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UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

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ATOMIC SAFETY AND LICENSING BOARD PANEL

Before Administrative Judges

Charles Bechhoefer, Chairman  
Glenn O. Bright  
Dr. James H. Carpenter

OFFICE OF SECRETARY  
DOCKETING & SERVICE  
BRANCH

SERVED JUL 19 1988

In the Matter of  
VERMONT YANKEE NUCLEAR  
POWER CORPORATION  
(Vermont Yankee Nuclear  
Power Station)

Docket No. 50-271-JLA-2  
(Testing Requirements for  
ECCS and SLC Systems)  
  
(ASLBP No. 87-567-04-OLA)  
  
July 18, 1988

PREHEARING CONFERENCE ORDER  
(Rulings on Contention and Schedules)

On June 28, 1988, the Licensing Board held a prehearing conference in Brattleboro, Vermont, in this proceeding in which Vermont Yankee Nuclear Power Corp. (Applicant) is seeking to change certain of the technical specifications applicable to the Vermont Yankee Nuclear Power Station, a boiling water reactor located in Verron, Vermont.<sup>1</sup> Specifically, the Applicant is seeking a change in the testing requirements applicable to remaining train(s) of the Emergency Core Cooling System (ECCS) and the Standby Liquid Control (SLC) System,

<sup>1</sup> The conference was announced by a Notice of Prehearing Conference dated May 24, 1988, published at 53 Fed. Reg. 19836 (May 31, 1988).

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whenever one train has a component out of service. As set forth in our Memorandum and Order (Intervention Requests and Prehearing Conference), dated May 24, 1988, timely intervention requests were filed by the State of Vermont and the Commonwealth of Massachusetts. In that Memorandum and Order, we found both petitioners to have standing to participate in this proceeding, and we established a schedule for the filing of contentions.

On June 13, 1988, the two petitioners submitted a single joint contention. By response dated June 22, 1988, the NRC Staff supported admission of the proposed contention. Through its June 23, 1988 response, the Applicant viewed the contention as a challenge to NRC regulations. As explained by the petitioners at the prehearing conference, however, the Applicant withdrew its objection to the contention, subject to a minor rewriting of the contention to indicate clearly that it was premised on current NRC regulatory requirements. Although we express no view on whether the original contention constituted an impermissible challenge to NRC requirements, we admitted the rewritten contention, which (along with a slightly revised basis) is set forth in Attachment A to this Memorandum and Order.

Accordingly, the two petitioners were admitted as Intervenors to the proceeding. We are issuing a Notice of Hearing, in the form set forth in Attachment B hereto.

The Board established a discovery schedule. Between the Intervenors and Applicant it extends for approximately 90 days, expiring on September 30, 1988. Discovery against the Staff will not commence

until issuance of the Staff's Safety Evaluation Report (SER), which is currently scheduled for early October, 1988. Discovery against the Staff will extend for 45 days following service of the SER. As suggested by the parties, we will plan on a prehearing conference following the conclusion of discovery, assuming that such a conference would prove useful or desirable. The conference should take place in late November, but we will not announce a precise date at this time.

At the conference, the Board outlined the following matters which should be considered by the parties and included in the direct testimony or the accepted contention:

1. Do any of the ASME inservice testing provisions from which the Applicant was granted relief, pursuant to 10 C.F.R. § 50.55a(g), in 1980 (as being "impractical") relate to testing of ECCS or SLC components (Tr. 13-14, 40)?

2. For each component for which tests are proposed to be eliminated, what are the testing intervals under the ASME inservice testing program (Tr. 40)?

3. Are there any differences in the types of tests carried out under the ASME inservice testing program and the tests which are proposed to be eliminated (Tr. 40-41)?

4. What is the historic out-of-service frequency for each valve or component for which testing is proposed to be eliminated (Tr. 41)?

5. What is the projected service life, in both time and number of occasions used, for each valve or component for which testing is proposed to be eliminated (Tr. 41)?

6. Are any of the valves for which testing is proposed to be eliminated "check valves", within the meaning of I&E Bulletin 83-03 (March 10, 1983) (Tr. 41)?

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IT IS SO ORDERED.

