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8005130-604

Dated: April 4, 1980

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

IN THE MATTER OF	)	
	)	
GENERAL ELECTRIC COMPANY	)	
	)	
(GE Morris Operation	)	Docket No. 70-1308
Spent Fuel Storage	)	
Facility)	)	

RESPONSE OF GENERAL ELECTRIC COMPANY  
ON RE-AMENDED CONTENTIONS OF  
ROREM ET AL. (INTERVENORS)

This memorandum is submitted by the Applicant, General Electric Company ("General Electric"), in response to the Re-Amended Contentions of Rorem, et al. ("Rorem"). As demonstrated below, Rorem in her third attempt to set forth contentions has failed, once again, to meet the requirements of 10 C.F.R. § 2.714. The Board may reasonably assume that Rorem has perfected, to her fullest ability, her contentions and that an opportunity for a further amendment would serve no purpose and cure none of the defects still present in the Re-Amended Contentions.

Standards For Review Of Contentions

Rather than repeat the discussion of "Standards For Review of Contentions" as it is contained in General Electric's Response To Illinois' Second Set of Amended Contentions, General Electric incorporates that section of that Response

into this Response to the Rorem Re-Amended Contentions as if it were fully set forth here.

General Objection to all Contentions

General Electric objects to the Re-Amended Contentions of Rorem in their entirety because they fail to meet the procedural requirements of 10 C.F.R. §§ 2.701(b) and 2.708(c), in that the Re-Amended Contentions are not accompanied by any proof of service or signed by any of the intervenors.\*/ Ms. Rorem is no doubt familiar with the necessity of meeting these procedural requirements: she acknowledged that her name was properly listed on the service list for the proceeding (2/29/80 Tr. p. 109) and recently her co-intervenor, Everett Quigley, requested that his name be added to that service list. General Electric requests that the Board both order Rorem to cure the procedural defects for this filing and order her to comply with the procedural regulations in the future.

General Electric also objects to each contention 1 through 7 inclusive, on the grounds that each should be stricken for failure to meet the requirements of 10 C.F.R. § 2.714(b) because

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\*/ Neither General Electric's counsel in Chicago or San Jose was served with the Re-Amended Contentions of Rorem. General Electric nevertheless established through telephone communications with the NRC Staff and the State that each of those parties was served with Rorem's Re-Amended Contentions. Rather than rely upon the procedural defectiveness of Rorem's filing, General Electric then promptly obtained a copy of the Re-Amended Contentions from the State, so that it could timely respond to them.

each contention lacks specificity and fails to set forth an adequate basis.

Specific Objections to Re-Amended Contentions

RE-AMENDED CONTENTION 1 STATES:

1. Intervenors contend that under the present license held by General Electric, no account is taken of the possibility of an accident to the storage pools which might result in large releases of radioactive gases. Intervenors further contend that such an accident is possible, due to earthquake, tornado, fire, flooding, acts of sabotage, acts of war, human error, or massive electrical power failure.

Intervenors contend that before a renewal license is issued, the following conditions should be met:

A. There should exist a comprehensive evacuation plan for the area, including the whole of two large metropolitan areas to the northeast (Joliet) and to the southeast (Kankakee) of the facility.

[These plans should include detailed information as to how hospitals, nursing homes, schools and prisons are to be evacuated.]

B. Hospitals within a 50-100 mile range of the facility should be equipped to handle large numbers of people exposed to radiation or contaminated by radiation. At present there is no hospital or other facility within such a distance which could take proper care of more than several such people.

C. Applicant should take responsibility, both financial and otherwise, for informing residents of the area that the possibility of such an accident does exist, and informing them of evacuation plans and/or measures to be taken in case of a radioactive accident either at the facility or during transport of spent fuel to or from the facility.

D. Applicant should take complete financial responsibility for formation of evacuation plans, for equipping hospitals and training personnel, and for maintenance of any equipment needed.

RESPONSE:

The introductory paragraph of this contention should be stricken because Rorem provides no credible basis for considering it possible that any accident could result in large releases of radioactive gases. Rorem fails both to show any manner in which the CSAR fails to identify any accidental occurrence and to demonstrate that the analysis of any accident is defective.

A. This subsection should be stricken because under applicable regulations General Electric is not required, nor indeed authorized, to prepare and implement any emergency evacuation plan for other than its own personnel and facility. This contention is, accordingly, an impermissible attack upon existing regulations and should be stricken pursuant to 10 C.F.R. § 2.758.\*

B. Under applicable regulations, General Electric is not required to ensure that hospital facilities have certain types of equipment. This subsection apparently, is an attack upon the validity of those existing regulations and should, accordingly, be stricken pursuant to 10 C.F.R. § 2.758.

C. Under existing regulations, there is no requirement that General Electric take financial and other responsibility

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\*/ During the Prehearing Conference of February 29, 1980, Ms. Rorem explained that the basis for this contention was that the applicant had a "moral responsibility" to take care of an evacuation plan. (2/29/80 Tr. p. 112.)

