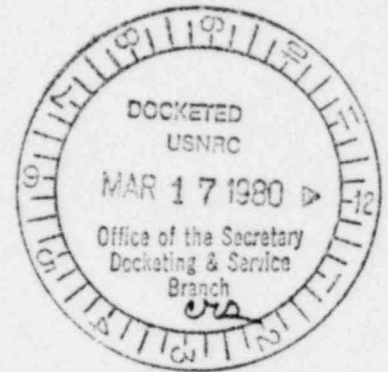


UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

ATOMIC SAFETY AND LICENSING BOARD

Elizabeth S. Bowers, Chairman  
Frederick J. Shon  
Oscar H. Paris



In the Matter of )  
 )  
LONG ISLAND LIGHTING COMPANY ) Docket No. 50-322  
 )  
(Shoreham Nuclear Power Station, )  
Unit 1) )

CERTIFICATION TO THE COMMISSION  
(March 14, 1980)

This is a certification to the Commission under 10 CFR §2.718(i) and a request for policy guidance in accord with Appendix B to 10 CFR Part 2, paragraphs 1 and 3, submitted to the Appeal Board under 10 CFR §2.735(b).

On January 24, 1980, Shoreham Opponents Coalition (SOC) filed a document entitled, "Petition of the Shoreham Opponents Coalition (SOC) to Suspend Construction Permit for the Long Island Lighting Company's Shoreham Nuclear Power Station (Unit 1) and to Renotice Hearings in Docket No. 50-322, or in the Alternative, to Permit Late Intervention of SOC Pursuant to 10 CFR Part 2, §2.714" (SOC Petition).

On February 8, 1980, Long Island Lighting Company (Applicant) filed Applicant's Opposition to SOC's Requests for Renoticing and Intervention (Applicant Opposition).

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On February 6, 1980, Intervenor County of Suffolk (Suffolk) filed "Answer of the County of Suffolk to the Petition of the Shoreham Opponents Coalition (SOC) to Suspend Construction Permit for the Long Island Lighting Company's Shoreham Nuclear Power Station (Unit 1) and to Renotice Hearings in Docket No. 50-322, or in the Alternative, to Permit Late Intervention of SOC Pursuant to 10 CFR Part 2, §2.714." (Suffolk's Answer).

On February 7, 1980, North Shore Committee Against Nuclear and Thermal Pollution (Committee) filed "Answer of Intervenor North Shore Committee Against Nuclear and Thermal Pollution in Support of the Petition of Shoreham Opponents Coalition" (Committee's Answer).

On February 13, 1980, the NRC Staff (Staff) filed "NRC Staff Answer to the Petition of the Shoreham Opponents Coalition." (Staff Answer).

We have already ruled on the bulk of the issues raised by the SOC Petition. (Order Ruling on Petition of Shoreham Opponents Coalition, March 5, 1980). However, as we noted at pp. 18 and 19 of that order, we believe we need Commission guidance on the admissibility in our proceeding of one part of one proposed contention set forth in the SOC Petition, namely, the portion of SOC Contention 12 which reads:

12. Mark II Containment: Intervenors contend that the Shoreham primary containment system does not adequately fulfill the requirements of 10 CFR, Part 50, Appendix A, Criteria 4, 16, 50 and 51. This contention is supported by the fact of new information regarding: ... the unresolved issues of LOCA hydrogen generation quantities demonstrated at TMI-2 and the possible need for inerting, venting, or strengthening at Shoreham.

Of this contention, Staff says, "Petitioners here challenge the Commission's regulation in this area, namely, 10 CFR §50.44, 'Standards for Combustible Gas Control System in Light Water Cooled Power Reactors,' and the contention should be dismissed on that basis." (Staff's Answer at p. 22). Applicant objects to the contention on other grounds. (Applicant's Opposition at pp.25 et seq.). Suffolk's Answer did not specifically address the matter, nor did Committee's Answer.

