

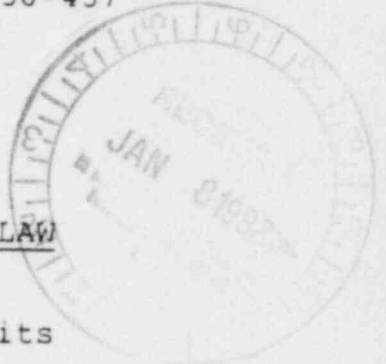
UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

'82 JAN -7 P4:35

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

OFFICE OF SECRETARY  
DOCKETING & SERVICE  
BRANCH

In the Matter of :  
OFFSHORE POWER SYSTEMS : Docket No. STN 50-437  
(Manufacturing License for :  
Floating Nuclear Power Plants) :



RESPONSE OF APPLICANT TO NRC STAFF'S  
PROPOSED FINDINGS OF FACT AND CONCLUSIONS OF LAW

Offshore Power Systems ("Applicant") submits the following Response to the "Nuclear Regulatory Commission Staff's Proposed Findings of Fact and Conclusions of Law In the Form of A Proposed Initial Decision (Revised)" (Staff's Revised Proposed Findings") dated December 30, 1981:

1. There is no Staff Item No. 4 in the Staff's Revised Proposed Findings. Item 3 appears on page 2 and Item 5 appears on page 5.
2. Re Paragraph 55 (Item 2C, page 2):
  - a. Add reference to Footnote 6.2 immediately following the word "testimony" in the second sentence of the proposed substitution.
3. Re Paragraph 62.1 (Item 3A, page 3):
  - a. Delete "(See Appendix E)" in the third line of Condition No. 4.
  - b. Add "(See Paragraphs 61.1 - 61.6, supra.)" following the last sentence of Condition No. 4.
4. Re Paragraph 62.2 (Item 3A, page 4):
  - a. Delete the word "concludes" immediately following "FES" in the first line.

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5. Re Paragraph 80 (Item 5C, page 6):

- a. Revise the proposed substitution to read "both General Design Criterion 17 and, to the extent applicable, General Design Criterion 18. (See Paragraph 75)."

[Explanation:

Paragraph 80 refers only to the offsite power system. Moreover, GDC-18 does not require complete testability but rather specifies certain required tests, many of which specifically apply to the onsite power systems.]

6. Re Paragraph 117 (Item 7G, page 8):

- a. In the third last line, the word "affect" should be "effect."

7. Re Paragraph 135 (Item 8C, page 8):

- a. Add the words "except where shown to be unnecessary by the plant owner" immediately following the word "provided" in the first line of the proposed substitution.
- b. Revise the cite at the end of the proposed substitution to read "(SER, Sections 9.5.1 and PDR, pp. 9.5-11, 9.5-11a)."

8. Re Paragraph 180 (Item 10D, page 10):

- a. The suggested new footnote should be numbered 34.1.

9. Re Paragraph 195 (Item 10H, page 11):

- a. Revise to read as follows:

"Further the Board agrees with the Staff's testimony that there are numerous sites along the Atlantic and Gulf coasts where the Applicant's selected site envelope parameters can be met. (Staff Testimony, Hawkins, et al., p. 8; Tr. 1529)."

10. Re Paragraph 263 (Item 15C, page 14):

- a. The suggested new findings to follow present Paragraph 263 should be numbered Paragraph 263.1.

- b. Revise to read as follows:

263.1 The Applicant has also committed to instrument the first unit in order to demonstrate that

the limiting values of shaft deflection, vibration and bearing pressure are not exceeded. Should deficiencies be observed the Applicant has committed to correct them on the first and all subsequent units. (Staff Testimony, p. 24, and PDR, Section 10.2.5)."

11. Re Paragraph 286 (Item 15E, page 14):

a. In the third last line, the word "affect" should be "effect."

