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December 30, 1985

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UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

'86 JAN -2 P2:08

Before the Atomic Safety and Licensing Appeal Board

OFFICE OF SECRETARY
GENERAL SERVICE
BRANCH

In the Matter of)
)
THE CLEVELAND ELECTRIC)
ILLUMINATING COMPANY, ET AL.)
)
(Perry Nuclear Power Plant,)
Units 1 and 2))

Docket Nos. 50-440
50-441 / 64

APPLICANTS' ANSWER TO OCRE MOTION
TO REOPEN THE RECORD AND TO
SUBMIT NEW CONTENTIONS

I. INTRODUCTION

By motion of December 12, 1985, Intervenor Ohio Citizens for Responsible Energy ("OCRE") asks the Appeal Board to reopen the record in this proceeding for the purpose of admitting six late-filed contentions. Motion To Reopen the Record and To Submit New Contentions (December 12, 1985) ("Motion"). OCRE's proposed Contention A concerns changes to the draft Perry Nuclear Power Plant Unit 1 Technical Specifications relating to fire protection. Proposed Contentions B-1 through B-5 concern Applicants' request that operation of Perry with one recirculation loop be permitted up to 70% of rated thermal power. Applicants oppose reopening of the record and admission of these late-filed contentions for the reasons set forth below.

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II. ARGUMENT

A. Standards for Reopening the Record To Admit Late-Filed Contentions

As the Appeal Board has recently restated, a motion to re-open the record in an NRC adjudicatory proceeding

'must be timely and address a significant safety or environmental issue. It must also show that a different result might have been reached had the newly proffered material been considered initially.'

Louisiana Power & Light Co. (Waterford Steam Electric Station, Unit 3), ALAB-812, 22 N.R.C. 5, 13 (1985) (quoting Louisiana Power & Light Co. (Waterford Steam Electric Station, Unit 3), ALAB-786, 20 N.R.C. 1087, 1089 (1984)). "[B]are allegations or simple submission of new contentions is not sufficient."

Pacific Gas and Electric Co. (Diablo Canyon Nuclear Power Plant, Units 1 and 2), CLI-81-5, 13 N.R.C. 361, 363 (1981).

'At a minimum, . . . the new material in support of a motion to reopen must be set forth with a degree of particularity in excess of the basis and specificity requirements contained in 10 C.F.R. 2.714(b) for admissible contentions [I]t must be tantamount to evidence . . . [and] possess the attributes set forth in 10 C.F.R. 2.743(c) defining admissible evidence for adjudicatory proceedings. Specifically, the new evidence supporting the motion must be "relevant, material, and reliable."'

ALAB-812, supra, 22 N.R.C. at 14 (quoting Pacific Gas and Electric Co. (Diablo Canyon Nuclear Power Plant, Units 1 and 2), ALAB-775, 19 N.R.C. 1361, 1366-67, aff'd sub nom. San Luis Obispo Mothers for Peace v. NRC, 751 F.2d 1287 (D.C. Cir.

1984), vacated in part and reh'g en banc granted on other grounds, 760 F.2d 1320 (1985)). See also ALAB-755 at 1367 n. 18.1/

A motion to reopen that seeks to introduce a new contention - such as OCRE's motion here - must also satisfy the Commission's standards for admitting late-filed contentions. Pacific Gas and Electric Co. (Diablo Canyon Nuclear Power Plant, Units 1 and 2), CLI-82-39, 16 N.R.C. 1712, 1714-15 (1982); ALAB-812, supra, 22 N.R.C. at 14. The burden of satisfying all these requirements is heavy indeed. ALAB-812, supra, 22 N.R.C. at 14; see Kansas Gas and Electric Co. (Wolf Creek Generating Station, Unit No. 1), ALAB-462, 7 N.R.C. 320, 338 (1978); see also Metropolitan Edison Co. (Three Mile Island Nuclear Station, Unit No. 1), CLI-85-07, 21 N.R.C. 1104, 1106 (1985). For the reasons stated below, OCRE fails to carry this burden

B. OCRE's Contention A

OCRE's proposed Contention A states:

Contrary to 10 CFR 50.36(c)(2), the Perry Unit 1 Technical Specifications do not contain limiting conditions for operation for fire protection equipment.

