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UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

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ATOMIC SAFETY AND LICENSING BOARD

Before Administrative Judges:

OFFICE OF THE SECRETARY
RULING AND
ADJUDICATIONS STAFF

Charles Bechhoefer, Chairman
Dr. Thomas S. Elleman
Thomas D. Murphy

STERILED OCT 28 1998

In the Matter of

YANKEE ATOMIC ELECTRIC COMPANY
(Yankee Nuclear Power Station)

License Termination Plan

Docket No. 50-029-LA

ASLBP No. 99-754-01-LA-R

October 27, 1998

MEMORANDUM AND ORDER

(Schedules for Remanded Proceeding; Prehearing Conference)

This proceeding concerns the application of Yankee Atomic Electric Company (Applicant) for approval of a License Termination Plan for the Yankee Nuclear Power Station, a nuclear facility located near the town of Rowe, Franklin County, Massachusetts. On June 12, 1998, the Atomic Safety and Licensing Board in this proceeding issued a Memorandum and Order (Decision on Standing) that denied petitions for intervention and requests for a hearing of three petitioners--the New England Coalition on Nuclear Pollution, Inc. (NECNP), the Citizens Awareness Network (CAN), and the Franklin Regional Planning Board (FRPB)--and hence terminated the proceeding. LBP-98-12, 47 NRC 343. Upon appeal, the Commission, in a ruling dated October 23,

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1998, affirmed in part and reversed in part. CLI-98-21, 48 NRC ___. It determined that NECNP and CAN each had demonstrated standing, and that FRPB had not done so. It remanded the proceeding to the Licensing Board, curtailing the scope of the proceeding and offering guidelines to the Board for the remainder of the proceeding.

Pending before this Board¹ is the remanded proceeding. In order to become parties, each of the two petitioners with standing--NECNP and CAN--must file at least one contention satisfying the requirements of 10 C.F.R. § 2.714(a). Those petitioners should file their contentions to be in our hands (and other parties) by Monday, November 30, 1998. The Applicant and NRC Staff may file responses, to be in our hands (and other participants) by Friday, December 11, 1998.

As for the FRPB, the Commission noted both their late intervention and their tardy appeal, but it denied them participation as an interested governmental entity because the Commission deemed them to be merely an "advisory body [that] lacks executive or legislative responsibilities" and is "so far removed from having the representative authority to speak and act for the public trust that they do not qualify as governmental entities for purposes of section 2.715(c)." CLI-98-21, slip op. at 13. The Commission indicated, however, that the Franklin Regional Council of

¹On October 26, 1998, the Licensing Board was reconstituted. 63 Fed. Reg. ___.

Governments had endorsed FRPB's application to participate, explaining that the FRPB was representing the interests of the Franklin County region. The Commission indicated that the "Council is itself free to seek participation rights before the Licensing Board and to utilize the FRPB in such an effort however it sees fit." CLI-98-21, supra (slip op., p. 14). Timeliness, of course, is not a factor in such a petition, although the governmental entity must take the proceeding as it finds it. If the Franklin Regional Council of Governments or other interested governmental body should elect to participate in accordance with 10 C.F.R. § 2.715(c) and if it has contentions to offer, we suggest that the entity might wish to follow the schedule outlined above for submission of contentions.


A prehearing conference is hereby scheduled for Wednesday, December 16, 1998 and Thursday and Friday, December 17-18, 1998, to the extent necessary. This conference will cover the admissibility of tendered contentions, potential participation by governmental entities and scheduling matters as necessary. (To the extent that none of the tendered contentions appear on their face to satisfy applicable standards, including those included in CLI-98-21, the conference could be cancelled.) This conference will be held in the general vicinity of the plant site at a time and place to be announced.

If such a conference is held, the Board intends to

permit a limited number of oral limited appearance statements, as authorized by 10 C.F.R. § 2.715(a). The time and location of such statements will also be announced at a later date.

IT IS SO ORDERED.

For the Atomic Safety and
Licensing Board


Charles Bechhoefer, Chairman
ADMINISTRATIVE JUDGE

Rockville, Maryland
October 27, 1998

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

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YANKEE ATOMIC ELECTRIC COMPANY

(Yankee Nuclear Power Station)

Docket No.(s) 50-029-LA

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing LB M&O--SCHEDULES..PREH. CONF. have been served upon the following persons by U.S. mail, first class, except as otherwise noted and in accordance with the requirements of 10 CFR Sec. 2.712.

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Dated at Rockville, Md. this
28 day of October 1998


Office of the Secretary of the Commission