

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

In the Matter of)
)
PUBLIC SERVICE ELECTRIC & GAS) Docket No. 50-272
COMPANY, et al.) (Proposed Issuance of
) Amendment to Facility
(Salem Nuclear Generating) Operating License
Station, Unit 1)) No. DPR-70)

LICENSEE'S OBJECTIONS TO LOWER ALLOWAYS CREEK
TOWNSHIP'S PROFFERED TESTIMONY

On April 25, 1979, counsel for Lower Alloways Creek Township ("LACT") filed a document entitled "Response to the Atomic Safety and Licensing Board Order dated April 18, 1979," transmitting the "Testimony of Richard E. Webb, Ph.D. in Respect to Board Question #3 of Order Dated April 18, 1979." On June 12, 1979, LACT submitted the written testimony of Earl A. Gulbransen, Ph.D. which purported to relate to all three of the Board's questions. As discussed below, Licensee, Public Service Electric & Gas Company, et al., objects to the proposed testimony of Drs. Webb and Gulbransen.

I. The Testimony of Dr. Gulbransen

Licensee objects to the proffered testimony of Dr. Gulbransen as beyond the scope of the Board's questions, as beyond the scope of the issues in the proceeding, and as constituting an attack on the Commission's ECCS regulations

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as contained in 10 C.F.R. §50.46 and Appendix K to 10 C.F.R. Part 50 which is prohibited by 10 C.F.R. §2.758. Moreover, there has been no demonstration that Dr. Gulbransen is an expert or entitled to give opinion evidence as to the effect of an accident on the Salem Unit 1 spent fuel pool.

This Board has already indicated that it is interested in reviewing the effect of a Three Mile Island-type incident on the Salem Unit 1 spent fuel pool and is not interested in constituting itself as another panel to review the causes and chronology of the TMI incident. The entire thrust of the Gulbransen testimony appears to be an analysis of the Three Mile Island incident as an end in itself. Dr. Gulbransen speculates as to the causes and the courses of the TMI accident. As a result of his analysis, he includes in his proposed testimony "procedures" which apparently relate to observations of the events of TMI and his proposal for actions to be taken at the Three Mile Island facility. These points do not address even peripherally the Board's questions, i.e., the effect of the accident on the Salem Unit 1 fuel pool.

Without attempting to address the merits or substance of the testimony as it relates to the TMI incident, the Licensee suggests that the testimony be referred by the Licensing Board to the Nuclear Regulatory Commission for its consideration in the various investigations of the matter.

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To a large extent, the matters raised by the proposed Gulbransen testimony relate to the Commission's ECCS regulations. It is not clear whether the testimony seeks to attack ECCS Criterion 1, relating to a peak cladding temperature limit of 2200°F (§50.46(b)(1)), and ECCS Criterion 2 relating to a maximum cladding oxidation (§50.46(b)(2))^{1/} or is an attack on the ability of the Salem Generating Station or other nuclear generating facilities to meet these criteria. If it is an attack on the ECCS criteria which were developed after an exhaustive rulemaking proceeding, it is clearly prohibited by 10 C.F.R. §2.758. If it is an attack on the ability of Salem Unit 1 to meet the NRC's ECCS Acceptance criteria, this is not the proper proceeding to challenge such compliance.

Finally, assuming arguendo that Dr. Gulbransen was qualified to give opinion evidence on the metallurgical properties of zircalloy, there is no showing that he has any expertise on the issues before this Board or related to the Board's questions such as to give opinion evidence on the health and safety of the public regarding the storage of spent fuel either in the Salem Unit 1 spent fuel pool or elsewhere.^{2/}

II. The Testimony of Dr. Webb

Licensee objects to the proffered testimony of Dr. Richard Webb as beyond the scope of the issues in this pro-

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^{1/} For that matter, the proposed testimony also appears to attack Criterion 3 relating to maximum hydrogen generation, Criterion 4 relating to coolable geometry and Criterion 5 relating to long term cooling.

^{2/} See the last paragraph of the Gulbransen testimony.

ceeding and as beyond the scope of the Board's questions. Furthermore, even if relevant, Dr. Webb's testimony is of no probative value and should be stricken. Moreover, the testimony should not be permitted to be utilized to introduce new issues in the proceeding which are entirely unrelated to the Board's questions, and, if otherwise proper, should have been submitted earlier. Dr. Webb's testimony should be stricken.