Motion at 1-2. OCRE fails to make the required showing for reopening the record and admitting this late-filed contention.

1/ See also Proposed Rule: Criteria for Reopening [Records] in Formal Licensing Proceedings, 49 Fed. Reg. 50189 (1984) (proposing to codify the case law standard and to require submission of supporting affidavits).

1. OCRE's Motion Fails To Carry
Its Burden for Reopening the Record

a. The Motion To Reopen Is Untimely.

OCRE claims that its motion is timely because it was filed within seven days of OCRE's receipt of notice that the NRC Staff ("Staff") had approved the deletion of fire protection elements (including limiting conditions for operation) from the draft Perry Technical Specifications. Motion at 7. OCRE states that it did not file earlier because "it hoped that its letter (Attachment 2) might dissuade the Staff." Id. OCRE's letter to the Staff is dated November 22, 1985; thus, OCRE knew of the proposed changes prior to that date. Since information was previously available to provide the basis for an earlier filing of the contention, OCRE should not have sat back and waited for the Staff to document its final approval of the changes. See Duke Power Co. (Catawba Nuclear Station, Units 1 and 2), CLI-83-19, 17 N.R.C. 1041, 1048 (1983). Although OCRE's delay in filing the contention might not be considered untimely at an earlier stage of the proceeding, it is not justified at this late stage. See Vermont Yankee Nuclear Power Corp. (Vermont Yankee Nuclear Power Station), ALAB-138, 6 A.E.C. 520, 526 (1973) (motion to reopen denied based on delay of one month).

b. OCRE's Contention A Does Not Address a Significant Safety Issue.

Even if OCRE's proposed Contention A were timely filed, OCRE's motion utterly fails to show that the contention raises a significant safety issue. OCRE claims that the contention "raises the issue of regulatory compliance, which is always a significant matter" Motion at 7. Yet OCRE does not show how this generality bears any relationship to the facts at hand. Although OCRE points to the deletion of fire protection program elements from the Perry Technical Specifications (while ignoring their incorporation in-- and control through--the FSAR, as noted in Attachment 3 to OCRE's Motion), OCRE identifies no significant safety issue arising from this change.

OCRE cites 10 C.F.R. § 50.36(c)(2), which requires that technical specifications include limiting conditions for operation, defined as "the lowest functional capability or performance levels of equipment required for safe operation of the facility." The thrust of OCRE's argument is that "[s]ince fire protection systems are undeniably necessary for the safe operation of the facility," limiting conditions for operation of these systems "must be included in the Tech. Specs." Motion at 2.

OCRE's interpretation of the regulatory requirements for technical specifications is incorrect. As the Appeal Board has said:

[T]here is neither a statutory nor a regulatory requirement that every operational detail set forth in an applicant's safety analysis report (or equivalent) be subject to a technical specification, to be included in the license as an absolute condition of operation which is legally binding upon the licensee unless and until changed with specific Commission approval. Rather, as best we can discern it, the contemplation of both the [Atomic Energy] Act and the regulations is that technical specifications are to be reserved for those matters as to which the imposition of rigid conditions or limitations upon reactor operation is deemed necessary to obviate the possibility of an abnormal situation or event giving rise to an immediate threat to the public health and safety.

Portland General Electric Co. (Trojan Nuclear Plant), ALAB-531, 9 N.R.C. 263, 273 (1979) (footnote omitted). The Commission's stated intention in adopting the present form of Section 50.36 was to eliminate unnecessary detail and "[focus] attention on items more directly related to public safety" 33 Fed. Reg. 18610 & n.1 (1968). The Commission specified that "those items that are directly related to maintaining the integrity of the physical barriers designed to contain radioactivity are expected to be the subjects of technical specifications in the operating license." Id. at 18610 (emphasis added).

