

Contention 6

The NRC Staff moves to strike sections 3, 4, 3.5 and 3.6 of Mr. Richard Hubbard's proffered September 25, 1978 testimony on Contention 6. Not only is the proffered testimony outside the scope of Board Questions 6-1 and 6-2 (which were the only issues remaining in Contention 6 following the Board's granting partial summary disposition), the testimony on common cause failure, deviations from the SER and back-fitting after Construction Permit issue are also outside the scope of Contention 6 as it was originally admitted.

Contentions 7-8-9

The Staff objects to and moves to strike any and all opinions stated in the testimony of Intervenor's witness, Gregory C. Minor, because Mr. Minor has no qualifications as a fire protection expert.

Mr. Minor's testimony states he is an electrical engineer by formal education (Minor written testimony, p. 7/8/9-1). In a deposition taken on June 2, 1978, (which deposition is part of the record in the proceeding), Mr. Minor states that his sole experience in fire protection

was as part of a group working at General Electric Company in 1970-71 which developed the power generation control complex (PGCC), and later in a managerial position supervising the development group. (Minor deposition pp. 19-20). Mr. Minor had no other responsibility for fire protection matters during his employment at G.E. (Minor deposition, p. 29). Mr. Minor has had no further engineering experience since leaving General Electric Company in 1976 (Minor deposition, p. 34). Therefore, Mr. Minor is not qualified to testify as an expert in the area of fire protection systems.

The Staff moves to strike the following testimony of Mr. Minor as inadmissible opinion:

Line 3, p. 7/8/9-4

"However....applicable"

Last line, p. 7/8/9-4 continued on p. 5:

"This may.....satisfactory"

Line 3, p. 7/8/9-5

"The ability....NRC."

All of second paragraph, p. 7/8/9-5:

"In essence....Criterion 3."

The last paragraph, p. 7/8/9-6 continued on p. 7:

"Since....safety."

Line 10, past paragraph, pp. 7/8/9-7 and 8:

"Despite....explosions."

Line 1, p. 7/8/9-9 - the entire remaining portion of the paragraph:

"The test....tested."

Additionally, the Staff moves to strike the following:

Third paragraph, p. 7/8/9-5, entirely:

"Further evidence....fire"

Because the witness refers to a document inadequately described which is not in evidence nor proposed as an Intervenors' exhibit.

On page 7/8/9-7, the Staff objects to the statement in line 6 beginning:

"However,division."

because it is irrelevant and immaterial. To comply with regulations, Applicants need not describe tests performed by contract for the Commission.

Staff moves to strike the last paragraph, p. 7/8/9-11 as a legal conclusion proper only for the Board's decision.

Contention 3 and 16

The Staff moves to strike the following portions of the written testimony of Intervenors' witness, Dale G. Bridenbaugh, for the reasons herein stated:

Section 3.1 on pages 3/16-4,5, and 6 and the first paragraph of page 3/16-7.

In the above portion of testimony, Mr. Bridenbaugh refers to two documents and offers comments on them, as well as making general statements about economic considerations of General Electric Company. None

of this testimony is relevant to Contention 3/16 and is outside the scope of the issues raised therein. Neither NUREG-0474 nor the nuclear safety document is in issue nor offered as evidence in this contention nor are the economic considerations of General Electric.

On page 3/16-5, Mr. Bridenbaugh makes several objections to the reliability of NUREG-0474, yet refers to this document as evidence throughout his testimony. The Staff moves to strike all references to and excerpts of NUREG-0474 on the grounds that the witness has objected to the document and by continual reference to it, makes issue of the document itself. This document is not part of Staff's evidence in this case. The portions to be stricken are:

1. Line 2, paragraph 3, page 3/16-7
"and as summarized in NUREG-0474".
2. All of page 3/16-8 which consists entirely of references and excerpts from NUREG-0474.
3. Line 1, page 3/16-9 the following:
"As reported....LOCA."
4. Line 3, p. 3/16-11
"Schedule....NUREG-0474."
5. Line 3, paragraph 2, p. 3/16-12
"As indicated....Containments."
6. Line 2, paragraph 3, p. 3/16-12 continued on p. 3/16-13.
"Regardless....importance."

