

DOCKETED
USNPC

*82 DEC 10 A11:45

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

ATOMIC SAFETY AND LICENSING BOARD

Before Administrative Judges:
Peter B. Bloch, Chairman
Jerry R. Kline
Hugh C. Paxton

SERVED DEC 10 1982

In the Matter of:
WISCONSIN ELECTRIC POWER COMPANY

Docket No. 50-266-OLA2

(Point Beach Nuclear Plant, Unit 1)

December 10, 1982

SPECIAL PREHEARING CONFERENCE ORDER

On November 18, 1982, the Atomic Safety and Licensing Board conducted a Special Prehearing Conference for the purpose of considering the petition of Wisconsin's Environmental Decade (Decade) to become a party to this proceeding. Because Decade willfully failed to attend the Conference, it is declared in default of its hearing obligations and its petition is dismissed. In addition, Decade's petition also is dismissed because it did not file any relevant contention for which it adequately stated a basis.

I DEFAULT

The Special Prehearing Conference that Decade failed to attend was the subject of a Federal Register notice issued by the Board on October 21, 1982, as part of a four day hearing considering the merits of a companion case concerning the repair of steam generators at Point Beach Nuclear Plant. This notice followed a telephone conference discussing the parties' convenience. In the companion case, Decade participated in an evidentiary hearing concerning the adequacy of eddy current testing to assure the integrity of steam generator tubes that might be repaired by a "sleeving" process.

At the close of the companion case, after two days of hearing, Decade requested the Board to commence the Special Prehearing Conference in this case at 8 pm that same evening so that Peter Anderson, Decade's representa-

DSO2

tive at the hearing, could attend a meeting with the governor-elect of Wisconsin the following morning at 11 am in Madison, Wisconsin. Despite the fact that the motion was made at 6 pm in the evening, following two full days of hearings (including Limited Appearance Statements received at Two Rivers, Wisconsin for an hour and a half the evening before), the Board heard argument on the motion. Excerpt from companion proceeding, following Tr. 43.

In its argument, Decade explained that its office had received a call from the governor-elect of Wisconsin at 4:30 pm that afternoon and that it had no prior indication that a meeting with the governor-elect would be possible. Excerpt at 1882. Decade was then asked what the governor-elect would be doing at the meeting. Excerpt at 1883. Mr. Anderson responded:

I don't think it is appropriate for me to discuss exactly what we're doing, but the question is the transition that is going on with the Governor's office in Wisconsin, and we have a meeting at 11:00 that we -- that is the only option given to us. It is not a meeting set by us, sir.

Excerpt at 1883. After hearing that explanation, the Board stated that it had already denied the continuance but would reconsider at the request of either of the other parties. When neither party indicated that it wished reconsideration of the Board's ruling, the Board repeated its ruling and stated that the Conference would proceed at 9 am the following day whether or not Decade chose to attend. Id. Earlier, the Board also had warned Decade that "If Decade is not represented, there is a good chance that they will default in this proceeding." Tr. 1882.

Under the circumstances, Decade's failure to attend the Special Pre-hearing Conference was willful and appropriate sanctions should be assessed. Statement of Policy on Conduct of Licensing Proceedings, 46 FR 28533 (May 27, 1982). In selecting a sanction, we should consider:

the relative importance of the unmet obligation, its potential for harm to other parties or the orderly conduct of the proceeding, whether its occurrence is an isolated incident or a part of a pattern of behavior, the importance of the safety or environmental concerns raised by the party, and all of the circumstances.

Id.

A. Importance of the Unmet Obligation

We consider the Special Prehearing Conference to be an important part of a case, and we had previously discussed with Decade and the parties our expectations concerning the information we expected to gain from the Conference. Tr. 33-34. In particular, Decade knew that it would be expected to demonstrate its knowledge of the relationship of its contentions to the application. Id. It also was aware that the Board intended to apply criteria for admitting contentions that had previously been used in Cleveland Electric Illuminating Company (Perry Nuclear Power Plant), LBP 81-24, 14 NRC 175 (1981) at 184. In that case, the Board made broad use of the special prehearing conference to clarify contentions, determine their relevance and determine whether there was any real substance to them. In that case, the Board gave intervenors broad latitude at the Conference out of its concern that contentions be admitted if there is any substantial reason to inquire further into those contentions.