The limiting conditions for operation relating to fire protection deleted from the Perry Technical Specifications "are not of the gravity and immediacy alluded to in Trojan that calls for translation from commitments to technical specifications." Cf. Commonwealth Edison Co. (Zion Station, Units 1 and 2), ALAB-616, 12 N.R.C. 419, 423 (1980). The fire

protection system is not directly related to maintaining the integrity of the physical barriers designed to contain radioactivity. See 33 Fed. Reg. at 18610. Rather, it is a secondary, support system which protects the process systems associated with operation of the reactor.^{2/} Fire protection has the same indirect relationship to safe plant operation that security protection and emergency plans have. Security protection and emergency planning are appropriately included in Technical Specification Administrative Controls and not in limiting conditions for operation. This is precisely how fire protection would be treated.

In any event, the Staff's objective of simplifying the Perry Technical Specifications by deleting certain fire protection elements (see Motion, Attachment 1)^{3/} will not affect the level of protection provided by Applicants' fire protection program. The limiting conditions for operation for fire protection deleted from the revised draft Technical Specifications

^{2/} OCRE argues that General Design Criterion 3 of 10 C.F.R., Part 50, "clearly establishes" that fire protection systems are "important to safety." Motion at 2. GDC 3 actually states that fire protection systems "shall be provided and designed to minimize the adverse effects of fires on structures, systems, and components important to safety" (emphasis added).

^{3/} Applicants note the Commission's generic efforts to simplify technical specifications based on its concern that in recent years "the increased volume of technical specifications lessens the likelihood that licensees will focus attention on matters of more immediate importance to safe operation of the facility." Proposed Rule: Technical Specifications for Nuclear Power Reactors, 47 Fed. Reg. 13369, 13370 (1982).

are required by the Technical Specifications to be incorporated into plant operating procedures. See Attachment 1 hereto, at p. 6-16. In addition to the requirement for fire protection procedures, other administrative controls over the fire protection program are retained in the Technical Specifications. See id. at p. 6-9, 6-13. Finally, the Perry operating license will be conditioned to require prior NRC approval for any change in the fire protection program which adversely affects the ability to achieve and maintain safe shutdown in the event of a fire. In short, Applicants are obliged to comply with their internal fire protection program and procedures whether or not fire protection program elements are included in limiting conditions for operation. There is no need to retain these commitments as limiting conditions for operation. See Virginia Electric and Power Co. (North Anna Nuclear Power Station, Units 1 and 2), ALAB-578, 11 N.R.C. 189, 216-18 (1980); ALAB-616, supra, 12 N.R.C. at 423-24.

c. OCRE Fails To Show That
Contention A Could Change the
Result of the Proceeding

OCRE argues that it meets this standard for reopening the record because compliance with the regulations is "one of the findings prerequisite to issuance of a license." Motion at 7 (citing 10 C.F.R. § 50.57(a)(2)). OCRE simply assumes that the changes to the draft Technical Specifications constitute a noncompliance. As discussed supra, OCRE fails to produce any

evidence that the changes are improper or, even if improper, would have any adverse consequences on the public health or safety. Thus, OCRE does not show that the contention could provide a basis for altering the results of the proceeding, i.e., reversing the Licensing Board's authorization of issuance of an operating license for Perry Unit 1.

2. The Five Factors Test Does Not Favor Admission of Contention A

As discussed supra, OCRE must also show that a balancing of the following five factors favors admission of its late-filed contentions:

- (i) Good cause, if any, for failure to file on time.
- (ii) The availability of other means whereby the petitioner's interest will be protected.
- (iii) The extent to which the petitioner's participation may reasonably be expected to assist in developing a sound record.
- (iv) The extent to which the petitioner's interest will be represented by existing parties.
- (v) The extent to which the petitioner's participation will broaden the issues or delay the proceeding.

10 C.F.R. § 2.714(a)(1).

The balancing of these five factors as applied to OCRE's Contention A weights heavily against its admission. First, as discussed supra, the contention is not based on information which should be considered new in light of the advanced stage of the proceeding. OCRE lacks good cause for failure to file on time.