12. Re Paragraphs 391-394 (Item 20F, page 17) and Paragraph 399 (Items 20G and 20H, pages 17-19):

a. Applicant objects to the NRC Staff's proposed modifications to "Applicant's Proposed Findings of Fact and Conclusions of Law in the Form of a Proposed Initial Decision" ("Applicant's Proposed Findings") dated December 11, 1981 which are set forth in paragraphs 20 F, G and H of the Staff's Revised Proposed Findings at pp. 17-18. The modifications proposed by the Staff pertain to the Atlantic County Board of Chosen Freeholders ("Atlantic County") resort economics contention. At the outset it should be noted that the Staff agrees that the record fully supports Applicant's proposed findings of fact in paragraph 400 (Applicant's Proposed Findings, p. 194) that:

"the potential impact of siting an FNP on a resort economy which is characterized by the presence of tourists and leisure seekers is very small and well within the year to year fluctuations in the local economic activity of the coastal resort area."

While the Staff agrees with the foregoing proposed finding, it has proposed findings of fact in paragraph 20G (as proposed findings of fact Nos. 398.1 through 398.3) which request the Board to disregard or discount certain testimony

of Applicant relating to the Las Vegas weapons testing experience which Applicant submits adds additional support to Applicant's proposed findings of fact paragraph 400 quoted above. Applicant submits that the Board should reject the Staff's proposals in paragraphs 20F and H and the Staff's proposed finding of fact in paragraph 20G.

In paragraph 20F, the Staff has requested the Board to delete paragraphs 391 through 394 of Applicant's Proposed Findings, wherein Applicant requested the Board to find that the presence of nuclear weapons testing at the Nevada Test Site in the vicinity of a resort area (Las Vegas, Nevada) made Las Vegas analogous to a resort community having a nuclear plant nearby. Further, Applicant requested the Board to find that the evidence Applicant presented established that despite the presence of nuclear weapons testing near Las Vegas, its resort economy had flourished. The record fully supports these proposed findings (see, e.g., "Applicant's Testimony Regarding XVI. Impact on Resort Economics" at pp. 8-10).

Applicant notes that intervenor Atlantic County Citizens Council on Environment ("ACCCE") made a motion at the hearing on May 17, 1977 to exclude from admission into evidence Applicant's testimony concerning the Las Vegas-nuclear weapons testing analogy (Tr. 6233-35). ACCCE claimed, inter alia, that such testimony was not relevant to the Atlantic County contention. That motion, which was opposed by both Applicant and Staff, was rejected by the Board (Tr. 6242).

Applicant's testimony concerning the analogy between the Las Vegas-nuclear weapons testing circumstance and the situation of a nuclear plant located near a resort community was presented by a panel of expert witnesses which included experts in demography, Dr. Dennis Mileti and Mr. K. T. Mao (see Tr. 6388, 6679). The Staff did not cross-examine Applicant's panel on the Las Vegas-nuclear weapons testing analogy; and no party presented testimony which challenged the testimony of Applicant's panel concerning the Las Vegas-nuclear weapons testing analogy. Applicant submits that this analogy is valid and clearly constitutes additional support for the Board finding proposed by both Applicant and Staff that the potential impact of siting an FNP on a resort economy which is characterized by the presence of tourists and leisure seekers is very small and well within the year-to-year fluctuation in the local economic activity of the coastal resort area.

b. Applicant also objects to the NRC Staff's proposed finding of fact set forth under Paragraph 20G (pp. 17-18) for the following reasons:

In the proposed finding of fact set forth under Paragraph 20G, the Staff alleges that Applicant's premise that "growth in population is an indicator of growth in tourism . . . was never firmly established." Moreover, the Staff claims that on at least two occasions, Applicant's panel contradicted itself on this point and urges the Board to give lesser weight to Applicant's testimony than to the Staff's testimony on the resort economics contention.

In response to the foregoing, Applicant submits that the testimony of its expert witness panel clearly established that population growth is an indicator of growth in tourism in a resort economy, and that its witness panel never contradicted itself on this point.