In this case, there were two occasions where we would have turned to intervenors to comment on applicants' statements. Tr. 66-67, 90. The fact that intervenors were not there to help us when we needed help, and the additional fact that the Board was placed in the position of trying to interpret Decade's contentions for itself without any oral assistance from Decade, seriously detracts from an important phase of this proceeding.

B. Potential Harm to Other Parties or the Conduct of the Proceedings

The principal harm to other parties and to the proceeding was threefold. First, if the parties had been required to proceed on the evening of the 18th, pursuant to Decade's motion, neither they nor the Board would have been as fresh of mind and body as would have been possible on the next morning. Although mental processes can be made to function with some efficiency after extended hearing hours, there is inevitably some loss of efficiency; that must be weighed against the importance of the need for pro-

ceeding immediately. Additionally, we note that the next morning's proceeding took about two hours, even with fresh parties and without Decade's participation. There is, therefore, no assurance that the Conference could have been concluded Thursday evening, even had we tried.

Second, because the Board was unwilling to reschedule its duly noticed conference for a later time, requiring it to return to Milwaukee at public expense, Decade's absence at the Special Prehearing Conference placed a special burden on the Board to explore possible meanings of its contentions. This deprived the Board of its traditional role of neutrality and forced it to play "devil's advocate". Although the Board retained its objectivity and has, in fact, concluded that Decade's contentions were without adequate basis, we believe that Decade enjoyed an unfair advantage at the Prehearing Conference because of the Board's need to assume the role that Decade itself was supposed to play.

Third, if Decade had been at the conference, the parties might have become better informed of its specific concerns and to have presented more specific rebuttal. They were therefore deprived of an opportunity to make the contentions more specific and, even, to persuade Decade to drop some of the contentions voluntarily.

C. Isolated Event

Decade's nonappearance at the Special Prehearing Conference was not a part of a pattern of disregard for this Board or the Commission. In general, in both this proceeding and the earlier Point Beach proceeding on tube sleeving, we have found Decade to be a cooperative party that has not engaged in objectionable tactics.

However, its nonappearance in this case is not an isolated event. In Wisconsin Electric Power Company (Point Beach Nuclear Plant, Units 1 and 2), ALAB-666 (February 12, 1982) the Appeal Board castigated Decade for sched-

uling an oral argument and then failing to live up to its responsibility to appear. In that instance, the Appeal Board was extremely lenient, calling off oral argument entirely and depriving the other parties of their opportunity to present oral argument. This is a second instance in which a representative of the Commission was deprived of the opportunity to ask questions of Decade's representative.

D. The Importance of Safety and Environmental Concerns

In the next section of this opinion, we discuss each of Decade's contentions and conclude that they are without basis. We are convinced that none of its contentions raised any important safety or environmental concern. In addition, we note that the Staff of the Nuclear Regulatory Commission is vigorously pursuing its own concerns. Letters of C.W. Fay, Assistant Vice President of Wisconsin Electric Power Company, to H. R. Denton, Director, Office of Nuclear Reactor Regulation (October 27, 1982 and November 22, 1982). We are confident from our review of the Staff's questions that it is endeavoring to fulfill its obligation to protect the public health and safety and that no substantial additional protection would be afforded to the public because of a hearing on Decade's contentions.

E. Other Circumstances

We note, as the Appeal Board has before us, that Decade is a substantial organization, with a staff of 10 individuals (including two co-directors, one of which is a lawyer that appeared in the companion proceeding). It has over 50,000 members. Tr. 100; see also ALAB-666 at 279. Nevertheless, Decade refused to answer the Board's question concerning the nature of its conference with the governor-elect and never commented on why it could not be represented by some other individual or why Peter Anderson, Decade's representative, was personally needed by the governor-elect.