Second, OCRE fails to demonstrate its ability to contribute to the development of a sound record. The Appeal Board has repeatedly observed that "[w]hen a petitioner addresses this criterion it should set out with as much particularity as possible the precise issues it plans to cover, identify its prospective witnesses, and summarize their proposed testimony." Mississippi Power & Light Co. (Grand Gulf Nuclear Station, Units 1 and 2), ALAB-704, 16 N.R.C. 1725, 1730 (1982). See also Washington Public Power Supply System (WPPSS Nuclear Project No. 3), ALAB-747, 18 N.R.C. 1167, 1177 (1983); Long Island Lighting Co. (Shoreham Nuclear Power Station, Unit 1), ALAB-743, 18 N.R.C. 387, 399 (1983). OCRE has ignored this observation.

Rather, OCRE claims that its ability to contribute is demonstrated by "the record of the operating license proceeding." Even if it were true that OCRE has contributed on other contentions, this does not mean that it can be expected to make a similar contribution with respect to the contention at hand. See LBP-82-11, 14 N.R.C. 348, 352 (no basis shown for OCRE special competence on core catcher contention). At any rate, the extent to which an intervenor's participation may reasonably be expected to assist in developing a sound record "is only meaningful when the proposed participation is on a significant, triable issue." Long Island Lighting Co. (Shoreham Nuclear Power Station, Unit 1), LBP-83-30, 17 N.R.C. 1132, 1143 (1983). Such is not the case here.

Third, admission of the contention clearly would broaden the issues and delay the proceeding. The record is closed,^{4/} no other issues are being litigated, and fire protection was not the subject of a previous contention.^{5/}

Even if factors (ii) and (iv) might weigh in favor of admission,^{6/} those factors are heavily outweighed by the lack of good cause for OCRE's late filing, OCRE's inadequate showing on factor (iii) and the delay to the proceeding which would result if the contention were admitted.^{7/} Thus, the balance weighs strongly against the admission of OCRE's late-filed contention.

^{4/} The evidentiary record in this proceeding has been closed since May 3, 1985.

^{5/} OCRE's argument that admission of the contention "will cause very little delay, as OCRE intends to move for summary disposition in its favor soon after the issue is admitted" (Motion at 9), is disingenuous, since OCRE cannot possibly know how long it might take the Appeal Board and/or Licensing Board to act on the present Motion and OCRE's postulated summary disposition motion.

^{6/} Factors (ii) and (iv) are the least important of the five criteria. South Carolina Electric & Gas Co. (Virgil C. Summer Nuclear Station, Unit 1), ALAB-642, 13 N.R.C. 881, 895 (1981).

^{7/} As the Appeal Board stated in ALAB-642, supra:

[I]t is most difficult to envisage a situation in which [factors (ii) and (iv)] might serve to justify granting intervention . . . to one who (1) is inexcusably late; (2) seeks to expand materially the scope of the proceeding; and (3) offers, at best, a marginal showing with respect to its ability to make a truly significant, substantive contribution.

13 N.R.C. at 895.

C. OCRE's Contentions
B-1 through B-5

OCRE's proposed Contentions B-1 through B-5 deal with various aspects of Applicants' proposal to allow extended operation of Perry with a single loop of the recirculation system ("single loop operation" or "SLO") at power levels up to seventy percent. The five specific issues are:

Contention B-1 Applicants should analyze the progression and consequence of an anticipated transient without scram ("ATWS") initiated by the inadvertent startup of the idle recirculation loop when operating at 70% of rated thermal power with single loop operation. The analysis should demonstrate that this event will meet the safety criteria outlined in Section 15C.3 of the FSAR.

Contention B-2 Applicants have not demonstrated that the seizure of the operating recirculation pump when operating up to 70% of rated thermal power with a single loop will not exceed fuel safety limits, assuming scram functions, and that ATWS initiated by this event will meet the safety criteria of FSAR Section 15C.3.

Contention B-3 Applicants have not demonstrated that the traversing incore probe ("TIP") noise uncertainty values reported in FSAR Section 15.F.2.2 are applicable to single loop operation up to 70% of rated thermal power; consequently, the minimum critical power ratio ("MCPR") may not be determined in a conservative fashion.

