

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

Docket Nos. 50-400 OL  
50-401 OL

proffered contentions. That Order contains the Board's disposition of Eddleman's Contention 15, admitting it in part, denying it in part, and permitting Mr. Eddleman to amend the contention in so far as it addressed capacity factors used in the benefit/cost analysis if the Applicants' amended their ER to reflect other capacity factors in the ER's benefit/cost analyses. Order at 40-42. The text of Contention 15 as admitted is attached as Exhibit A. The text of ER Table 8.1.1-1 as it existed on July 14, 1982 is attached as Exhibit B. The text of ER Table 8.1.1-1 as amended by Amendment 5 (transmitted by Applicants to the Board and all parties on December 21, 1982) is attached as Exhibit C.

#### DISCUSSION

In accepting the portion of Contention 15 attacking capacity factor in the cost/benefit balance in the Applicants' analysis, the Board provided that if the Applicants should amend their analysis to show a change in the benefit as a result of a change in capacity factors, Mr. Eddleman could submit new contentions based on the new information. While the Applicants have provided information in amendment 5 on a range of capacity factors, they continue to use a 70% capacity factor in the Direct Benefits section of the Estimated Benefits of SHNPP. (Compare exhibits B and C). Since the Applicants continue to use a 70% capacity factor to quantify the benefit (i.e., the amount of electricity generated annually), the contention as accepted accurately places the matter in litigation and there is no new information to serve as the basis for revised or additional contentions on the issue of capacity factor, the only issue the Board indicated was appropriate for additional contentions.

Examination of the proffered contentions indicates that, except for 15A (which restates Mr. Eddleman's assertion that a 70% capacity factor is too high), they are beyond the scope of the subject matter, capacity factor, that the Board stated could be amended if the Applicants filed revised information relating to capacity factors with the NRC. The proffered contentions, except for 15A, relate to the economic cost side of the cost/benefit analysis. For example, a summary of the proposed contentions show that they concern: 15X, working capital costs associated with fuel inventories; 15Y, operating costs; 15C, variable operating and maintenance costs; 15D, modification repairs costs; 15E, nuclear fuel costs; 15F, escalation of fossil fuel costs; 15G, costs of alternative fuel savings; 15H, failure to disclose escalation rates; 15I, property of discount rates in capacity fuel savings; 15J, discount factors; 15K, costs of nuclear fuel disposal; 15L, out of service periods of nuclear units; 15M, costs of license fees; 15N, costs of nuclear liability insurance; 15O, amounts of taxes; 15P, costs of accidents; 15Q, the cost/benefit found at the construction permit proceeding; and 15R, load forecasts of third party strangers.

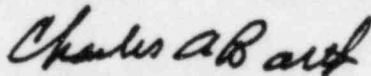
A review of this Staff summary, or of the contention themselves, clearly demonstrates that they concern matters beyond the 70% capacity factor issue upon which the Board authorized proffer of amendments. Rather, the proffered contention relate to the reasonableness of the economic operating costs of the facility. It is well settled that the Commission's regulatory authority over purely economic matters of this sort is strictly limited. Cincinnati Gas and Electric Company (Wm. H. Zimmer Nuclear Station), 12 NRC 231, 233-34 (1980) and cases cited

therein. As the Board in the Zimmer proceeding noted: "Once need for power has been established, economic cost may be considered, aside from antitrust questions, only in terms of the Applicants' financial qualifications and as an element in the evaluation of alternatives which must be under taken during the environmental review of the facility." Id. at 233. Since the issuance of the Zimmer decision, the Commission has amended its regulations in 10 C.F.R. Part 51 to provide that need for power and alternative energy source issues will not be considered in operating license proceedings (47 Fed. Reg. 12940 (1982)) and its regulations in 10 C.F.R. Parts 2 and 50 to provide for the elimination of review of financial qualifications of electric utilities in licensing hearings for nuclear power plants (47 Fed. Reg. 13750 (1982)). Thus, the limited areas in which the Commission had regulatory authority over economic matters have been made inappropriate for adjudication as a result of the Commission's amendments to its regulations. Accordingly, the proffered contentions, which deal solely with economic costs, should be rejected.

#### CONCLUSION

For the above reasons, Mr. Eddleman's proffered amendments to his Contention 15 should be rejected.

Respectfully submitted,



Charles A. Barth  
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Dated at Bethesda, Maryland  
this 11th day of March, 1983

Eddleman 15

Applicants' ER makes no mention of the economic costs of nuclear waste disposal as a cost in its cost-benefit analysis, though it does include such costs as a "benefit" in its calculation of per-kilowatt-hour charges to customers. (Table 8.2.1-2, page 8.2.1-4, line under "Fuel Cycle Costs" for "spent fuel storage/disposal"). Nuclear waste disposal costs should be included as costs, at more realistic figures than 1.2 mills/kwh.

Applicants' ER assumes a 70% DER capacity factor for the full lifetime of the units, ignoring the fact that no large Westinghouse PWR had (as of 12/31/80) ever achieved such a lifetime capacity factor to date (large PWRs being 700 MW and over, CP&L's turnkey unit Robinson 2 having the highest lifetime DER CF at 66.5% as of that date).



TABLE 8.1.1-1

## ESTIMATED BENEFITS OF SHNPP

## DIRECT BENEFITS

Number of Units	2	2
Expected Average Annual Generation Per Unit	5.52 x 109 Kw-Hr	
Capacity Per Unit	900,000 kW	

Proportional Distribution of  
Electrical Energy Per Unit

Industrial	1.96 Kw-Hr	
Residential	1.33 Kw-Hr	2
Commercial	0.88 Kw-Hr	
Public Street and Highway Lighting	0.02 Kw-Hr	
Other Sales to Public Authority	0.11 Kw-Hr	
Sales for Resale	1.22 Kw-Hr	

## \*Annual Revenues from Delivered Benefits Per Unit

Industrial	\$ 93,632,000
Residential	80,154,000
Commercial	51,772,000
Public Street and Highway Lighting	1,002,000
Other Sales to Public Authority	6,032,000
Sales for Resale	47,795,000
Total	\$280,387,000

## INDIRECT BENEFITS

## Taxes

See Table 8.1.2-1

## \*Regional Product

Construction Payroll	\$859 Million
Operations Payroll	\$653 Million

## Employment at SHNPP

Construction	3700 personnel at peak
Operation	900 personnel

\*1984 Dollars

TABLE 8.1.1-1

## ESTIMATED BENEFITS OF SHNPP

## DIRECT BENEFITS

Number of Units	2
Capacity Per Unit	900,000 KW
Expected Average Annual Generation Per Unit*	$5.52 \times 10^9$ KWH

Proportional Distribution of  
Electrical Energy Per Unit\*\*

Industrial	$2.02 \times 10^9$ KWH
Residential	$1.27 \times 10^9$ KWH
Commercial	$0.88 \times 10^9$ KWH
Public Street and Highway Lighting	$0.02 \times 10^9$ KWH
Other Sales to Public Authority	$0.11 \times 10^9$ KWH
Sales for Resale	$1.22 \times 10^9$ KWH

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## INDIRECT BENEFITS

Taxes	See Table 8.1.2-1
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\* Assuming 70 percent capacity factor

\*\* For the period 1986 through 1995

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

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