

RELATED CORRESPONDENCE

UNITED STATES OF AMERICA DOCKETED
NUCLEAR REGULATORY COMMISSION NENRC

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD
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In the matter of:)	
)	
COMMONWEALTH EDISON COMPANY)	Docket Nos. 50-454-OL
)	50-455-OL
(Byron Nuclear Power Station,)	
Units 1 and 2))	

MOTION TO EXCLUDE
TESTIMONY OF MR. CHARLES C. STOKES

Commonwealth Edison Company ("Applicant") moves the Atomic Safety and Licensing Board ("Licensing Board") to enter an order excluding portions of the prefiled testimony of Mr. Charles C. Stokes which was filed on August 16, 1984. The testimony to be excluded and the objections to its admissibility as evidence in this proceeding are identified and discussed below.

1. Applicant objects to questions and answers 6 through 23, including Attachments 2-6; questions and answers 29-33, and 37.

2. It is beyond question that with two exceptions not here pertinent,* the scope of the remanded proceedings

* These exceptions are the cable overtensioning and Hunter tabling practice issues.

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concerns solely the qualification of QC inspectors employed by Hatfield, Hunter and Pittsburgh Testing Laboratory during the period 1976 through September 1982, and the quality of work produced during that time period by Hatfield and Hunter. Despite the Licensing Board's admonition to focus testimony on the issues admitted in this proceeding, questions and answers 6-23 and 37, and Attachments 2-5 of Mr. Stokes' testimony ignore the Board's direction and instead challenge generally the adequacy of the design criteria and assumptions used by Sargent & Lundy in the design of the Byron Station. Mr. Stokes' criticism of specific design criteria and assumptions and formulas and equations relates only to the standards by which the plant was designed and not to the evaluation by Sargent & Lundy of the discrepancies identified during the Byron Reinspection Program. Affidavit of Kenneth T. Kostal, dated August 18, 1984, ¶ 3-4, which is attached to this motion as Attachment A.

The testimony referenced in this Section 2. addresses the issue of an independent design review for the Byron Station. Mr. Stokes freely admits to the accuracy of this statement. Deposition of Charles Cleveland Stokes, Volume II, pp. 61-63 and 155-171, which is attached as Attachment B. Indeed, it appears that the Stokes testimony is calculated to introduce the so-called "IDI" issue. Stokes deposition, page 171.

This issue -- concerning the Independent Design Inspection performed by NRC and the subsequent Independent Design Review conducted by Bechtel Power Corporation -- has not been admitted as an issue in this proceeding.

For the foregoing reasons, questions and answers 6-23 and 37 and Attachments 2-5 of Mr. Stokes' testimony should not be admitted as evidence because it addresses matters beyond the scope of the remanded proceeding, and it is therefore immaterial and irrelevant.

3. Questions and answers 11-18 and Attachments 2A-2F are immaterial and irrelevant on grounds in addition to that stated in Section 2:

- A. Question and answer 11 and Attachment 2A questions the efficacy of Section 12.2.4 of the Sargent & Lundy design criteria. This section relates to the design of below-grade concrete walls, which was work performed by Blount Brothers Corporation. Kostal Affidavit, ¶ 5. Mr. Stokes is unaware of this fact. Stokes deposition, pp. 63-64.

The quality of the work performed by Blount Brothers Corporation has not

been admitted as an issue in this proceeding.

- B. The first two paragraphs of answer 12 and Attachments 2B and 2C questions the efficacy of Section 19.5.d of the Sargent & Lundy design criteria. This section relates to the design of the reinforced concrete foundation for the turbine building. This non-safety-related work was performed by Blount Brothers Corporation. Kostal Affidavit, ¶ 6. Mr. Stokes is unaware of these facts. Stokes deposition, pp. 64-65.

Non-safety-related work was not the subject of the Byron Reinspection Program (Kostal Affidavit, ¶ 2); and the work of Blount is not the subject of this remanded proceeding.

- C. The last paragraph of answer 12 and questions and answers 13-14 and Attachments 2D and 2E question the

efficacy of Sections 32.3.2 and 32.4.2 of the Sargent & Lundy design criteria. These sections relate to the design of non-safety buried piping erected by William A. Pope Company. Kostal Affidavit, ¶ 7. Although Mr. Stokes is unaware of the name of the contractor performing this, he made no effort to determine whether or not it was safety-related work. Stokes deposition, pp. 65-67.

