July 1, 1981

UNITED STATES OF AMERICA

NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matter of	)	
	)	
PENNSYLVANIA POWER & LIGHT COMPANY	)	Docket Nos. 50-387
and	)	50-388
ALLEGHENY ELECTRIC COOPERATIVE, INC.	)	
	)	
(Susquehanna Steam Electric Station, Units 1 and 2)	)	

APPLICANTS' BRIEF IN SUPPORT OF MOTION FOR SUMMARY DISPOSITION OF CONTENTION 19

Contention 19 in this proceeding states:

> The ER and FSAR are inadequate in that they do not discuss an accident such as actually occurred at the Three Mile Island Unit 2 facility, either in terms of the consequences of such an accident, their effect on the cost-benefit balance for the facility, or measures to prevent or mitigate the occurrence or effects of such an accident.

The background of this contention is set forth in the Memorandum and Order Concerning Class 9 Accident Contention, LBP-79-29, 10 NRC 586 (1979). In summary, Susquehanna Environmental Advocates (SEA) in its initial submissions sought to raise a contention concerning so-called Class 9 accidents. The Licensing Board rejected this issue in the Special Prehearing Conference Order, LBP-79-6, 9 NRC 291, 323-4 (1979), relying upon established Commission precedent. In August, 1979, several months after the accident at Three Mile Island, SEA sought reconsideration of that ruling, claiming that TMI was a Class 9 accident.

The Licensing Board's Memorandum and Order Concerning Class 9 Accident Contention ruled that Commission policy continued to foreclose consideration of Class 9 accidents generally. However, the Licensing Board found that SEA had made a sufficient showing as to the likelihood a particular Class 9 event -- the TMI accident -- to constitute special circumstances warranting its litigation.

The issue to be litigated was explicitly framed in terms of the events which occurred at TMI.

> [I]t appears that SEA has identified at least one accident that -- even assuming it to be a Class 9 accident -- may be explored under its proposed Contention 10. That accident is a series of events of the type which occurred at TMI.

10 NRC at 592. The Licensing Board specifically rejected Applicants' argument that SEA was not seeking to litigate "the consequenses for Susquehanna of the particular sequence of events which occurred at TMI." 10 NRC at 592, fn. 4. The Board went on to find that the occurrence of the particular sequence of events at TMI was sufficient basis for a contention.

> The fact that the TMI events occurred constitutes a prima facie showing of the probability of occurrence of such an accident, sufficient to form the basis for an acceptable contention.

10 NRC at 592. To assure that there would be no misunderstanding as to the scope of the contention, the Licensing Board spelled out the factual issues involved.

> To be sure, there may be sufficient differences between the boiling water reactors involved in this proceeding and the pressurized water reactor involved in the TMI accident to preclude a similar or comparable accident from

> occurring at Susquehanna. But that is a matter of factual proof, not of legal prescription.

Id.

As shown in the Statement of Material Facts As To Which There Is No Genuine Issue To Be Heard (Contention 19), and the Affidavit of Junius William Millard in Support of the Summary Disposition of Contention 19, the sequence of events which occurred at TMI is very likely to occur at Susquehanna as a result of the differences in design and operation between the Susquehanna boiling water reactors and the TMI pressurized water reactors. Having made the factual showing contemplated in the Licensing Board's Memorandum and Order which admitted Contention 19, Applicants respectfully submit that summary disposition of that contention is now appropriate.

Respectfully submitted,

SHAW, PITTMAN, POTTS & TROWBRIDGE

By _____

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