

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSISON

DOCKETED
1982

'82 APR 14 11:34

IN THE MATTER OF)
ILLINOIS POWER COMPANY,)
SOYLAND POWER COOPERATIVE, INC.)
and WESTERN ILLINOIS POWER)
COOPERATIVE, INC.)
)
(Operating License for Clinton)
Power Station, Unit 1))

Docket No. 50-461 OL

ILLINOIS' BRIEF IN SUPPORT OF
PRAIRIE ALLIANCE SUPPLEMENTAL
CONTENTION NO. 5



The STATE of ILLINOIS (Illinois), by TYRONE C. FAHNER, Attorney General of the State of Illinois, supports the admission of Prairie Alliance (PA) Supplemental Contention No. 5 in the instant proceeding. The basis for Illinois' position with respect to Supplemental Contention No. 5 follows.

On March 26, 1982 PA filed with the Board a list of proposed supplemental contentions, pursuant to permission granted by the Board, in response to the Safety Evaluation Report (SER) prepared and submitted by the NRC Staff. PA Supplemental Contention No. 5 alleges that the Applicants, Illinois Power Co. et al. (the Applicants), and the NRC Staff inadequately considered systems interaction at the Clinton Power Station, Unit 1 (the Clinton plant). During a telephone conference call on April 1, 1982 counsel for the NRC Staff argued that PA Supplemental Contention No. 5 is inadmissible in the instant proceeding because it concerns a generic, unresolved safety issue

8204160006 820412
PDR ADOCK 05000461
G PDR

DS03
s
1/0

and it is vague. During that conference call the Board allowed all parties in the instant proceeding to file briefs by April 12, 1982 on PA's supplemental contentions.

The Staff's opposition to PA Supplemental Contention No. 5 on the ground that it is generic is without merit, because the Staff has failed to adequately address the systems interaction issue in the SER. Admittedly systems interaction has been categorized as an unresolved safety issue in the Commission Report, "Identification of Unresolved Safety Issues Relating to Nuclear Power Plants, A Report to Congress," NUREG-0510. Yet, this classification certainly does not mean that systems interaction is an issue that can be ignored with respect to the Clinton plant. It is well established that the NRC Staff must explain in the SER why an operating license should issue to the Applicants for the Clinton plant in spite of the unresolved generic safety issue of systems interaction. Gulf States Utilities Co. (River Bend Station, Units 1 and 2), ALAB-444, 6 NRC 760, 775 (1977); Virginia Electric & Power Co. (North Anna Nuclear Power Station, Units 1 and 2), ALAB-491, 8 NRC 245, 247 (1978). Among the factors the NRC Staff should consider in its explanation in the SER are whether:

- (1) The problem has already been resolved for the reactor under study;
- (2) there is a reasonable basis for concluding that a satisfactory solution will be obtained before the reactor is put in operation; or
- (3) the problem would have no safety implications until after several years of reactor operation and, should it not be resolved by then, alternative means will be available to insure that continued operation (if permitted at all) would not pose an undue risk to the public.

6 NRC at 775.

Here, the Staff fails to explain how the Applicants can operate the Clinton plant in the absence of generic resolution of the systems interaction issue. In Appendix C of the SER the NRC Staff states that "[t]he applicant has not described a comprehensive program that separately evaluates all structures, systems, and components important to safety for the three categories of adverse systems interactions. . . ." Clinton SER, p. C-9. Yet, despite the absence of such a program, the Staff concludes that the Clinton plant can be operated safely. One of the reasons cited by the NRC Staff for its conclusion is that "the quality assurance program that is followed during the design, construction, and operational phases for each plant contributes to the prevention of introducing adverse systems interaction." Clinton SER, p. C-10. However, there are numerous QA/QC violations, cited in NRC Inspection and Enforcement reports for the Clinton plant, that contradict the NRC Staff's general statement and erode the assurance that the QA/QC program lends to resolution of this issue. The NRC Staff's analysis in the SER and the NRC reports disclose that the systems interaction issue has not been resolved for the Clinton plant and that there is no basis to conclude that it necessarily will be resolved before operation.

The NRC Staff's other objection, that PA Supplemental Contention No. 5 is vague, is also without merit. The contention is obviously drawn from the Staff's analysis in the SER of the systems interaction issue. The factual bases for the contention

are twofold; one, the SER shows that the Applicants have not undertaken a comprehensive analysis of systems interaction; and, two, the Applicants' QA/QC construction program does not assure the resolution of the systems interaction issue for the Clinton plant. These two factors show a sufficient nexus between the systems interaction issue and the Clinton plant so as to warrant the admission of PA Supplemental Contention No. 5.

Respectfully submitted,

TYRONE C. FAHNER
Attorney General
State of Illinois

BY:

Philip L. Willman

PHILIP L. WILLMAN
Assistant Attorney General
Environmental Control Division
188 West Randolph Street
Suite 2315
Chicago, Illinois 60601
(312) 793-2491

OF COUNSEL:

REED NEUMAN
Assistant Attorney General
500 South Second Street
Springfield, Illinois 62701

DATED: April 12, 1982

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

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

CERTIFICATE OF SERVICE

I hereby certify that I served copies of Illinois' Brief in Support of Prairie Alliance Supplemental Contention No. 5 on the persons listed on the attached Notice by causing them to be deposited in the United States mail, First class, postage prepaid, on this 12th day of April, 1982.

Philip L. Willman
PHILIP L. WILLMAN

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))

NOTICE

TO: Hugh K. Clark, Esq., Chairman
P.O. Box 127A
Kennedyville, Maryland 21645

Dr. George A. Ferguson
School of Engineering
Howard University
2300 Sixth Street, N.W.
Washington, D.C. 20059

Dr. Oscar H. Paris
Atomic Safety and Licensing Board
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

Richard J. Goddard
Office of the Executive Legal Director
United States Nuclear Regulatory
Commission
Washington, D.C. 20555

Sheldon A. Zabel
Schiff, Hardin, & Waite
7200 Sears Tower
233 South Wacker Drive
Chicago, Illinois 60606

Jan L. Kodner
Tutt & Kodner
173 West Madison
Suite 1004
Chicago, Illinois 60602

Atomic Safety and Licensing Board Panel
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

Atomic Safety and Licensing Board Panel
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

PLEASE TAKE NOTICE that today I have caused to be filed with the Secretary, United States Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Chief, Docketing and Service Section, one original and two conformed copies of Illinois' Brief in Support of Prairie Alliance Supplemental Contention No. 5. A copy of this document is attached and served upon you.

TYRONE C. FAHNER
Attorney General
State of Illinois

BY:

Philip L. Willman

PHILIP L. WILLMAN
Assistant Attorney General
Environmental Control Division
188 West Randolph Street
Suite 2315
Chicago, Illinois 60601
(312) 793-2491

DATED: April 12, 1982