



UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matter of)
)
PORTLAND GENERAL ELECTRIC COMPANY,) Docket No. 50-344
 et al.)
) (Control Building
(Trojan Nuclear Plant)) Proceeding)

LICENSEE'S RESPONSE TO THE PROPOSED FINDINGS
OF FACT AND CONCLUSIONS OF LAW FILED BY THE
NRC STAFF AND THE STATE OF OREGON

Licensee hereby files its response to the Proposed Findings of Fact and Conclusions of Law filed by the NRC Staff and the State of Oregon.^{1/}

After receipt of the NRC Staff's Proposed Findings, counsel to Licensee discussed with counsel to the NRC Staff certain aspects of the Staff's Proposed Findings which Licensee believed should be clarified. Counsel to the NRC Staff has authorized counsel to Licensee to inform the Board that the Staff agrees to such clarifications as reflected in footnotes 2, 3, and 4.

I

Responses to NRC Staff's Proposed Findings

A. Proposed License Conditions

Licensee has reviewed the license conditions as proposed

^{1/} Licensee notes that CFSP was the only party not to agree to an accelerated schedule for the filing of proposed findings; CFSP instead insisted on the full 30 days for filing findings provided by the rules (Tr. 4824-25). However, CFSP filed no proposed findings.

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by the NRC Staff (Staff's Proposed Findings, pp. 172-180), and has concluded that, with the exception of two added conditions, the Staff's proposed license conditions are substantively identical to those proposed by Licensee (Licensee's Proposed Findings, ¶290, pp. 157-166). Licensee will discuss below certain minor differences in wording between its and Staff's proposed license conditions, as well as the added conditions:

(1) In the second line of its proposed License Condition 1 (Staff's Proposed Findings, p. 172), Staff has added "2.C.11" to Licensee's otherwise identical proposed License Condition 1 (Licensee's Proposed Findings, ¶290, p. 157). Licensee has no objection to such addition.

(2) At the end of the first sentence in its proposed License Condition 1(b) (Staff's Proposed Findings, p. 174), Staff has added the words "made snug" to Licensee's otherwise identical proposed License Condition 1(b) (Licensee's Proposed Findings, ¶290, p. 159). Licensee has no objection to such addition.

(3) At the end of the second line (immediately preceding the parenthesis) of its proposed License Condition 1(i) (Staff's Proposed Findings, p. 176) the Staff has used the phrase "construction work" rather than the phrase "construction equipment" in Licensee's otherwise identical proposed License Condition 1(i) (Licensee's Proposed Findings, ¶290, p. 161). Licensee has no objection to the Staff's wording.

(4) In its proposed License Condition (q) (Staff's Proposed

Findings, p. 177) the Staff has inserted the words "equipment and components" following the words "piping systems" in the first and sixth lines. The Staff's proposed condition (q) is otherwise identical to Licensee's proposed License Condition (q) (Licensee's Proposed Findings, ¶290, p. 163). Licensee has no objection to such addition.

(5) The Staff's proposed License Condition (t)(4) (Staff's Proposed Findings, p. 179) has a typographical error at the end of line 5, where 46R should read 46N.^{2/}

(6) The Staff has proposed two additional License Conditions, (u) and (v) (Staff's Proposed Findings, p. 180), beyond those proposed by Licensee. Licensee has reviewed these additional proposed conditions and has no objection to them.

B. Minor Corrections

Licensee's review of the NRC Staff's Proposed Findings shows that they are similar in substance to Licensee's Proposed Findings. However, Licensee believes that its proposals more accurately reflect the total state of the record than do those of the Staff.

Should the Board decide to follow the Staff's Proposed Findings, however, there are three areas, discussed below, in which minor inaccuracies exist. In addition, the Board should note that, in the area of structural adequacy, the Staff's Proposed Findings are based almost solely on the Staff's

^{2/} Licensee has confirmed with the Staff that this is in fact a typographical error.

position. As Licensee pointed out in its Proposed Findings, it performed all the analyses requested by the Staff, even though in Licensee's view some of these analyses were neither necessary nor appropriate. (See, e.g., Licensee's Proposed Findings, ¶¶181-185, pp. 96-99). In any event, there are no matters in controversy between Licensee and Staff with respect to the structural adequacy of the modified Complex (Licensee's Proposed Findings, ¶¶245, 247, pp. 127-128; Staff's Proposed Findings, ¶¶221-222, pp. 141-142), though the Board may wish to take note of Licensee's position with respect to such analyses.

Licensee's review of the Staff's Proposed Findings has revealed three areas in which minor correction or clarification is necessary:

(1) The Staff, at p. 150, n. 40, states that "no heavy-weight double block walls are present in the Control Building (Tr. 4739 (White))." However, there are two minor heavyweight double block walls in the Control Building. On a reading of the question and answer cited by the Staff, it appears as though the response is directed solely at the presence of such walls in the Control Building. However, the response was directed to the presence in the Control Building of heavyweight double block shear walls modeled in the STARDYNE analyses (there are no such walls in the Control Building), and an examination of the preceding colloquy in the transcript clarifies this point.^{3/}

^{3/} The Staff agrees with this clarification.

