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UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION  
Before the  
ATOMIC SAFETY AND LICENSING BOARD

'98 APR 27 P3:42

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In the Matter of	)	Docket No. 50-029-LA
	)	ASLBP No. 98-736-01-LA
YANKEE ATOMIC ELECTRIC COMPANY	)	
	)	
(Yankee Nuclear Power Station)	)	

CITIZENS AWARENESS NETWORK, INC. REPLY TO YANKEE ATOMIC  
ELECTRIC COMPANY'S ANSWER TO AMENDED PETITION TO INTERVENE

Citizens Awareness Network, Inc. (CAN), hereby replies to Yankee Atomic Electric Company's (YAEC) Answer to CAN's amended petition to intervene in the license amendment proceeding on YAEC's proposed License Termination Plan (LTP).<sup>1</sup>

I. Reply to YAEC's Answer.

On April 13, 1997, YAEC filed a response to CAN's amended petition to intervene (henceforth, "answer"). YAEC claims therein that CAN's and New England Coalition on Nuclear Pollution's (NECNP) filings are "verbatim identical." Similarities in this instance are due to the fact that CAN's declarant (Ms. Katz) and NECNP's declarant ( Mr. van Itallie) live 1/10 of a mile away from each other in Rowe, Massachusetts, within 6 miles of Yankee Rowe. The concerns raised by representatives of CAN and NECNP are similar because similar issues are important to

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people living in the shadow of nuclear power stations. As the NRC and the Panel well know, CAN represents many local residents who are concerned about the clean-up of the Yankee Rowe site and the Deerfield River, and the storage of irradiated fuel and Greater than Class-C (GTCC) radioactive waste on site for an indefinite period of time.

CAN asks the Panel to take note of the fact that YAEC offers no legal argument to deny CAN's standing in this proceeding.

CAN contends that YAEC is attempting to prejudice the Panel on issues going to the merits of this case before the Panel has made a decision on standing. In CAN's view the time to argue the merits of the case is after the Panel recognizes CAN's standing and after the intervenors submit contentions to the Panel. CAN asks that the Panel in this regard strike all of YAEC's arguments on the merits as untimely and irrelevant to the Panel's decision of the standing issue.

If the Panel does not strike those portions of YAEC's Answer, CAN asks the Panel to take note of the following points.

Under the heading "Site Release Criteria": YAEC does not cite any law or regulations which give YAEC the right to exceed the stated 15 mrem/ year dose in its

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<sup>1</sup>CAN intends to file a response to the NRC's staffs Answer within the amount of time permitted under 10 CFR Part 2.

Site Release Plan. In YAEC's LTP, (Revision 0, May, 1997), YAEC repeatedly uses a 15 mrem/year dose site release criteria. Yet, in YAEC's response, it claims to be able to leave at least 25 mrem/year dose, and even as high as a 100 mrem/year dose at license termination. Neither the 25 mrem/year dose nor the 100 mrem/dose are mentioned in YAEC's LTP. Such doses were not mentioned at the NRC meeting held on January 13, 1998 in Buckland, or any previous public meetings. See LTP sections 2.1, 2.4.3, 2.4.4, 4.4.3 CAN contends that Yankee Rowe's LTP must adhere to a "no more than 15 mrem/yr" release criteria because it commenced decommissioning prior to the regulatory change in site release criteria.

In June, 1995 at a public meeting at Greenfield Community College between NRC and Yankee Atomic, NRC Representative Brian Grimes stated that the NRC would not permit even a teaspoon of radiation in excess of the 15 mrem/year dose to remain on site after license termination. He stated that YAEC would not be allowed to average the radiation remaining on site to meet the 15 mrem/year dose criteria. Despite YAEC's attorney's unsworn and undeclared testimony in YAEC's Answer, the LTP contains no discussion of either "worst case" or "prudently conservative" site release criteria. Rather it only uses a 15 mrem/year dose criteria.

Under the heading "Spent Fuel Management", YAEC's answer states that CAN's spent fuel management concerns are not part of the LTP proceeding. CAN contends that the transfer, movement, and storage of irradiated fuel are highly dangerous