We have already directed the parties to address a question which, in some measure, may impinge upon this contention:

Why is inerting for the Shoreham containment not recommended as a result of the TMI-2 accident while inerting is recommended for later plants of similar design?

(Order of March 5 at p. 25)

Since this question merely seeks clarification of the basis of a staff position set forth in NUREG-0578, "TMI-2 Lessons Learned Task Force Status Report and Short-Term Recommendations" it is not, in itself, a challenge to a Commission regulation.

We are aware, however, that the staff's position with regard to admissibility of the proposed contention may be well-founded. The Shoreham FSAR, at pp. 6.2-47 et seq., in discussing combustible gas control, treats only the standards set forth in 10 CFR §50.44, and concludes that the facility complies with those standards.<sup>1/</sup>

If, indeed, we are to examine the necessity for "inerting, venting, or strengthening" the containment in the light of the hydrogen generated at TMI-2, it seems clear that requirements exceeding those of 10 CFR §50.44 might be indicated. We, therefore, certify the following question to the Commission:

Is the proposed SOC Contention 12, as set forth supra, cognizable in our proceeding, in view of the fact that examination of "... LOCA hydrogen generation quantities demonstrated at TMI-2..." may require examination of the consequences of hydrogen generation in excess of that set forth in 10 CFR §50.44?

We are aware that there pends before the Commission a similar certification from the Licensing Board in the TMI-1

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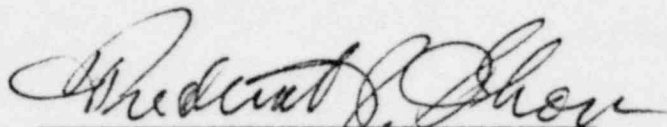
<sup>1/</sup> The regulation, 10 CFR §50.44(d), sets forth methods to calculate the amount of hydrogen generation which is to be expected in a LOCA. Unfortunately, the amount apparently generated in the small break LOCA at TMI-2 was much larger than would have been predicted by the methods of 10 CFR §50.44.

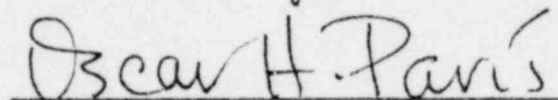
case (Metropolitan Edison Co., Three Mile Island Nuclear Station, Certifications to the Commission, LBP-80-1, NRC 11 \_\_\_, January 4, 1980). We agree with that Board that the requirements of Gulf States Utility Company (River Bend Station, Units 1 and 2), ALAB-444, 6 NRC 760, 724-75 (1977) and Virginia Electric Power Co. (North Anna Nuclear Power Station), ALAB-491, 8 NRC 245, 247-8 (1978) are such that if the TMI-2 accident has indeed raised generic questions about the quantities of hydrogen generated in a LOCA, Applicant and Staff should be required to demonstrate that the plant can be operated safely in the face of that still unresolved generic problem.

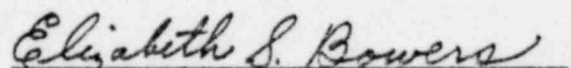
We further agree with the TMI-1 Board in believing that it would be a positive step to permit discovery to proceed and evidence to be taken on the hydrogen question in order to "... preserve for the Commission the option to defer ruling on these certifications..." until the record of the whole proceeding is before the Commission in accord with 10 CFR Part 2, Appendix B. We recognize, however, that such a procedure would, in practice, be little different from simply admitting the contention in the face of the Staff's possibly meritorious objection that it challenges a regulation. The possible importance of the matter to public health and safety prompts

us simultaneously to seek Commission guidance and to recommend a procedure that would expeditiously build a record for a decision.

FOR THE ATOMIC SAFETY AND  
LICENSING BOARD

  
Frederick J. Shon

  
Oscar H. Paris

  
Elizabeth S. Bowers, Chairman

Dated at Bethesda, Maryland  
this 14th day of March, 1980.