(See, e.g., Tr. 4732-33) Of course, because these two walls are not shear walls and were not modeled in STARDYNE, none of the conclusions previously reached with respect to the capacity of the as-built structure are affected by their presence in the Control Building.

(2) The Staff, at p. 134, n. 34, states

However, the factor of 9.52 provides ample margin so that even with a factor of 2.1 on the STARDYNE displacements (and additional factors to account for the factored OBE and uncertainties resulting in a total factor of 7.5), the necessary displacement to develop the required capacity can take place without building contact (Staff Exh. 17A, pp. 28-29, As. 19H, 19I; Licensee Exh. 33, A. 21; Tr. 4618-19 (Herring)).

The record reflects Licensee's position that prediction of structural displacement for factored OBE load is neither an explicit nor implicit criterion of either the FSAR or present regulatory position (Licensee Exh. 25U, p. 2, A. 5) and that therefore quantification of such a "total factor" is inappropriate. Nevertheless, Licensee has demonstrated that the deflections well beyond those consistent with OBE loads, including effects of multiple earthquakes and other factors, could be accommodated (Licensee Exh. 32, A. 4; Licensee Exh. 33, A. 21). Therefore ample margins exist and the deflections to develop ultimate capacities can be accommodated.

The record does not identify a "total factor" of 7.5; however, Licensee understands that the Staff intends to file corrections to its proposed findings which both change that number and explain more clearly its derivation.

(3) The Staff at ¶149, p. 93, stated that in calculating effects of damage to rebar from drilling, an assumption was made that "all rebar in a wall were severed." The analyses, however, were based on the assumption that all rebar in a wall were damaged, and that such damage was limited to a nick^{4/} (Licensee's Proposed Findings, ¶¶143-144, pp. 77-78; Staff Exh. 15A, pp. 6-7, A. 8).

II

Response to Oregon's Proposed Findings

Licensee is pleased to note that the State of Oregon "based on the information developed during this proceeding . . . concurs with and has no objection to the proposed findings and conclusions of the Licensee" (Oregon's Proposed Findings, p. 1), subject only to additions and supplements it proposed relating to certain reporting requirements.

Licensee has sought to satisfy Oregon's substantive requests in this proceeding. In fact, in its proposed findings Licensee volunteered modification of one condition (See Condition (d) and discussion thereof at Licensee's Proposed Findings (¶281)) and the addition of another condition (See Condition (t) and discussion thereof at Licensee's Proposed Findings (¶¶155, 285)), because it believed that such modification and addition were called for by Oregon's interest in those matters.

^{4/} The Staff agrees with this clarification.

Although Licensee has reviewed Oregon's new proposals to ascertain whether it could acquiesce therein in a spirit of continuing cooperation, Licensee has concluded that the additional conditions proposed by Oregon are neither necessary nor desirable. Accordingly, for the following reasons, Licensee respectfully requests that the Board impose neither of the additional conditions proposed by Oregon.

Oregon first proposes that Licensee's proposed Condition (1),^{5/} i.e., the first full paragraph of Condition (1), be modified by adding statements mandating that any reports of deviations or changes required by 10 CFR 50.59(b) be submitted on an accelerated basis, rather than annually.

In the view of Licensee, Oregon has not presented a persuasive case for imposing procedural requirements beyond those explicitly set forth in 10 CFR 50.59. Under Oregon's proposal, even if Licensee were to determine that a deviation or change did not involve an unreviewed safety question, it could not simply record the basis therefor and submit it as part of the annual report to the NRC of similar other determinations under 10 CFR 50.59. Instead, Licensee would have to establish special procedures for assuring that any such determination under this license condition was submitted under an accelerated schedule.

^{5/} This proposed condition is set forth in ¶290 of Licensee's Proposed Findings. An identical condition is set forth at pp. 172-173 of the Staff's Proposed Findings. Both proposals are derived from the essentially similar condition proposed by the Staff in the SER (Staff Exh. 13A, ¶6.2.2, p. 88).

As the Board is aware, licensees of the NRC are already subject to a great number of general and special reporting requirements. Each of these requires the application of substantial manpower, both at the working levels and at supervisory and management levels until an authorized official of Licensee can execute and submit a report to the NRC. Licensee does not quarrel with the effort required to submit all reports which are necessary for the NRC Staff to execute its regulatory responsibilities properly. However, Licensee urges the Board not to impose any unnecessary requirements which will detract from the ability of Licensee's staff and management to devote its time to the many necessary functions.^{6/} 10 CFR 50.59 reflects the Commission's judgment that a licensee which is qualified to operate a nuclear power plant can be entrusted with the responsibility to determine whether a proposed action involves an unreviewed safety question and that periodic reviews (i.e., annually) by the NRC are sufficient to assure that a licensee discharges such responsibility with care. There is nothing unique in the present situation which would require a different reporting schedule.^{7/}

^{6/} It should also be noted that if such reports are required periodically, rather than annually, Staff reviewers will also be disrupted from their other responsibilities through the implicit responsibility to review such reports as received rather than on a routine annual basis.

