

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION



In the Matter of )  
 )  
SOUTH CAROLINA ELECTRIC & ) Docket No. 50-395  
GAS COMPANY, et al. )  
 )  
(Virgil C. Summer Nuclear )  
Station) )

APPLICANT'S REPORT TO THE ATOMIC SAFETY AND  
LICENSING BOARD IN RESPONSE TO ITS AUGUST 6, 1979  
MEMORANDUM AND ORDER

By Memorandum and Order dated August 6, 1979, the Atomic Safety and Licensing Board ("Licensing Board") in the captioned proceeding requested each of the parties to report on any recommendations or plans to proceed with a timely consideration of issues amenable to early disposition. On September 6, 1979, "NRC Staff Comments Upon Board Memorandum and Order of August 6, 1979" were submitted. Applicant, South Carolina Electric & Gas Company, hereby submits its report to the Licensing Board and replies to certain matters raised by the Staff in its comments.

Applicant believes that every effort should be made to consider, at the earliest practicable time, all remaining contentions in this proceeding. To this end, Applicant asks the Board to use its broad power to avoid delay by instructing

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the Staff to use every effort to expeditiously complete its review of the remaining key issues. Moreover, the Staff should be required to report to the Board when any of the dates stated in the Staff pleading advance or slip. If there is any slippage, the Staff should be required to inform the Board of the new date and the reasons for the delay.<sup>1/</sup>

With regard to the "safety" contentions, A2 (financial qualifications/decommissioning costs), A3 (Anticipated Transients Without Scram), A4 (seismicity), A8 (emergency planning) and A9 (quality control), Applicant believes the Staff has exalted form above substance in stating that it may not present its case until its Safety Evaluation Report (SER) has been issued. Appendix A to 10 C.F.R. Part 2, the only support stated for this proposition, is merely a statement of general policy and procedure. In any event, whether the Staff calls it testimony or prefers to call it a partial SER, there appears to be no bar to present consideration of the safety issues prior to its completion of its review on non-hearing related issues.

Contentions A3 and A8 depend on the completion of the Staff's review. At this time, it does not appear that resolution of these matters can be considered until the

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<sup>1/</sup> See Offshore Power Systems (Floating Nuclear Power Plants), ALAB-489, 8 NRC 194, 204-7 (1978).

early spring when the Staff states its reviews will be completed.<sup>2/</sup>

As to all other issues, i.e., A2, A4, A9 and A10, the Applicant would be prepared to begin the evidentiary hearing on November 13, 1979 and continue until the evidence-in-chief of the Applicant and the Intervenor on all these issues have been presented and cross-examination by all parties completed. Pursuant to 10 C.F.R. §2.743, all evidence for presentation at this session would have to be served by October 20, 1979.

With regard to Contention A9, the Staff has stated that it could offer its position by "late October, 1979." Thus, it appears possible to complete consideration of this contention at the November session. Considering the Staff's schedule for Contentions A2 and A4, with a little extra effort by the Staff, there is also no reason why these contentions also could not be fully considered at the November hearing.

The only environmental issue is Contention A10 involving consideration of long-term effects of radioactive effluents from the Station.<sup>3/</sup> The Staff has taken the position that

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<sup>2/</sup> In the approximately seven years the ATWS review has been pending, many operating licenses have been issued by the Commission. In the event we learn of any further delays beyond early spring which would affect resolution of the question in this proceeding, we will, of course, seek appropriate action by the Board or the Commission to assure that issuance of the license is not delayed.

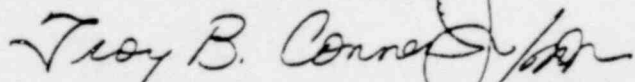
<sup>3/</sup> This entire matter will be mooted by the issuance of the Final Environmental Statement which the Staff has advised the Applicant will take place in the first part of November. Thus, Contention A10 may be amenable to consideration at a November hearing.

it is not amenable to summary disposition, but states no reason for its conclusion. It also takes the position that it cannot bring evidence on any environmental issue until its total final environmental statement ("FES") has been issued, as provided in §51.52. In our view, this provision can be dispensed with. The overriding policy consideration with the Commission remains that hearings are to be conducted without unnecessary delays (Appendix A, Part 2). This particular issue is well understood, having been the subject of review in several hearings. In our view, the Staff should agree to present its position on this issue as soon as possible. In the unlikely event that it would be of any significance to the environmental balancing in the FES, this point could be considered before the record is closed.

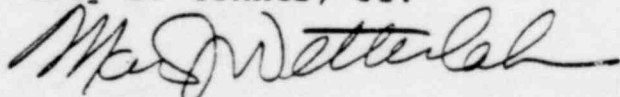
Accordingly, the Applicant's position is that evidence on all issues, except A3 and A8, can be completed this fall and that there is no basis for waiting. However, if for any reason a hearing on these issues is not set until some time later, motions for summary disposition could expedite the proceeding. The Applicant requests that the Board authorize the filing of such motions at any time hereafter.

Respectfully submitted,

CONNER, MOORE & CORBEE



Troy B. Conner, Jr.



Mark J. Wetterhahn  
Counsel for the Applicant

September 11, 1979

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CERTIFICATE OF SERVICE

I hereby certify that copies of "Applicant's Report to the Atomic Safety and Licensing Board in Response to its August 6, 1979 Memorandum and Order," dated September 11, 1979, in the captioned matter, have been served upon the following by deposit in the United States mail this 11th day of September, 1979:

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