We consider the information given us in support of a continuance to have been highly incomplete. We do not assume that every request from a

governor-elect takes precedence over a duly noticed public hearing. We also do not assume that a governor-elect that considers it important to consult with Decade about transition matters would not fully understand the need for it to fulfill its hearing obligations. Hence, Decade owed us, at the very least, a statement that the governor-elect had been informed about the scheduling conflict and had been unable to make a different time available.

It is also important that the non-appearance was willful. Decade argued that the schedule should accommodate its needs and the Board rejected its argument. It had full notice that it would risk default if it did not appear.

We have considered the implications of Commonwealth Edison Company (Byron Nuclear Power Station, Units 1 and 2), ALAB-678, slip op., June 18, 1982 for this proceeding. However, we believe that Byron establishes a principle that suggests that there be a default in this case. In Byron, petitioner's status as a party had already been determined; hence, it had a right to a public hearing. In this case, Decade was still a petitioner and had not established its right to a public hearing. Second, in Byron the intervenor's unwillingness to respond to interrogatories made it more difficult for another party to proceed expeditiously, but it did not seriously affect the progress of the proceeding because it did not affect the timeliness of the Board's decision and it did not interfere with the adjudicatory process by affecting the ability of a hearing board to conduct a scheduled hearing. We note that Byron imposed a serious sanction --reducing the number of contentions-- suggesting that default is an appropriate sanction for the more serious violation present in our case.

In reaching our conclusion, we are mindful of the important right of the public to intervene in Commission proceedings. Given the importance of licensing events and public concern about nuclear power facilities, this is an important right granted by duly enacted legislation. Often, it serves important purposes in permitting public concerns to be fully heard and determined and in enhancing the vigilance of the Commission's staff, which bears the principal burden of protecting the public. However, this right of

intervention brings with it responsibilities of participation. In particular, intervention costs taxpayers and ratepayers thousands of dollars of litigation costs. It is necessary that intervenors conduct themselves so that the important rights granted to them will be exercised responsibly, with due regard for the expense that the public bears when intervention occurs.

F. Conclusion

After considering all the relevant factors, we conclude that the appropriate sanction for Decade's willful refusal to attend the Prehearing Conference is dismissal of its petition for intervention. In the alternative, we consider an appropriate sanction to be the acceptance of the truth of all statements made by applicant or staff at the Special Prehearing Conference. Application of this sanction also would result in dismissal.

II THE CONTENTIONS

In addition to our determination that Decade has defaulted, we also have determined that none of its contentions is admissible. Most were irrelevant to this proceeding. A few are not admissible because Decade failed to state a basis for them with sufficient particularity.

Before we discuss the individual contentions, we shall explain the nature of this proceeding and of the steam generator repair that is the subject of the license amendment application that is before us.

A. The License Amendment

On May 27, 1982, Wisconsin Electric Power Company (applicant) notified the Commission of plans to replace the two steam generators in Unit 1 of the Point Beach Nuclear Plant. Despite applicant's contention that the repair "does not require a change in Technical Specifications, does not involve an unreviewed safety question, and does not present significant hazards considerations" the Staff of the Nuclear Regulatory Commission decided that a license amendment was required. Consequently, on July 6,

1982, the Commission published a Federal Register notice providing an opportunity for members of the public to petition to intervene in the proceeding. Decade filed its petition on August 10, 1982.

In support of its application, Wisconsin Electric Power Company filed a "Steam Generator Repair Report" (Report), August 1982. The Report is an extensive discussion of safety and environmental issues related to the license amendment.

The Report explains that the Point Beach Nuclear Plant Unit 1 has experienced corrosion in a number of tubes in its two steam generators, which are a part of the primary pressure boundary of this plant. In these generators, pressurized, super-heated water produced by the nuclear reactor passes through tubes, thus heating water on the "secondary side" of the steam generator, causing it to turn to steam. This steam is then used to drive electric generators.

