no such view would prevail. It is equally clear that if relevant documents not now available become available in the future, any party can move that the Board take official notice of such documents and pursuant to the provisions on official notice the applicant will have an opportunity to rebut the documents.

We wish to underscore the fact that we in no way intend to frivolously refer to additional documents or regulations merely because they become available in the future. With the exception of the ECCS hearing and one document on ECCS now being prepared by Oak Ridge, we know of no further relevant data to which we would direct the Board's attention. The Board can judge the value of these submissions when offered and if they appear to be frivolous or irrelevant can obviously refuse to accept them in the proceeding. We should add that certain correspondence between the Staff and Intervenors on post-LOCA unreactive iodine will also be offered in evidence at the hearing on December 14th. We understand these communications have been publicly available in the same manner as communications between the Applicant and the Staff.

Sincerely,

Anthony Z. Roisman
Counsel for Citizens Committee
for the Protection of the
Environment

AZR/cj
cc: All persons on the service list