

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

IN THE MATTER OF )  
ILLINOIS POWER COMPANY, )  
SOYLAND POWER COOPERATIVE, INC. )  
and WESTERN ILLINOIS POWER )  
COOPERATIVE, INC. )                   Docket No. 50-461 OL  
)  
)  
(Operating License for Clinton )  
Power Station, Unit 1) )

MOTION FOR SUMMARY DISPOSITION OF  
PRAIRIE ALLIANCE CONTENTION VI

Illinois Power Company, Soyland Power Cooperative, Inc., and Western Illinois Power Cooperative, Inc. ("Applicants"), pursuant to Section 2.749 of the Rules of Practice of the Nuclear Regulatory Commission ("NRC"), move that summary disposition be granted in their favor with respect to Prairie Alliance Contention VI, and, in support of their motion, state as follows:

1. On March 26, 1982, intervenor Prairie Alliance submitted eight proposed supplemental contentions. Proposed Supplemental Contention 4 (subsequently admitted as Contention VI) read as follows:

General Electric recently announced that it will withdraw from the nuclear hardware market. The effects of this withdrawal have not been considered by the Applicants nor the Staff. This withdrawal is especially germane in light of Applicants lack of experience in operating nuclear plants and its future need relative to plant servicing and design modifications mandated by present and future Commission regulations and orders.

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Prairie Alliance's Proposed Supplemental Contentions, p. 3.

2. In its response to Proposed Supplemental Contention 4, Applicants objected to Prairie Alliance's Proposed Supplemental Contention 4 because General Electric was not withdrawing from the nuclear market and consequently the contention had no basis in fact. Response of Applicants to Prairie Alliance's Proposed Supplemental Contentions of April 12, 1982, pp. 4-5. In support of its position, Applicants attached as an Exhibit a letter from W.H. Bruggeman, Vice President and General Manager, Nuclear Energy Business Operations, General Electric Company, to Leonard J. Koch, Vice President, Illinois Power Company. In this letter (attached hereto as Exhibit 1), Mr. Bruggeman stated that:

General Electric Company has no expectation of abandoning the nuclear business. IPC [Illinois Power Company] and other BWR owners can look forward to the continued support and expertise of the General Electric Company.

3. In its Brief in Support of its Supplemental Contentions, Prairie Alliance stated, with respect to Proposed Supplemental Contention 4, that it was willing to withdraw Proposed Supplemental Contention 4 if it were shown that General Electric was not discontinuing hardware design modifications. Prairie Alliance's Brief in Support of Supplemental Contentions, April 12, 1982, pp. 6-7. Prairie Alliance reasserted this position in a telephone conference between the Atomic Safety and Licensing Board (the "Board") and the Parties

of June 4, 1982. Counsel for Prairie Alliance at that time stated that Mr. Bruggeman's letter failed to give adequate assurance that General Electric would make its service available in the future to make design modifications mandated by present or future NRC regulations or orders. Memorandum and Order, Illinois Power Company (Clinton Power Station, Unit 1), Docket No. 50-461 OL, November 10, 1982, p. 5 ("Memorandum and Order"). In stating that Prairie Alliance would withdraw Proposed Supplemental Contention 4 if it were shown that General Electric would make hardware design modifications, counsel for Prairie Alliance in essence admitted that if such a showing were made, Proposed Supplemental Contention 4 had no basis in fact.

4. On November 10, 1982, the Board admitted Proposed Supplemental Contention 4 as Contention VI. Memorandum and Order, Clinton Power Station, Unit 1, November 10, 1982, p. 26. In admitting Contention VI, the Board took note of Prairie Alliance's previously stated willingness to withdraw Contention VI if it were shown that General Electric was not discontinuing hardware design modifications, Id. p. 5.

5. On December 17, 1982, rather than file a Motion for Summary Disposition, Applicants sent the Parties a copy of an Affidavit of W.H. Bruggeman, Vice President and General Manager of the Nuclear Energy Business Operation of the General Electric Company (the "Bruggeman Affidavit",

attached hereto as Exhibit 2) which addresses Prairie Alliance's concerns that General Electric was withdrawing from the nuclear marketplace. The Bruggeman Affidavit definitively demonstrates that General Electric is not withdrawing from the nuclear marketplace. In particular, Paragraph 6 of the Affidavit states:

General Electric Company is not discontinuing hardware design modifications. General Electric Company services will be available in the future to Illinois Power Company to make hardware and other design modifications which may be required by present or future rules or regulations of the Nuclear Regulatory Commission.

The Bruggeman Affidavit, by addressing Prairie Alliance's expressed concerns about General Electric's willingness to make hardware design modifications in particular, and by addressing General Electric's intention to remain active in the nuclear marketplace in general, removes any basis for Contention VI and no issue of fact remains between the Parties with respect to Contention VI. Prairie Alliance, although it previously stated that it would do so upon assurance that General Electric would make hardware design modifications in the future, refused to stipulate to a dismissal of Contention VI. Letter of Randall L. Plant to Charles D. Fox IV of January 5, 1983 (attached hereto as Exhibit 3).

6. Since the Bruggeman Affidavit removes any basis for Contention VI and no issues of fact remain between

the parties, Contention VI presents no genuine issue to be heard and Applicants are entitled to summary disposition as a matter of law.

WHEREFORE, Applicants request that the Board, pursuant to 10 C.F.R. § 2.749, dismiss Contention VI from the proceedings.

Respectfully submitted,

Charles D. Fox IV  
One of the Attorneys for  
Applicants

Sheldon A. Zabel  
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Dated: January 17, 1983

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STATEMENT OF MATERIAL FACTS AS TO  
WHICH THERE IS NO GENUINE ISSUE TO BE HEARD

1. General Electric is not withdrawing from the nuclear marketplace.
2. General Electric is not discontinuing hardware design modifications.
3. General Electric's services will be available in the future to Applicants to make hardware and other design modifications which may be required by the Nuclear Regulatory Commission in the future.

EXHIBIT 1

**GENERAL ELECTRIC**  
GENERAL ELECTRIC COMPANY  
NUCLEAR ENERGY BUSINESS OPERATIONS

WARREN H. BRUGGEMAN  
VICE PRESIDENT AND GENERAL MANAGER

175 CURTNER AVENUE  
SAN JOSE, CALIFORNIA 95128

April 2, 1982

Mr. Leonard J. Koch, Vice President  
Illinois Power Company  
500 South 27th Street  
Decatur, Illinois 62525

Dear Mr. Koch:

You have asked for a statement of the General Electric Company's intentions with respect to its role in the nuclear industry. This letter responds to your request.

The General Electric Company is aggressively and diligently satisfying its obligations under existing Nuclear Steam Supply contracts. That effort shall continue, in support of IPC and other plant operators around the world.

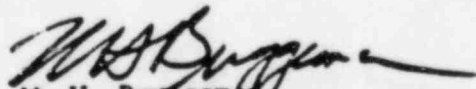
The General Electric Company perceives the fuel and services needs of nuclear plants as sensible business opportunities. We intend to be aggressive in our pursuit of those opportunities. Illinois Power Company and other utilities will be served by our continued participation.

The General Electric Company recognizes that opportunities for the sale of new Nuclear Steam Supply Systems is presently limited. Nonetheless, we are actively pursuing appropriate opportunities as they emerge. Our most recent efforts have been in Taiwan and Mexico.

In summary, General Electric Company has no expectation of abandoning the nuclear business. IPC and other BWR owners can look forward to the continued support and expertise of the General Electric Company.

I trust this will satisfy your needs.

Sincerely,

  
W. H. Bruggeman

WHB:eg