^{7/} If, notwithstanding Licensee's argument, the Board decides to impose an expedited reporting requirement, Licensee urges that the introductory language of Oregon's proposed additions be revised to read as follows: "Prior to completion of the (continued on next page)

Oregon's second proposal would add a sentence to Licensee's proposed Condition (1)(g)^{8/} which would require that Licensee submit to NRC, prior to implementation, its evaluations to determine whether changes to piping systems are necessary to maintain their seismic qualification before structural modifications are made.

Such a condition is not necessary. As Licensee's witnesses testified, by the time the hearing was held Licensee had already performed the evaluations to identify the piping systems, equipment and components which had to be changed prior to the structural modifications in order to maintain their seismic qualification. (Tr. 3726-27 (Anderson)). Such changes prior to the structural modifications are needed only to account for the stiffening effect of the modifications, i.e., for the shift of the response

^{7/} (continued from previous page)
modification, any reports under this condition required by 10 CFR 50.59(b) . . ." (Licensee's proposed additions underscored). Licensee's proposed additions would assure that, as apparently intended by Oregon, the accelerated reporting requirement would apply only "during the modification work" (Oregon's Memorandum of Points and Authorities, p. 3) and would make explicit that the accelerated requirement pertains only to reports under this condition (and not to other unrelated reports under 10 CFR 50.59).

^{8/} This proposed condition is set forth at ¶290, p. 163 of Licensee's Proposed Findings. As discussed at pp. 2-3, supra, the Staff's Proposed Findings, p. 177, expanded the proposed condition to apply to equipment and components, as well as piping systems; and Licensee had no objection thereto. Presumably, Oregon would also include such expansion in its proposal.

spectra to the high side.^{9/} (Tr. 3726 (White); see also Licensee's Proposed Findings, ¶¶156-157, pp. 82-83; Staff's Proposed Findings, ¶164, pp. 103-04). Not only were such evaluations performed, but the only items which need to be changed (certain piping systems and cable trays) were identified in the record (Licensee Exh. 25G, A. 29; Tr. 3726-27 (Anderson)); and, in fact, the necessary changes have been mostly completed (Tr. 3726 (Anderson)).

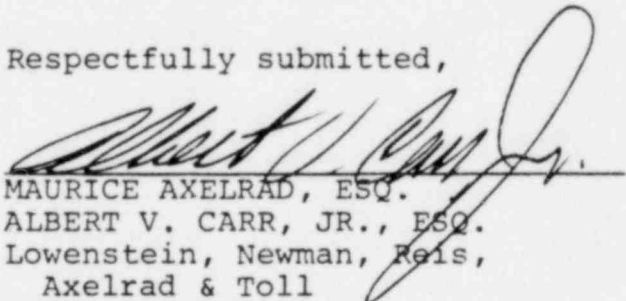
As the Board will recall, Licensee performed similar evaluations to qualify systems seismically prior to resumption of interim operation pursuant to License Condition 2(c)(10), without any requirement that such evaluations be submitted to the NRC Staff. As noted above, prior to the current hearing Licensee had already performed the necessary additional evaluations and, in fact, implemented most of them. There has been no showing by Oregon of any reason now to submit such evaluations for work already done to the NRC Staff. As part of its routine enforcement functions, the Staff can, of course, assure that the evaluations have been properly performed and that Licensee's and Staff's proposed Condition 1(q) -- like all

^{9/} The broadening of the response spectra on the low side in order to take into account additional conservative analyses and evaluations performed to determine the structural adequacy of the modified Complex (e.g., to account for potential stiffness degradation due to the occurrence of multiple earthquake cycles during the lifetime of the Plant) may result in some additional changes in piping systems, equipment and components. Such changes would, of course, be part of the modification program itself, would be completed within the period allotted for the modification program, and need not be made prior to the structural modifications. (See Licensee's Proposed Findings, ¶¶238-41, pp. 122-25; Staff's Proposed Findings, ¶¶216-18; pp. 136-38).

other conditions -- is complied with.

Licensee respectfully requests that the Board not impose an unnecessary reporting requirement which will only detract Licensee and the Staff from discharging their responsibilities in proper fashion.

Respectfully submitted,



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Dated: May 29, 1980

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION
BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matter of)	
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PORTLAND GENERAL ELECTRIC COMPANY,)	Docket No. 50-344
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CERTIFICATE OF SERVICE

I hereby certify that a copy of Licensee's "Response to the Proposed Findings of Fact and Conclusions of Law Filed by the NRC Staff and the State of Oregon" (dated May 29, 1980), was served on the following either by deposit in the United States mail, first class and postage prepaid, this 29th day of May, 1980, or, in the case of those marked by an asterisk, by arrangement for personal delivery thereto:

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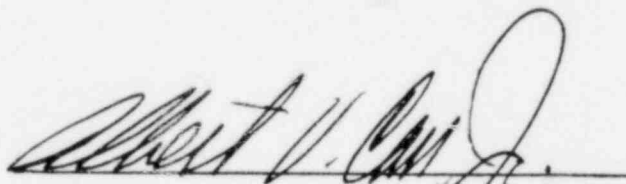
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