and experimental processes. To date nuclear reactor licensees have confronted systemic problems with cask loading and leaking casks. Moreover, as GTCC waste remains in the fuel pool during the loading and transfer of irradiated fuel to an Independent Spent Fuel Storage Installation (ISFSI), the NRC, pursuant to the Atomic Energy Act and the Nuclear Waste Policy Act, remains the agency Congress chose to regulate and oversee the dismantling the reactor and clean up of the site. In fact, despite the arguments in its Answer to this Panel, YAEC's LTP refers to the removal of the fuel and GTCC waste as part of the current phase of decommissioning. See LTP, section 3.4, 3.1, etc. The LTP states, in pertinent part, that the decommissioning phase involves the, "dismantlement and decontamination of the SFP and its supporting systems, structures, and components." Id. at section 3.1. YAEC acknowledges that the activities involved in casking loading, transfer, and storage of irradiated fuel and GTCC waste occur during decommissioning. Decommissioning even continues after the transfer of the irradiated fuel to an ISFSI or under some other as yet unresolved solution the Department of Energy may offer. NRC regulations in Part 50 and Part 72 also plainly require that the licensee disclose and discuss these issues in the LTP. See 10 CFR 50.82, 72.218, and 51.23 ( c ).

YAEC claims that approval of the LTP is a mere formality, and that all activities YAEC is engaging in were already approved during the Decommissioning Plan approval process. See YAEC's Answer at p. 29, n. 37. If this were the case why do NRC regulations require an LTP or offer a hearing on the remediation of the site? See 10 CFR 50.82. In this regard, CAN asks the Panel to take notice of the facts: (1) activities

that YAEC undertakes during this stage of decommissioning will effect CAN's members and their community, and (2) the way YAEC's LTP approval process takes place will set precedents for the decommissioning of other sites. YAEC's statement implies that this proceeding is just a rubber stamp process in which NRC has actually already approved any and all activities at Yankee Rowe when the NRC gave YAEC approval of the Decommissioning Plan in February, 1995. In CAN's view, this entire process remains a controversial one. YAEC has used (and wants to continue to use) our community as a Guinea pig for the development of engineering and regulatory techniques to remediate seriously contaminated sites, and create an ISFSI without adequate NRC or the public oversight or control. Such knowledge will be used for YAEC's profit making enterprises at other reactor sites.

YEAC also claims that the issue of its conducting all of the LTP activities proposed under a Part 50 license is outside this Panel's jurisdiction. NRC rules and regulations are not mutable and anomalous. YAEC cannot arbitrarily pick and choose from them as if they were some regulatory Chinese menu and then decide how to proceed with decommissioning. The rules and regulations in both 10 CFR Part 50 and Part 72 were created to protect the public and the environment. NRC regulations under 10 CFR Part 72 were however, specifically intended to cover a circumstance that would exist with minimal licensee and NRC oversight when an ISFSI is set up and filled with irradiated fuel. When the NRC set out Part 72 regulations, it intended to comply with both the Nuclear Waste Policy Act and the National Environmental Policy Act by

building necessary public and environmental protections into the regulatory scheme. See, e.g., 10CFR 51.23 ( c) and compare it with sections 50.82, 72.1, 72.1, 72.212, 72.54, 72.218. That is why YAEC's failure to apply for a Part 72 license is disturbing. Unless an ISFSI is licensed under Part 72, the installation does not meet the requirements of the National Environmental Policy Act or the Nuclear Waste Policy Act.

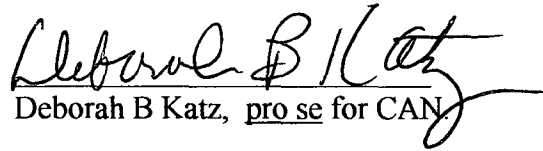
YAEC states in its Answer under "Controls and Procedures," that CAN has recycled an old issue of inadequate description of the controls and limits on procedures and equipment utilized during decommissioning. CAN does believe and practice recycling. In this regard, however, CAN is raising an issue of serious concern to the public. Democratic participation by ordinary citizens is undermined when a licensee is permitted to present a vaguely described decommissioning plan (or LTP) for a nuclear power reactor site. Such vagueness make it impossible to properly discuss substantive issues which deeply concern the public. CAN contends that YAEC's LTP (as was its decommissioning plan) is inadequate in description to such an extent that the information proffered renders meaningful democratic participation in the approval process nugatory.

## II Conclusion:

For the foregoing reasons of law, regulations, and fact: (1) YAEC's statements on the merits of this case should be stricken from their Answers: and (2) This Panel should

recognize CAN's standing to go forward and file contentions to be litigated in this proceeding.

Respectfully Submitted,

  
Deborah B Katz, pro se for CAN

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Certificate of Service

I, Deborah Katz, pro se representative of the Citizens Awareness Network Inc., do hereby certify under penalty of perjury that copies of the within documents have on this day 22 of April 1998, been served pursuant to 10 CFR 2.701 upon the following persons:

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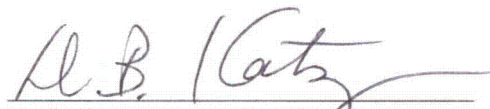
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