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UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

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ATOMIC SAFETY AND LICENSING BOARD

OFFICE OF REGULATORY
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Before Administrative Judges

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

SERVED SEP 14 1988

In the Matter of)	
)	
VERMONT YANKEE NUCLEAR POWER CORPORATION)	Docket No. 50-271-OLA
)	
(Vermont Yankee Nuclear Power Station))	ASLBP No. 87-547-02-LA
)	September 13, 1988

MEMORANDUM AND ORDER
(Reply Re: Proposed Contentions)

On September 6, 1988, the New England Coalition on Nuclear Pollution (NECNP) and the Commonwealth of Massachusetts (hereinafter, Intervenor) filed a Joint Motion for leave to reply to the Applicant's and Staff's responses to the late-filed contentions submitted by the Intervenor on August 15, 1988. The Intervenor assert that the Applicant has raised several issues, both technical and legal, requiring response; the Joint Motion was filed prior to receipt of the Staff response. Intervenor propose to submit their reply by September 14, 1988.

Through telephone inquiry, we ascertained that the Applicant, although disagreeing with the basis stated for the Joint Motion as well as the need for any reply, offers no objection to the filing by Intervenor of a reply, as

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long as it is provided an opportunity to respond to any new material. On the other hand, the Staff advised us by telephone that it objects to the filing of a reply, on the ground that the Intervenors have stated that they intend to include in their reply certain additional technical material, which the Staff perceives as evidence, and that it is not appropriate to take evidence into account in ruling on the admissibility of proposed contentions. The Staff thus finds no "good cause" for the filing of a reply by the Intervenors. (Under NRC rules, 10 C.F.R. 2.730(c), there is no automatic right to file a reply.)

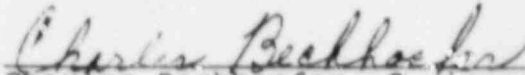
The Staff is correct to the extent it is asserting that we cannot evaluate the validity of evidentiary material in ruling on the adequacy of proposed contentions. The Intervenors, however, have indicated that they intend to pursue legal as well as technical arguments, and they also have not indicated whether their technical arguments will necessarily be confined to the filing of evidentiary claims. That being so, and given the complexity of certain of the proposed contentions, we will permit the Intervenors to file their reply. The Applicant and Staff may file responses to new material set forth in the reply.

The reply is to be filed (mailed) by Wednesday, September 14, 1988; it should be either hand delivered or served by express mail or equivalent to the other parties.

The Applicant should file its response by Monday, September 26, 1988 (but should advise this Board, by telephone no later than September 21, 1988, whether it intends to file such a response). The Staff should file its response by Friday, September 30, 1988 (but should advise this Board no later than September 23, 1988 whether it intends to do so).

IT IS SO ORDERED.

FOR THE ATOMIC SAFETY AND
LICENSING BOARD


Charles Bechnhoefer, Chairman
ADMINISTRATIVE JUDGE

Dated at Bethesda, Maryland,
this 13th day of September, 1988.