Contention B-4 Applicants' Technical Specifications for single loop operation up to 70% of rated thermal power should include limits on the core plate pressure drop.

Contention B-5 Applicants have not demonstrated that single loop operation up to 70% of rated thermal power will not aggravate the strong variability in flow rate along the fuel channel seen in fast BWR transients, or that this phenomenon has been conservatively accounted for in analyses of fast transients.

Motion at 2-6. As with Contention A, OCRE fails to make the requisite showings for reopening the record and admitting these late-filed contentions.

1. OCRE's Motion Fails to Carry Its Burden for Reopening the Record

a. The Motion to Reopen is Untimely

OCRE claims that its Motion was timely with respect to Contentions B-1 to B-5 since it received the FSAR amendment on which the contentions were based on November 27, 1985 and filed its motion some two weeks later. Had this been the entire story, Applicants would agree with OCRE that the motion was timely.

However, OCRE fails to point out that the same information which it received on November 27, 1985 in the form of an FSAR amendment had been transmitted to NRC by Applicants (and was therefore available to OCRE) a month earlier.^{8/} OCRE has not explained why its timeliness should not be measured from the availability of this earlier and identical information. As noted above, even a one month delay has been sufficient to deny a motion to reopen. Vermont Yankee, ALAB-138, supra.

^{8/} Letter from M. R. Edelman, Cleveland Electric Illuminating Company, to B. J. Youngblood, NRC, dated October 28, 1985. See Affidavit of Kevin W. Holtzclaw attached hereto ("Holtzclaw Affidavit"), at ¶3. OCRE is obligated to "diligently uncover and apply all publicly available information to the prompt formulation of contentions." Catawba, CLI-83-19, supra at 1048.

Even more glaring is OCRE's failure to acknowledge that single loop operation at power levels up to 70% has been a part of the Perry Technical Specification since mid-1984. Holtzclaw Affidavit, at ¶4. OCRE makes no attempt to explain why it did not raise these issues a year and half ago. Although the current Technical Specifications do not allow extended SLO at 70% power, nothing in OCRE's contentions distinguishes between extended and short-term SLO at this power level.^{9/} Thus, OCRE's timeliness obligation must be triggered by the availability in mid-1984 of this Perry-specific information on single loop operation. Judged by this standard, OCRE's motion is clearly untimely.

b. OCRE's Contentions B-1 through B-5
Fail to Address a Significant Safety Issue

Apart from being untimely, OCRE's SLO contentions fail to raise a significant safety issue. OCRE provides no separate analysis of this key requirement, but merely states that the contentions "also raise significant questions on the safety of operating the Perry facility up to 70% power on a single recirculation loop." Motion at 7. Applicants are left to guess at what the "significant questions" are. Even if OCRE meant to

^{9/} Indeed, many of OCRE's arguments have no relationship to the particular power level specified in the FSAR amendment. For example, OCRE's claims in Contention B-2 on steam binding and recirculation pump seizure apply to SLO at any power level. OCRE cannot use the fortuitous timing of the FSAR amendment to raise issues which could as easily have been raised at any other time.

incorporate by reference its explanation of each of the five contentions, it has not met the test.

Contention B-1 claims that Applicants should analyze an anticipated transient without scram ("ATWS") initiated by inadvertent startup of the idle recirculation loop when the plant is in single loop operation at 70% power. OCRE can only say that "it is not clear what the consequences would be," that "it appears that General Electric ('GE') has never analyzed this event," and that "it is not clear" whether this event is milder than another ATWS event which OCRE admits that GE did analyze. Motion at 3. This kind of uncertain speculation on OCRE's part hardly qualifies as a significant safety issue. In contrast to OCRE's insubstantial showing, the Holtzclaw Affidavit sets forth in detail why Contention B-1 fails to raise a significant safety issue. As set forth in the Affidavit, ATWS considerations are irrelevant for the idle recirculation loop startup event at power levels up to 54%, Holtzclaw Affidavit ¶9. Although ATWS evaluations are relevant for this transient above 54% power, other ATWS events already analyzed are more severe than an ATWS event initiated by inadvertent startup of an idle recirculation loop. Id., ¶¶10-12. ATWS evaluations already performed bound the event raised by OCRE. Therefore, additional ATWS evaluations need not be performed. Id. ¶¶13-15. For these reasons, Contention B-1 fails to raise a significant safety issue.

