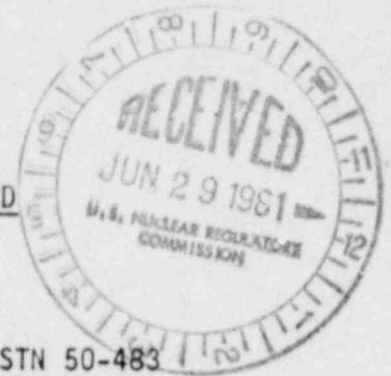


06/26/81

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD



In the Matter of)
UNION ELECTRIC COMPANY)
(Callaway Plant, Units 1 and 2))

Docket Nos. STN 50-483
STN 50-486

OBJECTIONS OF THE NRC STAFF TO
JOINT INTERVENORS' FIRST SET OF INTERROGATORIES

Coalition for the Environment, St. Louis Region, Missourians for Safe Energy, and Crowdad Alliance (hereafter "Joint Intervenors") have propounded one-hundred eleven (111) interrogatories and five (5) separate document requests to the NRC Staff. The Staff's response to these requests is due on July 10, 1981. As required in the Special Prehearing Conference Order of April 21, 1981, the Staff herewith files its objections to the Joint Intervenors' aforementioned discovery.

Interrogatories 42 and 43

Interrogatories 42 and 43 provide:

42. State whether the NRC has evidence of honeycombing at nuclear power plants other than Callaway where Bechtel Power Corp. was architect/engineer, contractor or subcontractor. If affirmative, identify the other plants and provide the following information, separately for each plant:
 - (a) State the date(s) when concrete was poured in which honeycombing was found;
 - (b) Identify all NRC reports which pertain to the honeycombing.

810680 0145

43. State whether the NRC has evidence of honeycombing at nuclear power plants other than Callaway where Daniel International was contractor or sub-contractor. If affirmative, identify the other plants and provide the following information, separately for each plant:

- (a) State the date(s) when the concrete was poured in which honeycombing was found.
- (b) Identify all NRC Reports which pertain to the honeycombing.

The above interrogatories request detailed information and documents concerning all nuclear power plants other than Callaway where there was "evidence of honeycombing" and where Bechtel Power Corp. or Daniel International were either the contractor or subcontractor. The Staff has not compiled any such information, if indeed, any exists. In order to respond to these interrogatories, the Staff would be required to engage in extensive research and data gathering, involving great time and expense. It has been held that an interrogated party cannot be required to perform such research and data gathering. Houston Lighting & Power Co. (South Texas Project, Units 1 & 2), LBP-80-11, 11 NRC 477, 478 (1980). Moreover, 10 C.F.R. § 2.720(h)(2)(ii) only permits discovery against the Staff of information, inter alia, that is not reasonably obtainable from any other source. The requested information may also be requested from Daniel and Bechtel. Accordingly, the Staff objects to these interrogatories.

Interrogatory 82

This interrogatory provides:

State with respect to each of the following publications the answers to the following:

Publications:

PWR GALE Code, NUREG 0017

Regulatory Guide 1.21

Regulatory Guide 1.112

- (a) When was the document first published?
- (b) When was any revision published?
- (c) When was the document completed in final form (before being published);
- (d) When was any revision completed in final form (before being published);
- (e) List each nuclear facility from which data were collected in the preparation of each document and/or revision and state with respect to each facility the number of Effective Full Power Days.

State whether any revision of the document is presently being worked on and if so, the identity of each nuclear facility from which data have been or will be collected and how long each such facility has been in operation.

- (f) State whether any revision of the document is presently being worked on and if so, the identity of each nuclear facility from which data have been or will be collected and how long each such facility has been in operation.

The Staff objects to subparts (e) and (f) of this interrogatory. As to subpart (e), once the requested publications are examined, by reading each document from beginning to end, "each nuclear facility from which the data were collected" will be listed and discussed within the document. Moreover, no such separate listing of each nuclear facility presently exists, other than the information contained in the publications. The Staff should not be required to perform the Joint Intervenors' discovery tasks of utilizing the provided documents for specific

purposes. Once the Joint Intervenors read the documents for purposes of ascertaining each nuclear facility for which data was collected, the corresponding "full power days" for each facility can be obtained from NUREG 0020 (January 1981 issuance), a document which is publicly available. Accordingly, the Staff objects to subpart (e). See also Houston Lighting & Power Co., supra.

For the same reason, the Staff also objects to subpart (f) except to state that a revision to NUREG-0017 is being considered and will be provided when completed and published. No revisions to Reg. Guides 1.21 and 1.112 are being worked on.

Interrogatories 86 and 87

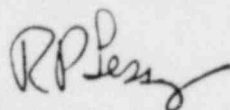
Interrogatories 86 and 87 state:

86. State the derivation of the maximum permissible concentrations (MPC) listed in 10 C.F.R. 20 Appendix B Table II and describe the relationship of Appendix B to 10 C.F.R. 20 Sections 105 and 106.
87. Identify a document in which the relationship described in answer to the preceding interrogatory is explained.

