

contention for litigation supposedly supported by more specific bases (as SOV has here) then the issues open for litigation are limited by the specific allegations contained in the admitted basis or bases. *Illinois Power Company* (Clinton Power Station, Unit 1), LBP-81-61, 14 NRC 1735, 1737 (1981):

"Where a contention is made up of a general allegation which, standing alone, would not be admissible under 10 C.F.R. § 2.714(b), plus one or more alleged bases for the contention set forth with reasonable specificity, the scope of the matters in controversy raised by such contention are limited by the specific alleged basis or bases set forth in the contention."

See also *Philadelphia Electric Company* (Limerick Generating Station, Units 1 and 2), CLI-85-15, 22 NRC 184, 185-86 (1985); *Public Service Company of New Hampshire* (Seabrook Station, Units 1 and 2), ALAB-924, 30 NRC 331, 347 n. 43 (1989); *Vermont Yankee Nuclear Power Corporation* (Vermont Yankee Nuclear Power Station), LBP-88-26, 28 NRC 440, 446-47 (1988). The cases cited by the Staff are entirely in accord with this line of authority and thus are not, as SOV apparently seeks to imply, off point.¹

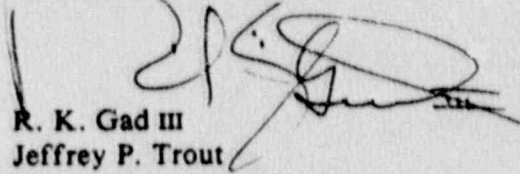
III.

Finally, SOV argues that Vermont Yankee has not been denied its right "to effectively inquire above [SOV's] case . . . since [SOV] has already replied adequately to 262 interrogatories and document requests." MOTION FOR LEAVE at 2. SOV's use of the word "adequately" in the above argument is open to question, however, given that SOV: (i) has refused altogether to respond to 47 of Vermont Yankee's discovery requests, plus parts of others; (ii) has declined to answer another 55 on the ground that it is still preparing its case; and (iii) has responded to still another 34 requests by saying that it did not know the answer. Unless SOV substantially supplements, in a timely

¹One might also observe that, wholly apart from prior decisions recognizing the point, SOV's argument suffers a fatal logical flaw. If, as SOV apparently contends, the topical limits of "bases" are to be ignored once the contention is admitted, then it would be a meaningless act for a Board to declare one or more of the "bases" excludable, as happened here. Likewise, were SOV correct in its implicit argument, that portion of a general contention beyond the scope of an admitted basis would in effect be admitted for litigation even though never supported by an admitted "basis." Rather, SOV apparently contends that one narrow "basis" may serve as the toehold by which a topically broader and different "contention" is admitted, a concept that makes a mockery of the contention rules.

manner, its prior responses, then the Staff's citation to the stonewalling by the intervenors in the Shoreham proceeding would seem well on point.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Jeffrey P. Trout", is written over a rectangular stamp area.

R. K. Gad III
Jeffrey P. Trout
Ropes & Gray
One International Place
Boston, Massachusetts 02110
Telephone: 617-951-7520

Dated: October 29, 1990.

DOCKETED
USNRC

'90 NOV -1 P2:31 VYN-145
ASLB - MAIL
RKGASLB.VY

OFFICE OF SECRETARY
OF LICENSING & SERVICE
BRANCH
Certificate of Service

I, R. K. Gad III, hereby certify that on October 29, 1990, I made service of the within Answer of Vermont Yankee Nuclear Power Corporation to State of Vermont's Motion to Compel, by mailing copies thereof, first class mail, postage prepaid, as follows:

Robert M. Lazo, Esquire
Chairman
Atomic Safety and Licensing Board
U.S.N.R.C.
Washington, D.C. 20555

Frederick J. Starn
Administrative Judge
Atomic Safety and Licensing Board
U.S.N.R.C.
Washington, D.C. 20555

Anthony Z. Roisman, Esquire
Cohen, Milstein & Hausfeld
Suite 600
1401 New York Avenue, N.W.
Washington, D.C. 20005

James Volz, Esquire
Vermont Department of Public Service
120 State Street
Montpelier, Vermont 05602

Jerry R. Kline
Administrative Judge
Atomic Safety and Licensing Board
U.S.N.R.C.
Washington, D.C. 20555

Adjudicatory File
Atomic Safety and Licensing Board
Panel
U.S.N.R.C.
Washington, D.C. 20555

Ann P. Hodgdon, Esquire
John T. Hull, Esquire
U.S.N.R.C.
Washington, D.C. 20555



R. K. Gad III