Contention B-2 claims that Applicants have not evaluated a recirculation pump seizure accident in single loop operation, either with scram or in an ATWS event. In the "with scram" situation, OCRE's argument is based on the assertion that "steam binding" would occur. Not only does OCRE provide no support that steam binding is particularly relevant to single loop operation, it relies wholly on a document which has no reference to SLO. Id. at ¶18. As to the ATWS part of the contention, ATWS is irrelevant to the postulated accident since no scram is required, id. at ¶19, the postulated neutron flux oscillations are suppressed by manual control rod insertion, not by the scram function, id. at ¶20, and GE analysis reviewed and accepted by the Staff subsequent to the Board Notification on which OCRE relies, demonstrates that the oscillations do not cause fuel design limits to be exceeded. Id. at ¶21. Finally, it should be noted that OCRE's postulation of an ATWS in addition to a recirculation pump seizure accident is the kind of multiple accident which goes far beyond the single failure criterion of App. A to 10 C.F.R. Part 50. Contention B-2 therefore fails to set forth a significant safety issue.

Contention B-3 claims that Applicants have not demonstrated that traversing incore probe ("TIP") noise uncertainty values are applicable to SLO at 70% power. However, OCRE's only support for this claim is that the test used to determine these values was performed at 59% power rather than at 70%. OCRE provides nothing to indicate that the uncertainty values

would be greater at 70% power. Here, too, OCRE is asking for confirmatory testing, rather than raising a significant safety issue. In any case, the Holtzclaw Affidavit explains why there would be no significant difference between TIP noise uncertainties at 59% power in SLO and at 70%. Id. at ¶25. Therefore, this contention fails to raise a significant safety issue.

Contention B-4 claims that the Technical Specifications for SLO should include a limit on core plate pressure drop to permit "better regulation of core flow," "less variable within-core coolant flow," and "more even cross-core power." Motion at 5. OCRE fails to explain why such a limit would accomplish any of these purposes and more importantly says nothing about the safety significance of such a limit. The mere fact that another power plant (Cooper) has such a limit is of little importance, particularly where Cooper and Perry are different plant designs. Finally, the Holtzclaw Affidavit establishes that core plate pressure drop limits are not needed for core flow considerations since more direct measures (core power and flow) will be available. Id. at ¶28. As with the other contentions, Contention B-4 fails to present a significant safety issue.

Finally, Contention B-5 claims that Applicants have not demonstrated that SLO at 70% power will not aggravate flow rate variability in fast BWR transients. OCRE can only state that "[i]t is not clear" that single loop operation "will not

aggravate this effect." Motion at 6. As in prior contentions, OCRE relies on its lack of knowledge whether the phenomenon will have any effect. This speculation is not adequate to raise a significant safety issue. The Holtzclaw Affidavit affirmatively demonstrates that flow variability during fast transients is already amply considered by GE's analyses. Id. at ¶¶33-38. This contention does not raise a significant safety issue.

It is therefore clear the OCRE has failed to meet the second of the three reopening tests.

c. OCRE Fails to Show that Contentions B-1 through B-5 Could Change the Result of the Proceeding

OCRE's sole support for meeting this standard is the statement that "[h]ad the Licensing Board been aware of Applicants' plans in this regard, it is very likely that a different result would have been reached." Motion at 7. As discussed supra, OCRE has failed to show that its contentions raise significant safety issues. Therefore, it is difficult for Applicants to conceive that this newly proffered material if considered initially might have lead to a different result.

2. The Five Factors Test Does not Favor Admission of Contentions B-1 through B-5

A balancing of the five factors to be evaluated in deciding whether to admit late filed contentions also yields the conclusion that Contentions B-1 through B-5 should be excluded.