The Staff moves to strike the two sentences on page 3/16-9, line 9:

"In 1972....wall"

as irrelevant and outside the scope of this proceeding. The witness attempts to compare a foreign reactor to those under regulation by the U. S., whereas it is unknown as to what requirements foreign reactors are designed and built.

Paragraph one, page 3/16-10 should be stricken as it raises new issues not previously raised in Contention 3/16 nor in Intervenor's Responses to Staff Interrogatories concerning these contentions.

In paragraph 2, line 9, the sentence beginning and ending:

"As was....quantification"

should be stricken as it again refers to events in a foreign reactor and is irrelevant for the reason stated before and, furthermore the witness' concluding phrase is mere speculation.

On page 3/16-12, the remaining part of paragraph 2 beginning and ending:

"It is disconcerting....review."

should be stricken as it is merely a criticism of the method of categorizing review in the SER and is, therefore, irrelevant to the issues raised in Contention 3/16.

On page 3/16-13, line 1, the sentence beginning and ending:

"Additional....tests."

should be stricken as it raises issues outside the scope of this contention, i.e., procedures in utilization of test data from foreign reactors.

The last paragraph, page 3/16-15 should be stricken because it is a legal conclusion which is proper only for the Board to decide.

Contention 5-1

The Staff moves to strike the following portions of Intervenor's witness, Dale G. Bridenbaugh, testimony for the reasons set out below:

Staff objects to the quotation on page 5-4 from SRP 3.7.2 beginning

"where....reviewed."

as an incorrect application of this SRP.

On page 5-5 beginning at paragraph §3.2, through and including pages 5/6, 5/7, 5/8, 5/9, and the first paragraph on page 5-10, should be stricken as irrelevant to the narrow issue remaining as Contention 5-1 after the Board's Order granting Summary Disposition in part. The above described portions of this testimony far exceed the scope of the issue in 5-1 and raise numerous issues not covered in assessment of effects of vertical motion in an earthquake on the pressure vessel supports and pedestals.

As to the issue of load combinations raised by the Staff in a letter to the Board dated June 27, 1978, the testimony of Mr. Bridenbaugh is totally irrelevant except for the paragraph numbered 5 on p. 5-7 continuing on page 5-8. The letter to the Board mentioned above notified the Board that the Staff would issue a generic resolution of load combination methodology. This resolution has been issued as NUREG-0484 submitted to the parties and Board along with written testimony.

Other than the paragraph above indicated, (#5), the witness' testimony raises issues unrelated to and outside the scope of the load combination methodology and should be stricken as inadmissible.

Summary: Staff recommends that only pages 5-1, 5-2, 5-3, 5-4 (excluding the SRP quotation) and paragraph #5 on 5-7 and 5-8; and paragraph IV on page 5-10 be deemed admissible for Contention 5-1 and load combination method questions concerning the vessel supports and pedestal.

Contention 10

The Staff moves to strike Intervenor's proposed testimony submitted in connection with contention 10 for the reasons stated:

Proposed testimony on pages 10-5 through the middle of 10-6 is not responsive to any Board question.

The paragraph comprising the last six lines on page 10-6 and the first six lines on page 10-7 concerns the availability of General Electric topical report NEDO-11209-04A. It has no relevance to any question asked by the Board.

The paragraph on lines 7 through 17 on page 10-7 concerning 10 CFR Part 21 was addressed by the Board in its "Order Ruling on Motions for Summary Disposition" dated September 8, 1978 (see page 31).

The last paragraph on page 10-7 is a complaint that the Staff's Safety Evaluation Report does not include references to the sections of the Standard Review Plan which formed a criteria for the Staff review of quality assurance. The information is irrelevant to any question posed by the Board.

The proposed testimony on page 10-8 through the middle of 10-9 concerns comments made by the General Accounting Office concerning the NRC's QA program and does not appear to be even remotely relevant to any question posed by the Board.

The proposed testimony beginning seven lines from the bottom of page 10-12 through the middle of page 10-15 concern a GE internal document apparently known as the "Reed Report" which according to the proposed testimony the NRC has read but has never required to be submitted. Intervenors failed to make even a minimal attempt at showing the relevance of that document to any issue now before this Board.