The corrosion experienced by these generators has been initiated from the secondary side of the steam generator tubes. Various measures have been taken to arrest the corrosion, including changes in the secondary water chemistry, plugging degraded tubes, and reduction of operating temperature. Approximately 14 percent of the tubes in each steam generator have been removed from service by plugging both ends of the tubes, thereby preventing primary water from entering those tubes. As a result of the reduced operating temperature, Unit 1 is currently operating at less than 80 percent of full power. To increase the availability and reliability of these steam generators, and to return to full-power operation, the applicant considers it to be appropriate to replace both steam generators of Unit 1.

Westinghouse Electric Corporation will fabricate new steam generator lower assemblies. The design of the lower assemblies will match the design performance of the lower assemblies being replaced. However, the design includes several features that do not alter mechanical performance and the parameters of the Final Safety Analysis Report filed in support of the operating license that was previously granted. The new design features are de-

signed to provide improved thermal hydraulic performance, improved access to the tube bundle, and reduced potential for secondary side corrosion.

The fundamental conclusion of the Report is that the steam generator repair program utilizes proven manufacturing and construction techniques and does not result in any adverse impact on plant safety or any significant adverse impact on the environment.

B. The Scope of the Proceeding

The Point Beach nuclear plants are licensed, operating reactors. The right of applicant to operate these plants has been previously decided. The only question open in this amendment proceeding is the question stated in the notice of opportunity for hearing, the proposed replacement of major components of the steam generators. An intervenor is limited to presenting contentions that this proposed replacement would cause impermissible safety or environmental effects. 47 Fed. Reg. 30125, July 12, 1982. See Northern Indiana Public Service Company (Bailey Generating Station, Nuclear 1), ALAB-619, 12 NRC 558 (1980) at 565. (There also are standing requirements for intervenors, but those have been met in this proceeding and are not contested.)

We have decided to dismiss most of Decade's contentions because they fall clearly outside the scope of the proceeding. Indeed, one of the contentions was labelled "Balance of Plant," indicating that it had to do with concerns that Decade has about the safety of other aspects of the plant, but not about the proposed amendment.

We conclude that all of the contentions other than contention 3 and 7 must be dismissed because they fall outside the scope of this proceeding. We accept the following statement of applicant as a fair characterization of the appropriate scope of this proceeding:

Since the subject matter of the proceeding is not the adequacy of the steam generators generally, a contention cannot be admitted unless it alleges that some aspect to the repair of the steam generator that differs from the original steam generators is somehow less safe than the existing steam generators. But beyond that, . . . it

also has to provide some colorable basis that, in addition to being less safe, it is somehow unacceptable....

Tr. 49.

1. First Contention

Decade's first contention, filed in its amended pleading of November 5, 1982, is "Tube Failures under LOCA Accident Conditions." (A LOCA is an accident in which the systems designed to cool the reactor core all fail so that excess heat is generated within the core, leading in severe instances to core damage that could cause a breach of the containment structure and lead to serious releases of radioactive substances into the environment.)

The first contention is addressed to an alleged deficiency in the existing steam generators and fails to indicate any way in which a grant of the license amendment would adversely affect the condition of the plant. Hence, the contention is irrelevant to the proceeding. See also LBP 81-45, 14 NRC 853 (1981) at 858 (explaining why a previous version of this contention was irrelevant to the related, companion proceeding). Because of our overriding interest in the safety of the community, we naturally were interested in whether this contention had some substance. However, given the irrelevance of the contention to this proceeding, we accept Staff's assurance concerning the safety of the steam generator during a LOCA event. That assurance is based on an analysis of the ability of the steam generator to withstand a main-steamline break, an event causing far greater stresses than a LOCA. This gives the Staff confidence that the generator also would be safe under LOCA conditions. Tr. 61.

We exclude the first contention as irrelevant.

2. Second Contention

Decade's second contention, "Tube Failures Under Normal Operation

Conditions" does not, directly or indirectly, refer to the steam generator replacement project that is the subject of this proceeding. This contention is irrelevant. We also are unpersuaded that this is an important safety issue.

3. Fourth Contention

Decade's third contention will be discussed below. It requires greater consideration than the contentions we reject simply for lack of relevance.