The first factor, good cause for OCRE's untimely filing, has been discussed in §II.C.1.a supra. While OCRE states that it "would not have been possible or practical to file any earlier," single loop operation has been a part of Perry Technical Specifications since mid-1984 and the information on which OCRE based its contentions was available some six weeks before OCRE decided to file its contentions.

With respect to OCRE's ability to assist in developing a sound record, the discussion in §II.B.2 supra in connection with Contention A applies equally here. OCRE has failed to show how it would contribute to the development of a sound record on these contentions.

With respect to the fifth factor, broadening the issues and delaying the proceeding, OCRE concedes that admission of the contentions "may result in some delay," Motion at 9. Since the proceeding is in its final phase, it is virtually certain that admitting five new contentions would delay its completion. OCRE does not challenge the obvious fact that admitting the contentions would broaden the issues.

Even if the remaining factors (other means to protect OCRE's interest and representation of OCRE's interest by other parties) might weigh in OCRE's favor, these factors are the least important, Summer, ALAB-642, supra at 895, and are heavily outweighed by the first, third and fifth factors.

III. CONCLUSION

For all of the above reasons, OCRE's motion to reopen the record for the purpose of admitting its late-filed Contentions A and B-1 through B-5 should be denied.

Respectfully submitted,


Jay E. Silberg, P.C.
Harry H. Glasspiegel

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Dated: December 30, 1985



UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D. C. 20555

ATTACHMENT 1

NOV 29 1985

Docket Nos. 50-440/441

Mr. Murray E. Edelman
Vice President - Nuclear Group
The Cleveland Electric Illuminating Company
P.O. Box 5000
Cleveland, Ohio 44101

Dear Mr. Edelman:

SUBJECT: FIRE PROTECTION PROGRAM FSAR/TECHNICAL SPECIFICATION CHANGES
FOR THE PERRY NUCLEAR POWER PLANT

In your letter of November 15, 1985, you proposed to delete the fire protection program elements from the Perry Unit 1 Technical Specifications, and in lieu thereof, to document those elements in the FSAR. The staff finds this change, wherein you describe and control the fire protection program through the FSAR, to be acceptable, provided you retain the administrative controls related to the program as reflected in the enclosed markup pages of the November 12, 1985 final draft of the Technical Specifications. CEI is requested to certify the Perry, Unit 1 Technical Specifications implementing the changes reflected in the enclosure.

Should there be any questions or need to discuss this matter further with the staff, please let me know.

Sincerely,

A handwritten signature in cursive script, appearing to read "Walter R. Butler".

Walter R. Butler, Director
BWR Project Directorate No. 4
Division of BWR Licensing

Enclosure:
As stated

cc: See next page

ADMINISTRATIVE CONTROLS

RESPONSIBILITIES

6.5.1.6 The PORC shall be responsible for:

- a. Review of all Administrative Procedures;
- b. Review of the safety evaluations for (1) proposed procedures/instructions, (2) changes to procedures/instructions, equipment, systems or facilities, and (3) tests or experiments performed under the provisions of 10 CFR 50.59 to verify that such actions do not constitute an unreviewed safety question;
- c. Review of proposed procedures/instructions and changes to procedures/instructions, equipment, systems or facilities which involve an unreviewed safety question as defined in 10 CFR 50.59;
- d. Review of proposed tests or experiments which involve an unreviewed safety question as defined in 10 CFR 50.59;
- e. Review of proposed changes to Technical Specifications or the Operating License;
- f. Investigation of all violations of the Technical Specifications including the preparation and forwarding of reports covering evaluation and recommendations to prevent recurrence to the Vice President - Nuclear Group and to the Nuclear Safety Review Committee;
- g. Review of all REPORTABLE EVENTS;
- h. Review of the plant Security Plan and Security Contingency Instructions and submittal of recommended changes to the Nuclear Safety Review Committee;
- i. Review of the Emergency Plan and implementing instructions and submittal of recommended changes to the Nuclear Safety Review Committee;
- j. Review of changes to the PROCESS CONTROL PROGRAM, the OFFSITE DOSE CALCULATION MANUAL, and Radwaste Treatment Systems;
- k. Review of any accidental, unplanned or uncontrolled radioactive release including the preparation of reports covering evaluation, recommendations, and disposition of the corrective action to prevent recurrence and the forwarding of these reports to the Managers, Perry Plant Departments, the Nuclear Safety Review Committee and the Vice President - Nuclear Group;
- l. Review of Unit operations to detect potential hazards to nuclear safety; and
- m. Investigations or analysis of special subjects as requested by the Chairman of the Nuclear Safety Review Committee; and

no Review of the Fire Protection Programs and implementing instructions and submittal of recommended changes to the Nuclear Safety Review Committee.