Sections 1, 2, 3 and 4 of Dr. Webb's testimony set the stage for the remainder of the testimony. In these sections, Dr. Webb hypothesizes the "loss-of-water accident" in a spent fuel pool and discusses asserted consequences. He fails to demonstrate any relationship between this hypothesized event and the TMI questions promulgated by the Board. The fundamental fact is that the requested change in fuel racks has not changed the design basis for the fuel storage pool or its associated components from that approved by the Commission in issuing the operating license for the Salem facility. Therefore, consideration of such a hypothesized event and its consequences is beyond the scope of the issues in this proceeding as determined by the Commission and, in any event, beyond the scope of the Board's questions.

The remainder of Dr. Webb's discussion then concerns a hypothesized loss-of-water accident. As a Class 9 accident, i.e., greater than the design basis accidents analyzed by the Commission, the Board is prohibited from considering

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such an issue. ^{3/} Moreover, no connection between the Board's questions and this hypothesized event has been shown. New matters and contentions should not be permitted to be raised in this proceeding under the guise of a response to the Board's question. Dr. Webb admits ^{4/} that he is attacking the manner in which the Commission evaluates the risk of accidents. The entire testimony should be stricken as a prohibited attack on the regulations.

The testimony has no probative value. The testimony repeatedly states that certain events are conceivable or possible. ^{5/} Playing out every conceivable scenario of a hypothesized event is of no value in assisting this Licensing Board in reaching its decision on the limited issues in this proceeding. Such a test would unduly delay the proceeding without any compensating benefit.

In Section 5 of his proposed testimony, Dr. Webb wants the Board to consider four events which could cause a loss-of-water accident. Initially, none of these events are tied to the TMI questions asked by the Board. The question of a spent fuel shipping cask drop has already been addressed by the NRC in the issuance of an operating license; the change

^{3/} For a complete discussion of this matter, see Licensee's Response to NRC Staff's Objection to Board Question and Motion for Extension of Time to File Response to Board Question Relating to Class 9 Accidents dated June 18, 1979.

^{4/} See Webb Testimony, §1(f) at 3.

^{5/} For example, on page 5 the word conceivable or conceivably is used four times.

in racks does not affect the analysis done by the NRC. This Board has already rejected such a contention for these reasons. Similarly this Board has rejected consideration of sabotage and terrorism as unaffected by the requested rack change. Under the guise of criticality considerations, Dr. Webb attempts to raise new issues.^{6/} No showing has even been attempted under the criteria of §2.714(a) that these new matters should be considered. The fourth category of events, earthquakes beyond the design basis of the facility and large airplane crashes, are clearly beyond the scope of the issues in this proceeding.

Section 7 of the Webb Testimony merely asserts that a severe reactor accident could cause "the entire operating crew . . . to flee" There is no basis or analysis given for such a hypothesis and thus it is of no value in responding to the Board's question. The remainder of the section deals with issues not possibly related to the spent fuel pool questions, the asserted effect of the meltdown accident itself, argument concerning releases from a loss-of-water accident, a criticism of the Rasmussen Report, and a request to the NRC to do further studies of the type considered in WASH-1400.

^{6/} Section 6 sets forth alleged deficiencies which could cause a criticality accident such as missing boron plates and asserted deficiencies in the Licensee's criticality evaluation.

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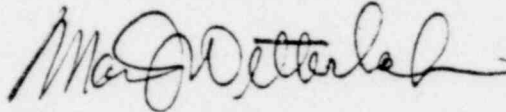
Section 8 seeks to deal with the Salem spent fuel pool as a permanent spent fuel repository and should, in conformance with the Board's past rulings in this proceeding, be stricken. Sections 9 and 10 are without foundation, conclusory and argumentative and should be stricken.

CONCLUSION

Thus, as discussed above, the testimony of Drs. Gulbransen and Webb is objectionable and should not be heard by the Licensing Board.

Respectfully submitted,

CONNER, MOORE & CORBER

A handwritten signature in dark ink, appearing to read "Mark J. Wetterhahn", written in a cursive style.

Mark J. Wetterhahn
Counsel for the Licensee

June 30, 1979

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