



Wisconsin's Environmental Decade

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Peter B. Bloch, Chairman
Atomic Safety & Licensing Board
U. S. Nuclear Regulatory Commission
Washington, D. C. 20555

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Washington, D. C. 20555



Re: Wisconsin Electric Power Company
Point Beach Nuclear Plant
Dockets 50-266 and 50-301
Operating License Amendment
(Steam Generator Tube Slewing)

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Gentlemen:

Reference is made to the Licensee's letter to the Director of NRR, dated October 12, 1981, with regard to jurisdiction over the technical specification amendment to permit demonstration slewing.

By letter dated July 2, 1981, the Licensee made application to amend its technical specifications for Point Beach Nuclear Plant "to permit repair of degraded or defective steam generator tubes by slewing." Letter from S. Burstein(WE) to H. Denton(NRR), dated July 2, 1981.

In anticipation of impending notice in the Federal Register, the Intervenor submitted to the Commission a petition for a hearing on the proposed amendment. See Petition of Wisconsin's Environmental Decade for Admission as a Party, Hearing and Environmental Impact Statement, dated July 20, 1981.

This proceeding was officially noticed by publication in the Federal Register of August 7, 1981, commencing this proceeding to consider the Licensee's application to amend its technical specifications so as "to permit repair of degraded or defective steam generator tubes by slewing". See 46 F.R. 152, at 40359(Aug. 7, '81). Present technical specifications require that tubes which exceed the plugging limit "must be removed from

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service" by plugging and do not contemplate their restoration to service by sleeving. See Point Beach Technical Specification 15.4.2-1C.

By order of the Commission dated August 21, 1981, and docketed August 25, 1981, pursuant to the aforesaid notice in the Federal Register, "an Atomic Safety and Licensing Board [was] established [this] proceeding to rule on petitions for leave to intervene and/or requests for hearing and to preside over the proceeding in the event a hearing is ordered". See Establishment of Atomic Safety and Licensing Board to Preside In Proceeding, docketed August 25, 1981, at 1. [Emphasis added.]

Shortly thereafter, the "Licensee request[ed] the Board to authorize the Staff to amend the Technical Specifications of Facility Operating License DPR-24 to enable [interim operation of Point Beach Unit 1 with up to six tubes which have exceeded the plugging limit, but which have been repaired by sleeving rather than plugged]." This was intended to permit return to power after a "demonstration" program of sleeving during the Fall 1981 refueling outage. See Motion for Authorization for Interim Operation of Unit 1 with Steam Generator Tubes Sleeved Rather Than Plugged, dated September 28, 1981, at 8. [Emphasis added.]

In response to the motion for interim relief, the Board proceeded, in an "extraordinary action", to drastically accelerate the conduct of this proceeding and took every effort to insure that the Licensee's motion was considered prior to the time requested--even though it was recognized "that the need for expedition has been created by WE, which delayed filing its amendment only because of an incorrect assumption that a hearing would not be necessary." See Memorandum and Order, dated October 1, 1981, at 2 and 5.

Then, in the Licensee's letter dated October 12, 1981, to NRR, it suddenly requested the Staff to authorize a footnote to the technical specifications so that "Point Beach Nuclear Plant Unit 1 may be operated at power with up to six tubes in one steam generator having degradation exceeding the plugging limit provided these tubes have been repaired by insertion of sleeves into the tubes to bridge the degraded or defective portion of the tubes"--that is to say to permit the exact same interim relief for which it had

applied to this Board less than two weeks earlier. Letter from S. Burstein(WE) to H. Denton(NRR), dated October 12, 1981, at 2.

It would appear that the Licensee is attempting to unilaterally usurp the jurisdiction of this Board, which has been duly conferred from the Commission, by the expedient of a letter.

This is to request the Board to inform the Licensee that its disagreement with the establishment of this Atomic Safety and Licensing Board must be taken to the Commission with a formal motion, not in a letter to the Staff. If the Licensee is permitted to continue on its course, the Board's consideration of the motion for interim relief, including the hearings presently scheduled for October 29 and 30, 1981, would be superfluous.

At the same time, it should be clear that the Intervenor opposes the Licensee's action as wholly improper.

Sincerely,
WISCONSIN'S ENVIRONMENTAL DECADE, INC.

by *Kathleen M. Falk /cm.*

KATHLEEN M. FALK
Director of Legal Affairs

KMF/cm-P:50266NRC.L11
cc:Bruce W. Churchill, Esq.
Charles A. Barth, Esq.
Docketing