ADMINISTRATIVE CONTROLSAUDITS (Continued)

- STET →
- d. The performance of activities required by the Operational Quality Assurance Program to meet the criteria of Appendix B, 10 CFR Part 50, at least once per 24 months;
 - e. The fire protection programmatic controls including the implementing procedures at least once per 24 months by qualified licensee QA personnel;
 - f. The fire protection equipment and program implementation at least once per 12 months utilizing either a qualified corporate licensee fire protection engineer(s) or an outside independent fire protection consultant. An outside independent fire protection consultant shall be utilized at least every third year;
 - g. The radiological environmental monitoring program and the results thereof at least once per 12 months;
 - h. The OFFSITE DOSE CALCULATION MANUAL and implementing procedures at least once per 24 months;
 - i. The PROCESS CONTROL PROGRAM and implementing procedures at least once per 24 months;
 - j. The performance of activities required by the Quality Assurance Program for effluent and environmental monitoring at least once per 12 months; and
 - k. Any other area of unit operation considered appropriate by the NSRC or the Vice President - Nuclear Group.

RECORDS

6.5.2.9 Records of NSRC activities shall be prepared, approved, and distributed as indicated below:

- a. Minutes of each NSRC meeting shall be prepared, approved, and forwarded to the Vice President - Nuclear Group within 14 days following each meeting.
- b. Reports of reviews encompassed by Specification 6.5.2.7 shall be prepared, approved, and forwarded to the Vice President - Nuclear Group within 14 days following completion of the review.
- c. Audit reports encompassed by Specification 6.5.2.8 shall be forwarded to the Vice President - Nuclear Group and to the management positions responsible for the areas audited within 30 days after completion of the audit by the auditing organization.

ADMINISTRATIVE CONTROLS6.8 PROCEDURES/INSTRUCTIONS AND PROGRAMS

6.8.1 Written procedures/instructions shall be established, implemented, and maintained covering the activities referenced below:

- a. The applicable procedures recommended in Appendix A of Regulatory Guide 1.33, Revision 2, February 1978.
- b. The applicable procedures required to implement the requirements of NUREG-0737 and supplements thereto.
- c. Security Plan implementation.
- d. Emergency Plan implementation.
- e. PROCESS CONTROL PROGRAM implementation.
- f. OFFSITE DOSE CALCULATION MANUAL implementation.
- g. ~~Quality Assurance Program for effluent and environmental monitoring.~~

* h. FIRE PROTECTION PROGRAM implementation

6.8.2 Each administrative procedure of Specification 6.8.1, and changes thereto, shall be reviewed by the PORC and shall be approved by the Managers, Perry Plant Departments, prior to implementation. All procedures/instructions shall be reviewed periodically as set forth in administrative procedures.

6.8.3 The following programs shall be established, implemented, and maintained:

a. Primary Coolant Sources Outside Containment

A program to reduce leakage from those portions of systems outside containment that could contain highly radioactive fluids during a serious transient or accident to as low as practical levels. The systems include the HPCS, CS, RHR, RCIC, LPCS, feedwater leakage control system, and post-accident sampling systems. The program shall include the following:

1. Preventive maintenance and periodic visual inspection requirements, and
2. Integrated leak test requirements for each system at refueling cycle intervals or less.

b. In-Plant Radiation Monitoring

A program which will ensure the capability to accurately determine the airborne iodine concentration in vital areas under accident conditions. This program shall include the following:

1. Training of personnel,
2. Procedures for monitoring, and
3. Provisions for maintenance of sampling and analysis equipment.