FOR THE ATOMIC SAFETY AND  
LICENSING BOARD

*Charles Bechhoefer*  
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Charles Bechhoefer  
ADMINISTRATIVE JUDGE

Dated at Bethesda, Maryland  
this 18th day of July, 1988.

Attachment AJoint ContentionContention

The license amendment proposed by Vermont Yankee Nuclear Power Corporation (Vermont Yankee) is inconsistent with the protection of the public health and safety and of the environment and is inconsistent with governing NRC regulatory requirements.

Basis for Contention

The basis for the contention is the fact that the confidence in the reliability of safety systems is adversely affected if the testing of the operable components is eliminated. Whenever there is a failure of a component in a safety system, the reliability of that system is adversely affected. This decrease in reliability is compensated for by frequent testing of the remaining significant safety components. If those components are not tested, this eliminates the compensating effect, and results in a decreased level of reliability of the safety systems and, correspondingly, a decrease in the level of safety provided by the engineering safety systems of the plant. Nor should it be overlooked that abolition of daily testing in this context virtually guarantees that common mode failure will not be detected.

The increase in risk of failure of the subject systems occasioned by the proposed elimination of testing is not outweighed by any

reduction in risk attributable to the testing changes proposed by the amendment. Vermont Yankee has not provided any quantitative support for its assertion that testing the components adversely affects their reliability. Nor has Vermont Yankee provided any quantitative support to justify its reliance on other testing programs to provide the assurance that the remaining safety components will operate as intended. There has also been no showing that components cannot be feasibly designed to enable them to be tested without either shutting them down or posing undue challenges to those components. Finally, it has not been established that less drastic proposals, such as maintenance of direct communication between the control room and the testing areas, would not better ensure the protection of public health and safety than would the proposed amendment.

In sum, testing done on specific key safety components performed following a failure clearly provides a greater degree of assurance that those components will function than any tests done prior to the failure on a generic basis.



these requests/petitions and to preside over the proceeding in the event that a hearing were ordered.

After holding a prehearing conference on June 28, 1988, the Atomic Safety and Licensing Board granted the requests for a hearing and petitions for leave to intervene of the State of Vermont and of James M. Shannon, Attorney General of the Commonwealth of Massachusetts. This ruling was memorialized by a Prehearing Conference Order dated July 18, 1988 (unpublished).

Please take notice that a hearing will be conducted in this proceeding. The Atomic Safety and Licensing Board designated to preside over this proceeding consists of Glenn O. Bright, Dr. James H. Carpenter, and Charles Bechhoefer, who will serve as Chairman of the Board.

During the course of the proceeding, the Licensing Board may hold one or more additional prehearing conferences pursuant to 10 C.F.R. § 2.752. The public is invited to attend all prehearing conferences and any evidentiary hearing which may be held. The Board will establish the schedules for any such sessions at a later date, through notices to be published in the Federal Register and/or made available to the public at the Public Document Rooms.

Supplementing the opportunity afforded at the initial prehearing conference, during some or all of these sessions, and in accordance with 10 C.F.R. § 2.715(a), any person, not a party to the proceeding, will be permitted to make a limited appearance statement either orally or in writing, setting forth his or her position on the issues. These



statements do not constitute testimony or evidence but may assist the Board and/or parties in the definition of issues being considered. The number of persons making oral statements and the time allotted for each statement may be limited depending upon the time available at various sessions. Written statements may be submitted at any time. Written statements, and requests to make oral statements, should be submitted to the Office of the Secretary, Docketing and Service Branch, U.S. Nuclear Regulatory Commission, One White Flint North, 11155 Rockville Pike, Rockville, Maryland 20852. A copy of such statement or request should also be served on the Chairman of the Licensing Board, U.S. Nuclear Regulatory Commission (EWW-439), Washington, D.C. 20555.

Document relating to this application are on file at the Local Public Document Room, located at the Brooks Memorial Library, 224 Main Street, Brattleboro, Vermont 05301, as well as at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. 20555.

FOR THE ATOMIC SAFETY AND  
LICENSING BOARD

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Charles Bechhoefer  
ADMINISTRATIVE JUDGE

Dated at Bethesda, Maryland  
this 18th day of July, 1988.