BEFORE THE
UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

In the Matter of		
YANKEE ROWE NUCLEAR REACTOR	)	Docket No. 50-27
and	)	
VERMONT YANKEE NUCLEAR REACTOR	)	Docket No. 50-271
and	)	
MAINE YANKEE NUCLEAR REACTOR	)	Docket No. 50-309

NEW ENGLAND COALITION ON NUCLEAR POLLUTION, INC.
AND
SAFE POWER FOR MAINE
REQUEST FOR ISSUANCE OF
ORDER TO SHOW CAUSE

Pursuant to § 2.206 and § 2.202 (f), the New England Coalition on Nuclear Pollution, Inc. (NECNP) and Safe Power for Maine (SPM) hereby request that an order to show cause be issued, effective immediately, against Yankee Rowe, Vermont Yankee and Maine Yankee to revoke or suspend their operating licenses until such time as the Staff of the Nuclear Regulatory Commission is satisfied that these plants are in compliance with 10 CFR § 50.36 (a), § 50.36 (c) (3) and (5), their technical specifications, and Design Criterion No. 1 (10 CFR Part 50 Appendix A).

In an April 9, 1976 letter to Mr. D. E. Vandenburg, Vice President of Yankee Atomic Electric Company, Victor Stello, Jr., Director of the Division of Operating Reactors, Office of Nuclear Reactor Regulation, wrote:

The purpose of this letter is to bring to your attention specific facts on the inordinate prolonged efforts to bring about docketing by Yankee Atomic Electric Company of an acceptable operational Quality Assurance Program and to request Yankee's action for a more timely completion of these efforts.

On February 22, 1973, Yankee submitted its "Operational Quality Assurance Manual" for Yankee-Rowe for our review. In our letter dated June 19, 1974, we advised you that your submittal was not sufficient to provide an operational QA program description that met current NRC requirements and we included a request for additional information. During a meeting on September 24, 1974, your staff agreed either to provide the information by November 1, 1974, for Yankee Rowe or to submit by May 1, 1975, a topical QA program that could be applied to all Yankee facilities.

In April 1975, Yankee submitted a revised report which described your operational QA program for the Yankee-Rowe facility. However, you advised us that upon our acceptance of this QA program it would also be applied to your Maine Yankee and Vermont Yankee facilities. Therefore, we considered it appropriate to include the report in our topical report review program.

From our review of your submittal, we found it inadequate to satisfy the NRC's requirements for an acceptable QA program description.

. . .

During a meeting on March 16, 1976, your staff indicated that because of shortage of manpower... Yankee was unable to meet the March 1, 1976, date for submittal of the revised topical QA program and they proposed an extension of the submittal date to January 1, 1977.

In light of the above facts, further delay of your submittal of the revised topical QA program as proposed by your staff is unacceptable to us. We believe that with reasonable effort your submittal can be significantly expedited. We therefore request that you submit the revised QA program description not later than August 1, 1976.

Mr. Stello's statement that the three plants have no acceptable Quality Assurance Program represents the Staff's determination that they are not in compliance with the required Quality Assurance program, Criterion No. 1 (10 CFR Part 50 Appendix A), and also with 10 CFR § 50.36 (a), and 50.36 (c) (3) and (5).

The significance of having an approved quality assurance plan as a precondition to continued operation of a facility cannot be overstated. In Vermont Yankee Nuclear Power Corporation, ALAB - 124, RAI - 73-5, 358, 361, the Appeal Board held that:

> ... (T)he Staff stressed that "quality assurance for design, manufacture and operation" is one of the crucial factors which permits a high degree of assurance that potential accidents have an extremely low probability (Staff's Proposed Findings, p. 16).
>
> . . .
>
> We share the Staff's expressed concern for proper quality assurance. In light of the paramount importance of quality assurance matters, we are reviewing on our own motion the Board's rejection of the proposed quality assurance findings.