Neither William A. Pope Company nor non-safety-related work was covered by the Byron Reinspection Program.

- D. Questions and answers 15-17 and Attachment 2F question the efficacy of Section 34.2 of the Sargent & Lundy design criteria. This section relates to the design of embedded plates erected by Blount Brothers Corporation. Kostal Affidavit, ¶ 8. Mr. Stokes is unaware of this fact. Stokes deposition, pp. 71-72.

The quality of the work performed by Blount has not been admitted as an issue in this proceeding.

4. The two sheets identified as Attachment 2, and Attachments 3-4, are objectionable on a ground in addition to that set forth in Section 2 of this Motion. These Attachments are generally without probative value. They consist of references to section numbers and documents and shorthand phrases and explanations that are only understood by Mr. Stokes. They essentially set forth the incomplete consideration and evaluation of potential concerns noted by Mr. Stokes. See generally Stokes deposition, pp. 68-70 (Attachment 2), pp. 77-93 (Attachment 3), and pp. 94-122 (Attachment 4). In their present form Attachments 2-4 are unintelligible and they should not be admitted into evidence because they lack probative value.

5. The last sentence of answer 17 and questions and answers 21-23 and Attachment 5 are objectionable on grounds in addition to that stated in Section 2 and, in the case of answer 17, Section 3.D of this Motion. In this testimony, Mr. Stokes is testifying as an expert on matters concerning the seismic design of the Byron Station. Mr.

Stokes is not competent to testify with respect to such matters.

Mr. Stokes' engineering curriculum at Auburn University did not include any coursework in seismic analysis. Stokes deposition, p. 12. Mr. Stokes' work experience of performing calculations using seismic loads developed by others (Stokes deposition, pp. 38, 40 and 54-56) or the Uniform Building Code (Stokes deposition, pp. 47-48) does not qualify him to offer expert opinion on seismic matters. Moreover, Mr. Stokes has never determined the seismic response spectra for any structure, was unaware that NRC Regulatory Guide 1.60 sets forth such spectra for nuclear power plants, was unaware of the significance of a rock site and was unaware of the "g" values for the SSE and OBE at the Byron Station. Stokes deposition, pp. 59-60.

In the foregoing circumstances, Mr. Stokes is not competent to testify that in the circumstances set forth in answer 17, that the plant could not undergo a safe shutdown earthquake. Neither is he competent to evaluate and criticize the response spectra design criteria for the Byron Station in answers 21-23. This testimony should be

rejected.

6. Attachment 6 -- not previously addressed in this Motion -- is referenced in Answer 24. It should be rejected as irrelevant.

Mr. Stokes mistakenly believed Attachment 6 raised a question about flare-bevel welding of tube steel. After reviewing a drawing showing design detail DV-162, he acknowledged the issue in Attachment 6 involved fillet welding and not flare-bevel welding and, therefore, his testimony in Answer 24 relied on Attachment 7 in lieu of 6 and 7. Stokes deposition, pp. 130-131.

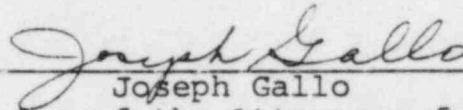
7. Questions and answers 29-33 -- not previously addressed in this Motion -- are immaterial and irrelevant to this proceeding. This testimony questions the adequacy of Sargent & Lundy's evaluation of certain welds inspected by Pittsburgh Testing Laboratory. However, all of these welds were produced by Blount Brothers Corporation. Kostal Affidavit, ¶ 9.

Since PTL performed inspections only, as acknowledged by Mr. Stokes (Stokes deposition, p. 134), only the qualification of PTL inspections is at issue in

this proceeding. Work quality issues do not include either PTL or Blount. Hence, this testimony is beyond the scope of the remanded hearings.

For the foregoing reasons, Applicant's Motion to exclude the indicated portions of the testimony of Mr. Charles C. Stokes should be granted.

Respectfully submitted,



Joseph Gallo
One of the Attorneys for
Commonwealth Edison Company

ISHAM, LINCOLN & BEALE
1120 Connecticut Avenue, N.W.
Suite 840
Washington, D.C. 20036
(202) 833-9730

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