

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION
ATOMIC SAFETY AND LICENSING BOARD

Before Administrative Judges:

Michael M. Gibson, Chairman
Dr. Gary S. Arnold
Dr. Randall J. Charbeneau

In the Matter of

NUCLEAR INNOVATION NORTH AMERICA
LLC

(South Texas Project Units 3 and 4)

Docket Nos. 52-12-COL and 52-13-COL

ASLBP No. 09-885-08-COL-BD01

July 18, 2012

ORDER

(Monthly Status Updates Regarding FOCD Review)

Presently, one admitted contention—Contention FC-1¹—remains in this proceeding and the environmental record has been closed.²

To efficiently schedule the remainder of this proceeding, the Board directed Staff to provide an update on its review of FOCD issues.³ Staff responded in a June 26, 2012 filing, in

¹ In Contention FC-1, intervenors allege that statutory and regulatory prohibitions on foreign ownership, control, and domination (FOCD) forbid the licensing of proposed STP Units 3 and 4.

² Licensing Board Memorandum and Order (Adopting Transcript Corrections and Closing Evidentiary Record) (Nov. 29, 2011) at 2 (unpublished).

³ Licensing Board Order (Requesting Status Update in 90 Days) (Mar. 28, 2012) at 1-2 (unpublished).

Although it certainly may be appropriate to conduct a hearing on FC-1 before Staff completes this portion of its safety evaluation report (SER) on proposed STP Units 3 and 4, Southern Nuclear Operating Co. (Early Site Permit for Vogtle ESP Site), CLI-07-17, 65 NRC 393, 394 (2007), for now, the Board deems it preferable to allow Staff an opportunity to do so. See Potomac Elec. Power Co. (Douglas Point Nuclear Generating Station, Units 1 & 2), ALAB-277, 1 NRC 539, 547 (1975). Particularly is this the case in light of Staff's ongoing review and

(continued . . .)

which it stated that it “does not anticipate asking any additional RAIs related to FOCD” and that it “is currently drafting the section of its [SER] related to FOCD.”⁴ However, during a July 10, 2012 conference call with the parties to discuss the status of the proceeding, counsel for Staff stated that “[S]taff has not come to a position yet on the [FOCD] issues.”⁵

As part of its monthly status report to the Board,⁶ Staff is directed to provide the best estimate projected decision date for its review of FOCD issues.

It is so ORDERED.

FOR THE ATOMIC SAFETY
AND LICENSING BOARD

/RA/

Michael M. Gibson, Chairman
ADMINISTRATIVE JUDGE

Rockville, Maryland
July 18, 2012

³ (. . . continued)

requests for additional information (RAIs) regarding FOCD that have prompted Applicant to amend its application and may prompt further amendments. See, e.g., Letter from John E. Matthews, Counsel for Nuclear Innovation North America, LLC, to Licensing Board (May 18, 2012), attach., April 18, 2012 RAIs and Responses.

⁴ Letter from Andrea L. Silvia, Counsel for NRC Staff, to Licensing Board (June 26, 2012) at 1.

⁵ Tr. at 1936.

⁶ Licensing Board Initial Scheduling Order (Oct. 20, 2009) sec. II.C (unpublished).

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

In the Matter of)	
)	
NUCLEAR INNOVATION NORTH AMERICA LLC)	Docket Nos. 52-012-COL and 52-013-COL
(NINA))	
)	
(South Texas Project Units 3 and 4))	
)	

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing **ORDER (Monthly Status Updates Regarding FOCD Review)** have been served upon the following persons by the Electronic Information Exchange.

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Docket Nos. 52-012-COL and 52-013-COL

ORDER (Monthly Status Updates Regarding FOCD Review)

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[Original signed by Nancy Greathead]
Office of the Secretary of the Commission

Dated at Rockville, Maryland
this 18th day of July 2012