Decade's fourth contention, labeled "balance of plant" addresses issues that are not specifically related to the license amendment. Each of the subparts of this contention appears to be a problem that is well-known to the industry and the Commission and that does not, therefore, cause us to be concerned about public safety. However, if Decade disagrees with this assessment, its proper remedy is to petition the Director under 10 CFR §2.206. See, e.g., Rochester Gas and Electric Corporation (R.E. Ginna Nuclear Power Plant), DD-82-3, 15 NRC 1348 (1982).

4. Fifth Contention

Decade's Fifth Contention, "All Volatile Treatment" (AVT), deals with a water chemistry question that has been present at Point Beach in the authorized steam generators since 1975. Tr. 56. The treatment is required to be used by the technical specifications for the plant. Tr. 62. The only source cited by Decade as a basis for this contention is outdated because it precedes the extensive operating experience that has been gained with AVT, at Point Beach and elsewhere. We have not been given any reason to inquire further about whether another type of water treatment is superior to AVT, about whether AVT causes a serious corrosion problem, or whether the replaced steam generator will be less able to perform safely than its licensed predecessor. Indeed, the use of thermally treated Inconel 600 in replacement generators promises to reduce the risk of corrosion and we have

no basis for believing that there are any other aspects of the repair that would offset this reduction in risk. See Report pp. 2-7 through 2-12, especially 2-8. (We note that the resistance of thermally treated Inconel 600 to corrosion was a subject into which the Board inquired in depth during the companion proceeding on tube sleeving, to which Decade was a party.)

We find this contention to be irrelevant and without basis.

5. Sixth Contention

This contention, "Operator Performance", alleges a deterioration in management of the entire Point Beach facility. Assuming that the allegations were correct, they would pertain to the existing steam generator and they do not contain any indication of their relevance to the replacement project. Additionally, we have examined the basis of this contention. It relies on a Systematic Assessment of Licensee Performance apparently completed in June 1982. The relevant finding was that "There has been a discernable decline in the higher than average performance that had come to be expected of this utility . . . [and] there was a significant increase in the number of items of noncompliance." We find no basis in the quoted passage for believing that operator performance has fallen to an unsatisfactory level, only that it has declined from previous high standards. Although the assessment may be useful to applicant in improving operator performance, it does not demonstrate a reason to inquire further concerning operator deficiencies.

This contention is irrelevant and without basis.

6. Criteria for Admissibility of Contentions

Relevance is not the only criterion for admissibility of a contention. 10 CFR §2.714 requires that "the bases for each contention [must be] set forth with reasonable specificity." See Cleveland Electric Illuminating Company, et al., (Perry Nuclear Power Plant, Units 1 & 2), LBP-81-24, 14 NRC 175 (1981) at 181-174. We indicated to Decade that it would be expected to show how its contentions relate to specific sections of the Report, which is

well-organized and contains a clear table of contents. Id. at 184; Tr. 33-34. We also advised Decade that the following factors, cited in Perry, would apply to the admission of contentions:

- (2) Is the contention sufficiently specific so that applicant has general notice of the issues on which it may bear the burden of proof at hearing?
- (3) Is there either a reasonable explanation or plausible authority for factual assertions?

* * *

- (5) If all the facts alleged in the contention were proved, would those facts require imposition of a licensing condition or the denial of an operating license?
- (6) Has intervenor indicated enough familiarity with the subject of its contention so that its contribution to the proceeding may be expected to be helpful and so that minor shortcomings should be overlooked?

Id. at 184. This portion of the decision will apply these criteria to the contentions that we have not excluded for irrelevance.

1. Seventh Contention

This contention, "Unspecified Problems with Proposed Steam Generators", is ingenious but insufficient. It is really a contention that is an anti-contention. It does not find any problem with the repair project; it merely finds that past models of steam generators have had unanticipated problems and concludes that those problems create enough of a basis to inquire further about this steam generator repair. We do not accept this as sufficient basis for inquiring further about this particular steam generator, whose adequacy is attested to by the Report, an extensive technical document that Decade has been able to examine.

