

February 19, 1980

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matter of)

SACRAMENTO MUNICIPAL UTILITY DISTRICT)

(Rancho Seco Nuclear Generating
Station))

) Docket No. 50-312

LICENSEE'S OBJECTION TO AND MOTION FOR
RECONSIDERATION OF PART II OF THE BOARD'S
PREHEARING CONFERENCE ORDER OR, IN THE
ALTERNATIVE, TO DEFER THE FILING OF LICENSEE
AND NRC STAFF TESTIMONY CN ISSUE CEC 5-2

On February 14, 1980, the Atomic Safety and Licensing Board issued its Order Subsequent to the Prehearing Conference of February 6, 1980, Part II of which records the Board's denial of "Licensee's Motion for Summary Disposition of Contention 5-2 by California Energy Commission," dated January 24, 1980. Pursuant to 10 C.F.R. § 2.752(c), Licensee objects to this part of the prehearing conference order, respectfully submits that the ruling is in error, and moves the Board to reconsider its holding.

The subject of Licensee's motion, California Energy Commission ("CEC") Issue 5-2, states as follows:

Whether the containment building should be modified to provide overpressurization protection with a controlled filtered venting system to mitigate unavoidable releases of radionuclides?

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Licensee's motion to dispose of this issue was accompanied by "Licensee's Statement of Material Facts as to Which There is No Genuine Issue to be Heard (CEC Contention 5-2)." In its responsive pleading, "California Energy Commission's Statement of Material Facts in Dispute with Respect to CEC Issue No. 5-2," dated February 4, 1980, CEC did not dispute the following two statements of material facts advanced by Licensee:

1. The function of the controlled filtered venting system proposed by CEC in Contention 5-2 would be to prevent or delay containment failure in the event of an accident involving core melt or a loss of coolant accident more severe than a break equivalent in size to the double-ended rupture of the largest pipe of the reactor coolant system. Affidavit of Robert A. Dieterich ("Dieterich"), para. 3.

2. Rancho Seco has a containment and related engineered safeguards to control the containment atmosphere following postulated accidents which conform to all applicable requirements of the NRC's General Design Criteria For Nuclear Power Plants (10 C.F.R. 50 Appendix A). ("NRC Design Criteria"), Dieterich, para. 4.

These undisputed facts make it clear that CEC Issue 5-2 represents a challenge to a Commission regulation -- the General Design Criteria for Nuclear Power Plants. These criteria require a containment structure which, with the containment heat removal system, is designed to accommodate the calculated temperature and pressure conditions resulting from a loss of coolant accident. 10 C.F.R. Part 50, Appendix A, Criterion 50. Loss of coolant accidents are defined as:

...those postulated accidents that result from the loss of reactor coolant at a rate in excess of the capability of the reactor coolant makeup

system from breaks in the reactor coolant pressure boundary, up to and including a break equivalent in size to the double-ended rupture of the largest pipe of the reactor coolant system.

Id., Definitions and Explanations.

The NRC Staff stated, at the prehearing conference, its position that summary disposition of CEC Issue 5-2 should be granted because the proposed venting system would be applicable to a situation beyond the present design basis loss of coolant accident. Tr. 89-90.

Announcing its ruling denying Licensee's motion, the Licensing Board stated, without elaboration, that the issue clearly is not a challenge to the Commission's regulations. Tr. 100. Licensee does not understand how the Board reached this conclusion,^{1/} and must respectfully note its disagreement. As stated in Licensee's brief^{2/} and as CEC admits, the controlled filtered venting system suggested by CEC Issue 5-2 is intended for accidents more severe than the design basis accident which the Commission's regulations specify as the basis for its stated design criteria.

It has been recognized elsewhere that the addition of controlled, filtered venting systems to containments would

1/ It is recognized that the filing of this motion disturbs the schedule agreed to by the parties for the simultaneous filing of testimony on February 26, 1980, in response to CEC Issue 5-2. Licensee delayed the filing of this motion, however, because of the possibility that the Board might elaborate upon its holding in the order. If the instant motion is denied in its entirety, a new schedule for the filing of the testimony may then be established by the Board or by agreement of the parties.

2/ Licensee's Brief in Support of its Motion for Summary Disposition of Contention 5-2 by California Energy Commission, January 24, 1980.

require a change to the current licensing design basis set forth in Appendix A to 10 C.F.R. Part 50. Thus, in the TMI-2 Lessons Learned Task Force Final Report, NUREG-0585, it is stated at page 3-5:

The Task Force recommends (see Recommendation 10) that a notice of intent to conduct rulemaking be issued to solicit comments on the issues and specific facts relating to the consideration of controlled, filtered venting for core-melt accidents in nuclear power plant design and that a decision on whether and how to proceed with this specific requirement be made within one year of the notice.

Similarly, in its draft Action Plans for Implementing Recommendations of the President's Commission and Other Studies of the TMI-2 Accident, NUREG-0660, the NRC Staff discusses the issuance in April, 1980, of a notice of intent to conduct rulemaking to solicit comments on the issues and facts relating to the consideration of the need for design features to mitigate the consequences of degraded core and core melt accidents. NUREG-0660 at page II.B-11. The Staff states that specific areas for comment should include, but not be limited to:

(6) The expected effectiveness and performance of suggested means of reducing the consequences of such sequences, in particular, systems for controlled, filtered venting of the containment and for preventing the uncontrolled combustion of hydrogen.

Id. at II.B-12.

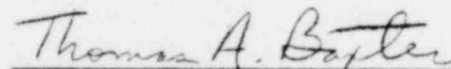
For these reasons, Licensee respectfully objects to Part II of the subject Order and moves for reconsideration of the Board's denial of summary disposition of CEC Issue 5-2. While we believe that summary disposition now is appropriate

if the Board agrees that the issue challenges a Commission regulation, Licensee would not object to a deferral of the instant motion if the Board desires to provide California Energy Commission with the opportunity to make the showing required by 10 C.F.R. § 2.758(b) for waiver of a regulation.

In the alternative, if the Board affirms its holding that CEC Issue 5-2 does not challenge a Commission regulation, Licensee moves that the filing of Licensee and NRC Staff testimony on this issue be postponed. When the Board admitted CEC Issue 5-2 it stated, at page 14 of its Order Ruling on Scope and Contentions, dated October 5, 1979, "that CEC is expected to offer evidence that these additional measures will be required." Consistent with this qualification and direction, it would be appropriate for CEC to file its testimony on Issue 5-2 and for the Board to determine, after cross-examination, whether a sufficient showing has been made such that Licensee and the NRC Staff must respond with testimony. A schedule for the presentation of Licensee and Staff testimony could then be established if necessary.

Respectfully submitted,

SHAW, PITTMAN, POTTS & TROWBRIDGE



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CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing "Licensee's Objection to and Motion for Reconsideration of Part II of the Board's Prehearing Conference Order or, in the Alternative, to Defer the Filing of Licensee and NRC Staff Testimony on Issue CEC 5-2" were served this 19th day of February, 1980 by hand delivery upon those identified with an asterisk and by deposit in the U.S. mail, first class, postage prepaid, to the other parties identified on the attached Service List.

Thomas A. Baxter
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