The Appeal Board goes on to cite a portion of its decision in the matter of Consumers Power Co. (Midland Plant, Units 1 and 2), ALAB - 106, RAI - 73 - 3, p. 182 (March 26, 1973):

> No QA program is self-executing. Thus, irrespective of how comprehensive it may appear on paper, the program will be essentially without value unless it is timely, continuously and properly implemented. This being so, it seems to us to follow that it is not enough for a licensing board to satisfy itself that, if implemented, the program described in the PSAR will adequately protect the health and safety of the public. At least where, as here, there has been a legitimate question raised in the

> course of the proceeding, the board must go on to inquire into whether there is, in fact, a reasonable assurance that the applicant and its architect-engineer will carry out the program in accordance with its terms. And, if the inquiry leads it to conclude that the record does not permit an affirmative finding on that score, it then becomes the board's responsibility to take whatever action is required -- including possibly the outright denial of the construction permit -- to provide some measure of assurance that there will not be an improperly constructed facility which might present safety problems. (Emphasis in original; footnote omitted.)

After this quote from Midland, the Appeal Board for Vermont Yankee went on to conclude, Vermont Yankee Nuclear Power Corporation, supra, at page 362:

> Here, for all that appears in the record, the situation is just as serious as that presented in Midland. While we were concerned there that a satisfactorily-drawn program was not being implemented, here there is no record evidence that a satisfactory program even exists. What appears in the record is that, at least as late as January 10, 1973, when the staff filed its proposed findings, the program was believed to be unsatisfactory in a number of significant respects. Yet the plant had been operating since September 7, 1972, and had been authorized to operate at full power since October 1972.
>
> In these circumstances, we need not determine whether the Licensing Board was technically correct in its view that the October 25 letter was not in the record. In all events, the Board should have resolved this most grave matter which had been raised by the parties -- reopening the record, if deemed necessary for this purpose, on its own motion.[3]

In light of this finding, the Appeal Board concluded in Vermont Yankee Nuclear Power Corporation, supra, at p. 362:

> ... In our view the Board... should have refused to authorize issuance of the license until the quality assurance matters were resolved on the record;[4] it might well have gone beyond that and considered reopening the proceedings which had led to the authorization of the temporary license.

Thus, an acceptable QA program is a crucial condition for finding reasonable

assurance of adequate protection for the public health and safety. While these reactors may have had such reasonable assurance when they were first allowed to operate, they do not have it now. As the Supreme Court observed in Power Reactor Development Co. vs Electrical Workers Int'l., 367 U. S. 396, 408 (1961):

> ... Nuclear reactors are fast-developing and fast-changing. What is up to date now may not, probably will not, be as acceptable tomorrow.

This principle is codified in 10 CFR Section 50.100 authorizing inter alia revocation of an operating license where facts become known subsequent to its issuance which, if they had been known originally, would have prevented the issuance of the operating license. Clearly, Mr. Stello's conclusion that the Yankee Atomic quality assurance program is not acceptable is such a subsequent arising fact which would have prevented a previous issuance of a license. Vermont Yankee Nuclear Power Corporation, supra; Consumers Power Company, (Midland), supra.

Yankee Atomic's letter of April 27, 1976 to the NRC indicates that they are unable to decide what is required of them to have an acceptable quality assurance program. This confusion does not relieve them of the consequences which we urge here but makes those consequences even more imperative. If there is no standard which can be met and which establishes an adequate QA program, then not only is Yankee Atomic operating illegally but so is every other reactor in the country. The absence of a standard of acceptability for quality assurance, given the crucial role that quality assurance plays in reactor safety, is a totally unacceptable situation. The Atomic Energy Act requires that the NRC

adopt regulations "in order to enable it to find" that there is adequate protection for the health and safety of the public. 42 U.S.C. Section 2232 (a). If no clear requirement exists for the quality assurance program for reactors, then these all currently operating reactors and the NRC are in violation of the explicit requirements of the Atomic Energy Act.

The Staff knows that it can not now accept Yankee Atomic's quality assurance program. Therefore it is clear that if Design Criterion No. 1 and also 10 CFR § 50.36 (a) and § 50.36 (c) (3) and (5) are properly applied, the unavoidable conclusion is that Yankee Atomic nuclear plants must be shut down now until they can comply with safety regulations.

We now request, in the face of these findings and based upon them, that the Regulatory Staff immediately issue a show cause order to Yankee Rowe, Maine Yankee and Vermont Yankee, and pursuant to Section 2.202 (f), order their immediate shutdown. Vermont Yankee Nuclear Power Corporation ALAB - 138, RAI - 73 - 7, 520, 528 - 29.

Respectfully submitted,

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June 11, 1976