Additionally, this contention is so vague that it gives applicant no notice of what is being alleged. Thus, it is entirely lacking in the required specificity. Furthermore, even if Decade proved its allegation that Westinghouse Model D and Model 51 steam generators experienced unanticipated forms of degradation, proof of those facts would not entitle it to any relief because it would not have demonstrated what license conditions should

be imposed on this steam generator or that this steam generator was unsatisfactory and ought not to be licensed.

Consequently, we reject this contention. It fails to meet criteria (2), (3) and (5) and Decade has failed to demonstrate enough knowledge of this steam generator for us to consider criterion (6) to be sufficiently important to offset the other criteria. In particular, the contention is too vague to put applicant on notice of what it would be required to prove, pursuant to its obligation to carry the burden of proof. There is a missing logical link between its alleged basis and the inference of the inadequacy of this steam generator repair. And, even if it were considered to have an adequate basis, proof of the alleged facts would not lead to relief.

2. Contention 3(a)

Contention 3 deals generally with an assertion that the elimination of the tube sheet crevice in the replaced steam generator will introduce safety problems. Decade correctly states that the tube sheet crevice will be eliminated. The tubes will be hydraulically expanded to the full depth of the tubesheet holes (and apparently after gas leak testing is completed), eliminating the tube sheet crevice. Report at 2-8; see also id. at 2-12 (hydrotesting apparently will occur after the hydraulic expansion is completed). Consequently, contention 3 is generally relevant, and we will discuss each subpart of that contention. See Tr. 67.

Contention 3(a) alleges that "the newly situated roll stressed transition zone will be subject to stress-assisted cracking due to residual stresses from the hydraulic expansion process." As a basis for this contention, Decade cited an excerpt from Ad Hoc Committee on Steam Generators, Final Report to the Edison Electric Institute Nuclear Plant Design and Operations Task Force on Pressurized Water Reactor Steam Generators, August 1, 1974, at Part VII, p. 2 ¶5 and p. 12 ¶32f. That excerpt concluded that "testing of rolled out specimens should be done under realistic environmental conditions."

At the Special Prehearing Conference applicant claimed that the steam generator replacement will use a hydraulic roll rather than a mechanically expanded roll. Tr. 73; Report at 2-8. Furthermore, applicant objected that there has been a great deal learned since the 1974 Ad Hoc Committee Report, which was commenting on a rolling process that is not part of this application and that thermally treated Inconel 600, used in this application, had not been developed at that time. Tr. 76, 80, 84. Applicant also objects that there is no basis for believing that the residual stresses left by the hydraulic rolling process create a safety problem. Tr. 80. The staff agrees with applicant that the Ad Hoc Committee Report is irrelevant because it refers to mechanical rolling, rather than to a hydraulic roll. Tr. 85.

We conclude that there is no basis for this subcontention. (Criterion 3.) Therefore, it shall not be admitted to this proceeding.

We do wish to reiterate a concern we expressed at the hearing, however. We commented that the hydraulic expansion of the tube into the tubesheet eliminates the crevice and is the principal change being made in the repaired steam generator. Yet the application does not contain the results of tests that support the safety of this change, which has some effect on the location of residual stresses in the tubes. Tr. 82, 79-80. We do not consider it to be an adequate explanation that "the NRC knows about these tests" or that the tests are proprietary. Tr. 82-83.

It is our belief that the Commission has two purposes in conducting safety reviews. First, it must assure the safety of the public and the environment. Second, it must compile a public record that is complete and gives confidence in the correctness of its conclusions. At this point, the record does not meet this second criterion, which we believe the Commission intends to fulfill. However, we find the on-the-record statements of counsel for applicant that extensive laboratory tests have been conducted to be reassuring. Consequently, we do not consider this deficiency in the record to require us to admit this contention (that does not directly raise this question) nor do we consider this to be a sufficiently important safety

issue for us to decide that default is not an appropriate consequence for Decade's failure to appear at the Special Prehearing Conference. However, we trust that a satisfactory public record on this point will be compiled before the staff would decide to approve the license amendment.

3. Contention 3(b)

Contention 3(b) deals with the risk of corrosion in a zone above the tubesheet, impliedly risking an unrestrained tube break. However, the only basis for this contention is a source from 1972 stating that "zero solids treatment" (or all-volatile water chemistry) is not recommended in steam generators.