Intervenors discuss from the middle of pages 10-15 through the middle of pages 10-17 the status of WASH-1309, "Guidance on Quality Assurance Requirements During the Construction Phase of Nuclear Power Plants" dated May 10, 1974, and indicate that the Applicant has failed to describe how the relevant regulatory guides on QA will be implemented. This is merely a restatement of the matter that was addressed by this Board on page 29 of its September 8, 1978 "Order Ruling on Motions for Summary Disposition." This Board indicated that it saw no triable issue of fact (Board Order, page 30).

Intervenor's proposed testimony on the last nine lines of page 10-17 through the end of that paragraph on page 10-18 concludes that "an in-depth assessment of how the Black Fox QA program commitments will be implemented appears beneficial to assure public health and safety" involves matters previously ruled on by the Board and is not relevant

to issues now pending before this Board. See pages 30 and 31 of this Board's "Order Ruling on Motions for Summary Disposition."

The paragraph beginning on the last seven lines of 10-18 and continuing through the first four lines on 10-19 is not responsive to the Board question 10-3.

The sentence on lines 5 through 8 of page 10-20 is not responsive to any Board question.

The conclusion stated by Intervenors on page 10-20 is not responsive to any Board question.

Contention 19

The Staff moves to strike Intervenor's proposed testimony submitted in connection with Contention 19 for the reasons stated:

The 5-line paragraph that begins 7 lines from the bottom of page 19-5 concerning the Staff reference of the SRP in the SER is not relevant to any issue before this Board.

The paragraph that begins on the last line of 19-5 and continues through the top 9 lines of 19-6 states Intervenor's legal conclusion and is not relevant to any issue before this Board.

The paragraph on page 19-7 entitled "Dual Plant Orientation" does not relate to any issue before this Board.

The discussion in Intervenor's proposed testimony on pages 19-8 through the middle of 19-9 is not relevant to any issue before this Board. It is a vague complaint about some generalized inadequacies in the Safety Evaluation Report.

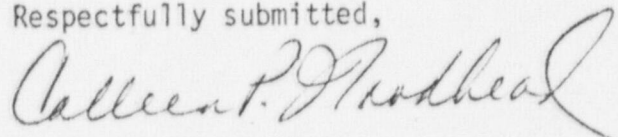
The section of Intervenor's proposed testimony on pages 19-9 through the top four lines of 19-10 entitled "Backfitting After Construction Permit Issue" is not relevant to any issue pending before this Board.

The conclusions stated by Intervenor on page 19-10 are not responsive to any Board question.

Contention 66

The NRC Staff moves to strike the September 25, 1978 testimony of Richard B. Hubbard on Plant Security (Contention 66). The resume of Mr. Hubbard (including the description of his duties with GE at the beginning of his testimony) shows no prior experience in security matters sufficient to qualify him to testify on Contention 66. In addition, the deposition of Mr. Hubbard on June 1, 1978 revealed no further qualifications than set forth in the Hubbard resume and testimony. See Tr. 16-24, 114-115, 127.

Respectfully submitted,



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Counsel for NRC Staff

Dated at Bethesda, Maryland
this 4th day of October, 1978

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matter of)

PUBLIC SERVICE COMPANY OF OKLAHOMA,)
ASSOCIATED ELECTRIC COOPERATIVE, INC.)

AND)
WESTERN FARMERS ELECTRIC COOPERATIVE, INC.)

(Black Fox Station, Units 1 and 2))

Docket Nos. STN 50-556
STN 50-557

CERTIFICATE OF SERVICE

I hereby certify that copies of "NRC STAFF MOTION TO STRIKE TESTIMONY", dated October 4, 1978, in the above-captioned proceeding, have been served on the following, by deposit in the United States mail, first class, this 4th day of October, 1978:

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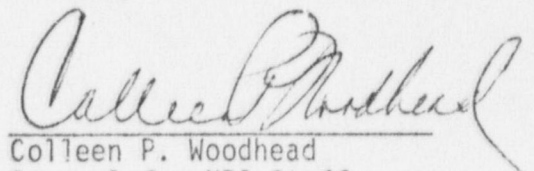
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