The topic of the interrelationship between population growth and tourism in a resort economy was the subject of lengthy cross-examination by counsel for ACCCE (see Tr. 6289-6320). The Staff's proposed finding of fact under Paragraph 20G demonstrates that the Staff is confused about the import of the dialogue which ensued between the Applicant's witness panel and ACCCE counsel on this point. Applicant's panel repeatedly testified that a growth in population is an indicator of a growth in tourism in a resort economy (see Tr. 6313-14, 6318-19). Contrary to the Staff's understanding, however, Applicant's panel never testified that a "growth in population is an indicator of a growth in tourism" without adding the qualifying words "in a resort economy." Moreover, Applicant's witness panel testified at length concerning factors which identify an economy as a resort economy (see Tr. 6320-30). Further, while Applicant's panel did testify that population growth is an indicator of growth in tourism in a resort economy, it did not testify that population growth in a resort economy causes a growth in tourism in that economy. As explained by Applicant's panel, when an attempt is made to assess the vitality of a resort economy, one looks at the factor of population growth in that economy as a significant factor

or indicator which allows one to make a reasoned judgment as to whether tourism is increasing, decreasing or remaining about the same. However, when the Applicant's panel was asked the question of whether a growth in the population of a resort economy would cause an increase in the tourism at that resort, they were being asked a significantly different question, one they answered in the negative (Tr. 6316). Applicant's panel's answer to this latter question in no way contradicts its expert opinion, repeatedly stated, that population growth in a resort economy is an indicator of growth in tourism in that economy. In its proposed finding, the Staff, because it failed to comprehend the significant difference between the word "cause" and the word "indicated" erroneously requests a finding that Applicant's panel contradicted itself. The Board should reject such proposed finding.

Furthermore, with regard to the testimony of Applicant's panel on this subject, it should be noted that counsel for ACCCE moved to strike that testimony, based on the same misunderstanding of Applicant's testimony which the Staff has expressed in its proposed finding of fact in paragraph 20G (Tr. 6307-12). In fact, Staff counsel supported that ACCCE motion to strike. The Board properly rejected that motion to strike (Tr. 6312). It should also be noted that the Staff never cross-examined Applicant's panel concerning this matter even though Applicant's testimony on this subject was available to the Staff for more than a year.<sup>1</sup> Moreover,

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<sup>1</sup>Applicant's witness panel on the resort economics contention testified on May 17-20, 1977. When the hearing resumed more than a year later on July 10, 1978 with Applicant's panel on the witness stand, the Staff advised that it had no cross-examination (Tr. 6699).

no party presented any testimony which challenged Applicant's testimony regarding Applicant's panel's professional opinion that population growth in a resort economy is an indicator of an increase in tourism in that economy.

For the foregoing reasons, Applicant submits that the Board should reject the Staff proposed findings of fact set forth under Paragraph 20G and should also reject the Staff request to delete Paragraphs 391 through 394 and 399 of Applicant's Proposed Findings.

13. Re Paragraph 410 (Item 21G, page 22):

- a. The suggested addition to follow present Paragraph 410 should be numbered Paragraph No. 410.1.

Respectfully submitted,

Barton Z. Cowan /ARK

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Thomas M. Daugherty /ARK  
Counsel for Applicant,  
Offshore Power Systems

Dated: January 5, 1981



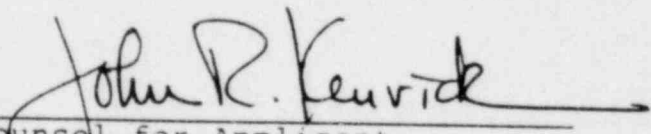
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CERTIFICATE OF SERVICE

I hereby certify that copies of the "Response of Applicant to NRC Staff's Proposed Findings of Fact and Conclusions of Law" were served upon the persons listed on Attachment 1 to this Certificate of Service by deposit in the United States mail (First Class), postage prepaid, this 5th day of January, 1982.

  
Counsel for Applicant  
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ATTACHMENT 1

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