Applicant argues that Diagram C, presented by Decade, does not indicate its source and does not in fact represent the location of the transition zone in the replacement steam generator. Counsel for applicant assures us that the transition zone was carefully placed, after study, and that the most highly stressed portion of the transition zone is within the tubesheet. Tr. 78. However, these facts are not in the application or Report. Tr. 77, 91, 95.

By contrast, the Report does contain considerable discussion of methods that have been devised to reduce corrosion (Tr. 86-90) and Decade provides us with no basis for believing that, on balance, the redesigned generator is more dangerous than its predecessor. A 1972 reference to "zero solids treatment" plus a statement that the roll-transition region is in a "more ominous location" does not provide adequate basis for this contention. Consequently, we will not admit this subcontention, primarily for failure to meet criterion 3. (But the staff might consider obtaining diagrams and test data to document the location of the transition zone and of residual stresses.)

4. Contention 3(c)

This contention states that "it will be more difficult for eddy current testing to detect stress-assisted defects or corrosion in the transition zone than in the unexpanded portion of the [tube]." However, the

basis provided, which is a citation from testimony included in the record in our companion proceeding, implies that circumferential cracks--that are particularly hard to detect--are most likely to occur in the roll-transition area of a tube. Consequently, we think it fair to interpret the contention to include this portion of the evidentiary statement.

However, the authority stated concludes that "circumferential cracks at expansion transitions have not generally been of concern since . . . such cracks typically involve only a small fraction of the tube circumference before resulting in a detectable leak." Furthermore, counsel for applicant clarified the record by stating that the principal roll-transition stresses are within the tube-sheet, where the consequence of a rupture is limited. Tr. 78. Applicant also argues that the contention does not address other lines of safety available in the steam generator, including the leak-before-break criterion and the likelihood that cracks even in transition zones may not be circumferential. Tr. 95. Consequently, we conclude that there is not adequate basis for us to find that a safety deficiency exists concerning the detectability of circumferential cracks (criterion (3) is not met), and this contention shall not be admitted.

4. Contention 3(d)

Contention 3(d) is not accompanied by any separate statement of basis. It asserts that there will be unconstrained leakage in the transition zone of the tubes. To some extent, we have already discussed this contention under the similar contention, 3(b). We see no reason to reach a different conclusion on this contention than we did on 3(b). No basis has been stated. Criterion (3) is not met. The contention is not admissible.

5. Conclusion

After reviewing each contention and subcontention individually, we conclude that none is admissible and that none raises a serious safety question such that default is an improper sanction for Decade's non-appearance

at the Special Prehearing Conference. Consequently, Decade shall not be admitted as a party.

O R D E R

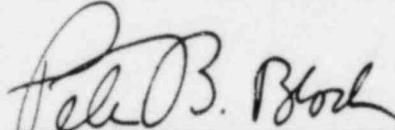
For all the foregoing reasons and based on consideration of the entire record in this matter, it is this 10th day of December, 1982,

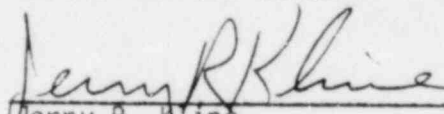
ORDERED

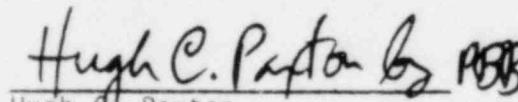
The August 10, 1982, Petition for Leave to Intervene and Petition for Hearing filed by Wisconsin's Environmental Decade, and subsequently amended, is dismissed.

This is a final order that is subject to appeal, within ten days after service of this order, pursuant to 10 CFR §2.714a.

FOR THE
ATOMIC SAFETY AND LICENSING BOARD


Peter B. Bloch, Chairman
ADMINISTRATIVE JUDGE


Jerry R. Kline,
ADMINISTRATIVE JUDGE


Hugh C. Paxton
ADMINISTRATIVE JUDGE

Bethesda, Maryland