The Staff objects to these interrogatories because they are clearly aimed at questioning the basis of a Commission regulation, which fact is invalid and barred as a matter of law in adjudicatory proceedings. Metropolitan Edison Co. et al. (Three Mile Island Nuclear Station, Unit 2), ALAB-456, 7 NRC 63, 65 (1978); 10 C.F.R. § 2.758. Since discovery is only permitted with respect to information which is either relevant to the controverted subject matter or which is likely to lead to the discovery of admissible evidence,^{1/} the Staff objects to interrogatories 86 and 87. No contention has been admitted by the

Licensing Board which explores the derivation of the maximum permissible concentrations in 10 C.F.R. Part 20, as specified in the interrogatories, and such matters, relating to the derivation of these concentrations, would similarly not lead to the discovery of admissible evidence. As explained more fully in 10 C.F.R. § 2.758, this is not the forum for the Joint Intervenors to explore the derivations underlying the Commission's regulations.

Respectfully submitted,



Roy P. Lessy
Deputy Assistant Chief
Hearing Counsel

Dated at Bethesda, Maryland
this 26th day of June, 1981.

1/ See Allied-General Nuclear Sources et al. (Barnwell Fuel Receiving and Storage Station), LBP-77-13, 5 NRC 489 (1977).

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matter of)
UNION ELECTRIC COMPANY) Docket Nos. STN 50-483
(Callaway Plant, Units 1 and 2)) STN 50-486

CERTIFICATE OF SERVICE

I hereby certify that copies of "OBJECTIONS OF THE NRC STAFF TO JOINT INTERVENORS' FIRST SET OF INTERROGATORIES" in the above-captioned proceeding have been served on the following by deposit in the United States mail, first class, or, as indicated by an asterisk, through deposit in the Nuclear Regulatory Commission's internal mail system, this 26th day of June, 1981:

James P. Gleason, Esq., Chairman
Atomic Safety and Licensing Board
513 Gilmore Drive
Silver Spring, MD 20901

Mr. Glenn O. Bright*
Atomic Safety and Licensing Board
U.S. Nuclear Regulatory Commission
Washington, DC 20555

Dr. Jerry R. Kline*
Atomic Safety and Licensing Board
U.S. Nuclear Regulatory Commission
Washington, DC 20555

Mr. John G. Reed
Rt. 1
Kingdom City, MO 65262

Treva J. Hearne
Assistant General Counsel for the
Missouri Public Service Commission
P.O. Box 360
Jefferson City, MO 65101

Barbara Shull
Lenore Loeb
League of Women Voters of Missouri
2138 Woodson Road
St. Louis, MO 63114

Mariorie Reilly
Energy Chairman of the League of
Women Voters of Univ. City, MO
7065 Pershing Avenue
University City, MO 63130

Gerald Charnoff, Esq.
Thomas A. Baxter, Esq.
Shaw, Pittman, Potts & Trowbridge
1800 M Street, N.W.
Washington, DC 20036

Dan I. Bolef
President, Board of Directors
Coalition for the Environment,
St. Louis Region
6267 Delmar Boulevard
University City, MO 63130

Donald Bollinger, Member
Missourians for Safe Energy
6267 Delmar Boulevard
University City, MO 63130

Rose Levering, Member
Crawdad Alliance
7370a Dale Avenue
St. Louis, MO 63117

Mr. Fred Luekey
Presiding Judge, Montgomery County
Rural Route
Rhineland, MO 65069

Mayor Howard Steffen
Chamois, MO 65024

Professor William H. Miller
Missouri Kansas Section,
American Nuclear Society
Department of Nuclear Engineering
1020 Engineering Building
University of Missouri
Columbia, MO 65211

Mr. Earl Brown
School District Superintendent
P.O. Box 9
Kingdom City, MO 65262

Mr. Samuel J. Birk
R.R. #1, Box 243
Morrison, MO 65061

Mr. Harold Lottman
Presiding Judge,
Dasconade County
Rt. 1
Owensville, MO 65066

Robert G. Wright
Associate Judge, Eastern District
County Court, Callaway County,
Missouri
Route #1
Fulton, MO 65251

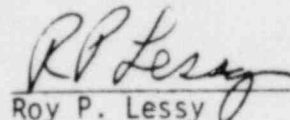
Eric A. Eisen, Esq.
Birch, Horton, Bittner and Monroe
Suite 1100
1140 Connecticut Avenue, N.W.
Washington, DC 20036

Atomic Safety and Licensing
Board Panel*
U.S. Nuclear Regulatory Commission
Washington, DC 20555

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

Atomic Safety and Licensing
Appeal Board*
U.S. Nuclear Regulatory Commission
Washington, DC 20555

Kenneth M. Chackes
Chackes and Hoare
Attorney for Joint Intervenors
314 N. Broadway
St. Louis, Missouri 63102



Roy P. Lessy
Deputy Assistant Chief Hearing Counsel