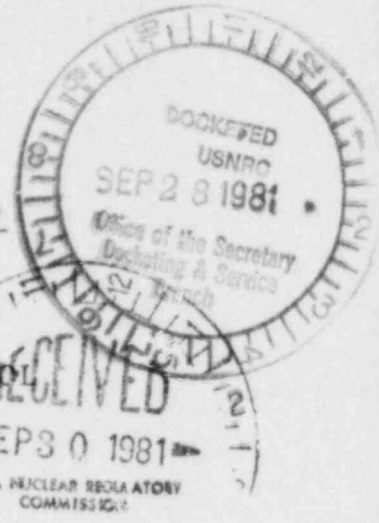


UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matter of)
)
UNION ELECTRIC COMPANY)
)
(Callaway Plant, Unit 1))

Docket No. STN 50-483/80-04



JOINT INTERVENORS' MOTION TO COMPEL

The Coalition for the Environment, St. Louis Region; Missourians for Safe Energy; and Crawdad Alliance (Joint Intervenors), pursuant to 10 CFR §2.740(f), hereby move for an order compelling Applicant Union Electric Company to comply with discovery requests. The specific items in question and the grounds for this motion are stated below.

I. JOINT INTERVENORS' SECOND REQUEST FOR PRODUCTION
OF DOCUMENTS TO UNION ELECTRIC; NUMBER 54.

Document Request Number 54 seeks production of "Union Electric letter ULS-2198, dated May 1, 1978." In its response, Applicant states as follows:

Applicant objects to the production of the requested document in that it is not relevant to the matters in controversy; further, production of the requested document will not lead to the discovery of admissible evidence.

In support of their motion to compel Joint Intervenors state that the requested document is relevant to their Contention No. 1 pertaining to the failure of the Quality Assurance Program, and more specifically to Contention 1E regarding the utilization of safety-related piping with welding deficiencies. The subject document (ULS-2198) is referred to in NRC Report No. 50-483/80-04, at page 7, and apparently is a further indication of Applicant's misunderstanding of its responsibilities for nonconformances. The letter, as quoted in 80-04, indicates that Applicant was surprised that defects were not found earlier, and thereby reflects Applicant's attitude that it could rely on inspections that were to have been performed by manufacturers and/or vendors rather

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than performing its own inspections of materials upon receipt. The subject letter is relevant to the general subject of Contention 1, alleging failure of the Quality Assurance Program, and the specific subject matter of Contention 1E, regarding safety-related piping.

II. JOINT INTERVENORS' SECOND SET OF
INTERROGATORIES TO UNION ELECTRIC; NUMBER 25(b).

The subject question, and the preceding question, are set out below:

25. In response to Joint Intervenors' Interrogatory Number 94, Union Electric states, "In dealing with fittings made in accordance with SA-403, the fittings may be fusion welded or forged."

a. Is Union Electric able to identify and locate fusion welded SA-403 fittings used in safety-related piping at the Callaway Plant?

b. If the answer to the above question is affirmative, list the spool piece number, size of fitting and line number of all of the fusion welded SA-403 fittings used in safety-related piping.

In response Applicant states as follows:

OBJECTION: Applicant objects to subpart (b) of this interrogatory on the grounds (1) that it is overly broad, burdensome, and oppressive; and (2) that it seeks information which is irrelevant to the issues in this proceeding and which is not reasonably calculated to lead to the discovery of admissible evidence.

In support of their Motion to Compel Joint Intervenors state first that the objection was filed out of time. The objection is contained in Applicant's Answers to Interrogatories of Joint Intervenors (Second Set), served September 10, 1981. The subject interrogatory was served August 10, 1981. The Special Pre-hearing Conference Order entered April 22, 1981 states that objections to interrogatories shall be served within 14 days.

Secondly, the objection on the ground that the interrogatory is overly broad, burdensome and oppressive lacks sufficient specificity to be a valid objection. Applicant does not state how the interrogatory is burdensome and oppressive. Applicant does

not state what documents must be examined to obtain the answer, and it does not explain why it cannot offer to produce the subject documents as an alternative to providing the answer.

In making this type of objection the Applicant has the burden, as the objecting party, of making a specific showing of reasons why the interrogatory should not be answered. Trabon Engineering Corp. v. Eaton Mfg. Co., 37 F.R.D. 51, 59 (N.D. Ohio 1964) (patent case; 60 days of research needed to compile answers is no defense). See also Wright and Miller, Federal Practice and Procedure: Civil § 2173, pp. 542-43 and the cases there cited. As Professor Moore states:

(C)ourts should not dispose of interrogatories on the basis of any broadside generalizations as to "burdensomeness" and "expense". All interrogatories are burdensome and expensive to some degree and the question is just how much burden and expense is justified in the particular case. 4A Moore's Federal Practice Para. 33.20, p. 33-113.

Finally, the information sought is relevant to this proceeding. The Applicant is in no position to argue that SA-403 fittings are not involved in this proceeding having mentioned them in its Answer to Joint Intervenors' First Set of Interrogatories, Number 94. If Applicant had an objection to the subject of SA-403 fittings in this proceeding, that objection has been waived by the answer to Interrogatory 94.

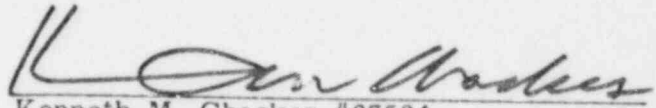
Welding deficiencies in SA-403 pipe fittings are relevant to Joint Intervenors Contention No. 1, part 1E alleging welding deficiencies in safety-related piping, as that contention was admitted in the Special Pre-hearing Conference Order entered April 22, 1981. The basis for that contention specifically mentions, as an example, SA-312 pipe. SA-403 fittings are used in conjunction with SA-312 pipe as corners or "Ts". Joint Intervenors have specifically referred to SA-403 fittings in their Response to Applicant's Interrogatories and Requests for Document Production (Set No. 1) to Joint Intervenors on Their Contention No. 1, Number 1E-9(a)(2), page 19. In addition, NRC/IE Bulletin No. 79-03, specifically cited in the basis for Contention 1E, is concerned with SA-312 pipe, and also refers to "other welded (without filler metal) pipe."p.2). Thus, the

NRC considers the welding deficiency problem to extend beyond SA-312 pipe. We agree. The problem with which we are concerned is a centerline lack of penetration (CLP) problem in fusion welded pipe, which, according to Applicant's Answer to Joint Intervenor's First Interrogatory Number 94, includes SA 403 fittings.

For the reasons stated above Applicant's objection should be overruled and Applicant should be ordered to respond to Interrogatory 25(b).

Respectfully submitted,

CHACKES AND HOARE



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Docket No. STN 50-483-OL

CERTIFICATE OF SERVICE

I hereby certify that copies of the Joint Intervenors' Motion to Compel have been served on the following by deposit in the United States mail this 25th day of September, 1981.

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

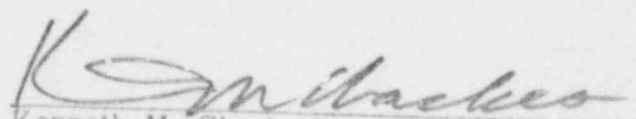
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