(fn. cont'd on next page)

for informing the public of accidents, the occurrence of which, in any event, is extremely remote. This subsection, accordingly, should be stricken as an impermissible attack upon the validity of existing regulations pursuant to 10 C.F.R. § 2.758.

D. Under existing regulations there is no requirement that General Electric take financial responsibility for any public evacuation plan and for hospital equipment and personnel training. This subsection also is an impermissible attack upon the validity of existing regulations and should be stricken pursuant to 10 C.F.R. § 2.758.

RE-AMENDED CONTENTION 2 STATES:

2. Intervenors contend that the General Electric Morris Operation is not secure from acts of sabotage, and that its current sabotage plan does not meet 10 C.F.R. 73.\*/  

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(fn. cont'd from preceding page)

In her Re-Amended Contentions, p. 2, Rorem also asserts that the basis for this contention "is testimony presented in a criminal trial held in Grundy County, Illinois beginning on 1 October 1979". Rorem fails, however, to provide any summation of such testimony other than the conclusory allegation that accidents with catastrophic consequences could occur. Since Rorem has withheld such information, this contention is fatally defective and must be stricken.

\*/ During the Prehearing Conference, Ms. Rorem informed the Board that she believed it was impossible "to secure a plant from sabotage", but would let this contention "rest with the fact that [she did not] think it comes up to the rules and regulations" in order to avoid having the contention stricken. (2/29/80 Tr. p. 117.) She has, however, failed to amend this contention to conform to that representation to the Board.

RESPONSE:

To the extent that this contention seeks to impose requirements upon the Morris facility in addition to those contained in 10 C.F.R. § 73.50, it should be stricken as an impermissible attack upon the validity of existing regulations pursuant to 10 C.F.R. § 2.758.

To the extent that this contention states that the Morris Operation is not in compliance with 10 C.F.R., Part 73 it should be stricken because it fails to specify or state in any manner the way in which the Morris Operation fails to meet applicable regulatory requirements.

RE-AMENDED CONTENTION 3 STATES:

3. Intervenors content that renewal of the license should take into account the close proximity of the Morris Operation to Dresden Nuclear Station, noting in particular that:

A. Dresden Nuclear Station has a poor safety record.

B. There is a concentration of spent fuel in the area; if an accident at one storage pool causes it to go critical, the other site could easily be affected.

C. The GE facility may be affected by the attempted decontamination of Dresden Unit One.

RESPONSE:

This contention, which is substantially identical to the originally filed Contention No. 3 (2/29/80 Tr. p. 120), should be stricken as irrelevant to the issues before the Atomic Safety and Licensing Board with regard to the pending license renewal application. No inter-relationship between the Dresden

and Morris facilities exists, aside from proximity, which is an inadequate basis for this contention. It would be improper for the Board to address the validity of any issues raised by subsections A, B and C of this contention because they relate to matters involving the Dresden Nuclear Station, about which the Board has no adequate information and over which this Board has no jurisdiction.

Moreover, Rorem has failed to provide the requisite specificity and basis. Her Re-Amended Contention, p. 4, asserts:

"The basis for this contention is also contained in the trial transcript mentioned in Contention 1."

However, in discussing this Contention at the Prehearing Conference, Ms. Rorem stated:

". . . Having discussed this with Dr. Weber [sic], he felt that there was, you know, that there could be an interaction. It is not on the trial transcript." (2/29/80 Tr. p. 121) (Emphasis added.)

Rorem cannot establish a basis for this contention by reference to non-existent testimony or by mere conclusory allegations that some third person "felt" that there could be an interaction.

RE-AMENDED CONTENTION 4 STATES:

4. Intervenors contend that relicensing the facility, because of the possibility of an accident at the facility, or during transportation to it, would damage property values and the economic structure of the community.\*/\_

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\*/\_ During the Prehearing Conference, Ms. Rorem stated that she could amend this contention to specify the types of accident she was referring to; (2/29/80 Tr. p. 128); she has, however, failed to do so.

RESPONSE:

This entire contention, which is substantially identical to original Contention 7 (2/29/80 Tr. p. 127), should be stricken as irrelevant because only the issues of the public health and safety, and not the issues of property values and economic structure, are presented by the pending license renewal application.

Moreover, to the extent that this contention relates to transportation of spent fuel to the Morris facility, it should be stricken as irrelevant to the proceeding because the question of transportation of spent fuel is not germane to the pending license renewal application. To the extent that that portion of this contention is an attack on existing transportation regulations contained in 10 C.F.R., Part 71, or the recent amendment to 10 C.F.R., Part 73 (44 Fed. Reg. 34466 (June 15, 1979)), it should be stricken pursuant to 10 C.F.R. § 2.758.

RE-AMENDED CONTENTION 5 STATES:

5. Intervencors contend that mere compliance with NRC standards in no way assures residents of the area that they will suffer no adverse effects from low-level radiation.

RESPONCE:

This contention, which is similar to the originally filed Contention No. 8, should be stricken, pursuant to 10 C.F.R. § 2.758, because, on its face, it is an impermissible attack upon the validity of existing regulations, contained in 10 C.F.R., Part 20, with which General Electric is in compliance, as the contention implicitly concedes.



