

865.3

DOCKETED  
USNRC

LBP-89-13 '89 MAY 23 P4:18

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

OFFICE OF SECRETARY  
DOCKETING & SERVICE  
BRANCH

ATOMIC SAFETY AND LICENSING BOARD

Before Administrative Judges:

SERVED MAY 24 1989

Charles Bechhoefer, Chairman  
Dr. James H. Carpenter  
Gustave A. Linenberger, Jr.

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

Docket No. 50-271-CLA-2  
(Testing Requirements for  
ECCS and SLC Systems)  
  
(ASLBP No. 88-567-04-OLA)  
  
May 23, 1989

MEMORANDUM AND ORDER  
(Dismissing Proceeding)

This proceeding concerns a proposal by Vermont Yankee Nuclear Power Corp. (Applicant), dated December 7, 1987, to modify certain of the technical specifications applicable to the Vermont Yankee Nuclear Power Station, a boiling water reactor located in Vernon, Vermont. The proposed changes concern the surveillance and testing requirements applicable to certain equipment on the reactor.

In response to a notice of opportunity for hearing dated January 19, 1988 (53 Fed. Reg. 2114, January 26, 1988), two petitioners (the State of Vermont and the Commonwealth of Massachusetts) filed requests for a hearing

D.502

and petitions to intervene. By Memorandum and Order (Intervention Requests and Prehearing Conference), dated May 24, 1988 (unpublished), we ruled that the two petitioners had standing to intervene and scheduled a prehearing conference to consider contentions. Following the conference (at which the opportunity for oral limited appearance statements pursuant to 10 C.F.R. § 2.715(a) was offered), we accepted a single joint contention proffered by the two petitioners. We also outlined several substantive matters relevant to that contention which we believed should be addressed on the record of the proceeding. Prehearing Conference Order (Rulings on Contention and Schedules), dated July 18, 1988 (unpublished).

Following that Order, the parties participated in extensive discovery. At this time, we are awaiting issuance of the Staff's Safety Evaluation Report (SER) and Environmental Assessment. By a filing dated May 15, 1989, however, the two Intervenors and the Applicant filed a joint motion to withdraw the contention and to dismiss the proceeding.

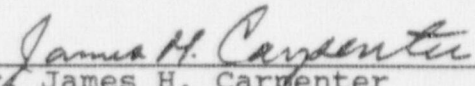
We are aware of no reason why we should not grant the motion. Because of the safety questions which we raised at the prehearing conference, however, we would appreciate the Staff's serving on the Board a copy of the SER when issued. This request is not to be construed as a retention of

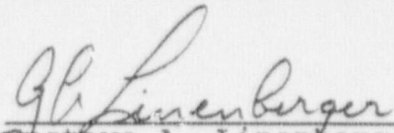
jurisdiction by us over the proceeding (although we of course have available non-adjudicatory methods for expressing our view on substantive matters, if warranted).

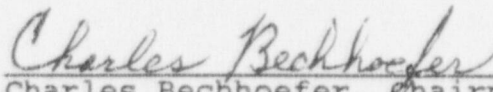
Based on the foregoing, the joint motion to withdraw the only contention in this proceeding and to dismiss the proceeding is hereby granted and the proceeding is dismissed. This Order is effective immediately. In accordance with 10 C.F.R. §§ 2.762 and 2.785, this Memorandum and Order may be appealed by any party to the Atomic Safety and Licensing Appeal Board.

IT IS SO ORDERED.

THE ATOMIC SAFETY AND  
LICENSING BOARD

  
Dr. James H. Carpenter  
ADMINISTRATIVE JUDGE

  
Gustave A. Linenberger, Jr.  
ADMINISTRATIVE JUDGE

  
Charles Bechhoefer, Chairman  
ADMINISTRATIVE JUDGE

Bethesda, Maryland  
May 23, 1989

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

In the Matter of

VERMONT YANKEE NUCLEAR POWER  
CORPORATION  
(Vermont Yankee Nuclear Power  
Station)

Docket No. (s) 50-271-OLA-2

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing LB MEMORANDUM & ORDER 5/23/89 have been served upon the following persons by U.S. mail, first class, except as otherwise noted and in accordance with the requirements of 10 CFR Sec. 2.712.

Administrative Judge  
Charles Bechhoefer, Chairman  
Atomic Safety and Licensing Board  
U.S. Nuclear Regulatory Commission  
Washington, DC 20555

Administrative Judge  
Gustave A. Linenberger, Jr.  
Atomic Safety and Licensing Board  
U.S. Nuclear Regulatory Commission  
Washington, DC 20555

Administrative Judge  
James H. Carpenter  
Atomic Safety and Licensing Board  
U.S. Nuclear Regulatory Commission  
Washington, DC 20555

Ann P. Hododon, Esq.  
Office of the General Counsel  
U.S. Nuclear Regulatory Commission  
Washington, DC 20555

R. K. Gad III, Esq.  
Ropes & Gray  
One International Place  
Boston, MA 02110

George B. Dean, Esq.  
Assistant Attorney General  
Office of the Attorney General  
One Ashburton Place, 19th Floor  
Boston, MA 02108

Samuel H. Press, Esq.  
Special Assistant Attorney General  
Vermont Department of Public Service  
120 State Street  
Montpelier, VT 05602

Dated at Rockville, Md, this  
24 day of May 1989

*Patty Henderson*  
Office of the Secretary of the Commission