RE-AMENDED CONTENTION 6 STATES:

6. Intervenors contend that transport of spent fuel to the facility involves substantial risk of dispersal [sic] of radioactive materials due to accident or sabotage.

RESPONSE:

This contention, which is substantially identical to originally filed Contention No. 9, should be stricken as irrelevant to the proceeding because the question of transportation of spent fuel is not germane to the pending license renewal application. To the extent that the contention is an attack on existing transportation regulations contained in 10 C.F.R., Part 71, or the recent amendment to 10 C.F.R., Part 72, (44 Fed. Reg. 34466 (June 15, 1979)), it should be stricken pursuant to 10 C.F.R. § 2.758.

RE-AMENDED CONTENTION 7 STATES:

7. Intervenors contend that a relicensing of the GE Morris Operation would facilitate a possible takeover of that operation by the Federal government.

RESPONSE:

This contention should be stricken as totally irrelevant to any issue before the Board.

Since each and every re-amended contention of petitioner Rorem is invalid even after this second attempt at amending them, General Electric submits that each should be stricken from the pending license renewal proceeding and requests that this Board do so.

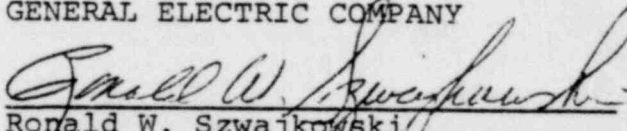
General Electric's Comments on Scheduling

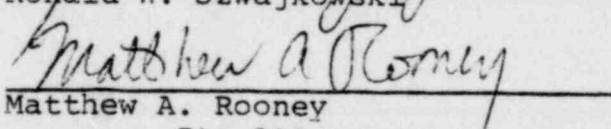
General Electric shares the view of the Board (2/29/80 Tr. pp. 137-138) that the next prehearing conference would be appropriate following the Board's ruling on contentions and the completion of discovery, if any. General Electric strongly urges the Board to establish a schedule to assure the expeditious completion of this proceeding.

As demonstrated above, General Electric submits that Rorem has not tendered any admissible contentions. Should the Board find a contention to be admissible, however, General Electric's discovery regarding it would not be substantial. General Electric would anticipate serving a set of interrogatories upon the other parties to this proceeding and taking on the additional discovery precipitated by the responses to those interrogatories. General Electric believes that it could complete its discovery in a period of 30 to 45 days.

Respectfully submitted,

GENERAL ELECTRIC COMPANY

  
Ronald W. Szwajkowski

  
Matthew A. Rooney  
Its Attorneys

DATED: April 4, 1980

OF COUNSEL:

MAYER, BROWN & PLATT  
231 South LaSalle Street  
Chicago, Illinois 60604  
(312) 782-0600

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

In the Matter of )  
 )  
GENERAL ELECTRIC COMPANY )  
 ) Docket No. 70-1308  
Consideration of Renewal of )  
Materials License No. SNW-1265 )  
Issued to GE Morris Operation )  
Fuel Storage Installation )

CERTIFICATE OF SERVICE

The undersigned hereby certifies that he served a copy of the RESPONSE OF GENERAL ELECTRIC COMPANY ON THE RE-AMENDED CONTENTIONS OF ROREM ET AL (INTERVENORS), in the above-captioned proceeding on the following persons by causing the said copies to be deposited in the United States mail at 231 South LaSalle Street, Chicago, Illinois, in plainly addressed and sealed envelopes with proper first class postage attached before 5:00 P.M. on April 4, 1980:

Andrew C. Goodhope, Esq., Chairman  
Atomic Safety and Licensing Board  
3320 Estelle Terrace  
Wheaton, Maryland 20906

Dr. Linda W. Little  
Atomic Safety and Licensing Board  
5000 Hermitage Drive  
Raleigh, North Carolina 27612

Dr. Forrest J. Remick  
Atomic Safety and Licensing Board  
305 East Hamilton Avenue  
State College, Pennsylvania 16801

Atomic Safety and Licensing Appeal  
Panel  
U.S. Nuclear Regulatory Commission  
Washington, D.C. 20555

Bridget L. Rorem,  
Essex, Illinois 60935

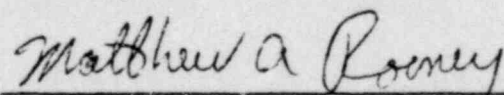
Everett J. Quigley  
R.R. 1, Box 378  
Kankakee, Illinois 60901

Susan N. Sekuler, Esq.  
George William Wolff, Esq.  
Office of the Attorney General  
188 West Randolph Street  
Suite 2315  
Chicago, Illinois 60601

Marjorie Ulman Rothschild, Esq.  
United States Nuclear  
Regulatory Commission  
Washington, D.C. 20555

Atomic Safety and Licensing  
Board Panel  
U.S. Nuclear Regulatory  
Commission  
Washington, D.C. 20555

Docketing and Service Section  
Office of the Secretary  
U.S. Nuclear Regulatory  
Commission  
Washington, D.C. 20555

  
Matthew A. Rooney