

LAW OFFICES  
CONNER, MOORE & CORBER  
1747 PENNSYLVANIA AVENUE, N.W.  
WASHINGTON, D. C. 20006

TROY B. CONNER, JR.  
ARCH A. MOORE, JR.  
ROBERT J. CORBER  
MARK J. WETTERHAHN  
DONALD J. BALSLEY, JR.  
ROBERT M. RADER  
KEITH M. ELLIS  
NOT ADMITTED IN D.C.

September 20, 1979

(202) 833-3500

CABLE ADDRESS: ATOMLAW



Mr. Brett A. Bursey  
Route 1  
Box 93-C  
Little Mountain, South Carolina 29075

In the Matter of South Carolina Electric & Gas Company  
Virgil C. Summer Nuclear Station  
Docket No. 50-395

Dear Mr. Bursey:

As you know, the Atomic Safety and Licensing Board in this proceeding entered a "Memorandum and Order on Discovery" (August 6, 1979) in which it stated that it "envisions the possibility of a request by the Applicant, and perhaps the Staff, for greatly expedited evidentiary hearings" once the Staff review of the Summer operating license application had been completed.

In reviewing the file to respond to the Board's suggestion and also preparatory to the upcoming hearing, I note that during your deposition on August 2-3, 1978, you stated that a summary of the testimony of your prospective witnesses as to Contention A-10 would be provided within a few days after the hearing. I refer you to pages 175-177 of the transcript of your deposition. A copy of these pages are enclosed.

As you will recall, the Licensing Board in its Memorandum and Order dated October 2, 1978 noted "that Mr. Bursey has not been fully responsive to discovery requests," and that "Mr. Bursey has not made a responsible effort to comply with the Board's Order and with repeated admonitions to respond to discovery requests." The Board agreed that the witness list relating to Contention A-10 may be a "Christmas wish list."

Accordingly, the Board ordered that the list of witnesses given by you in your deposition on August 2-3, 1978 be deemed final. The Board further stated:

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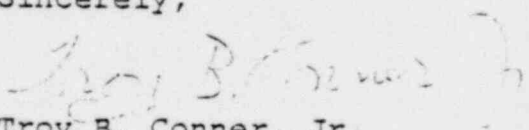
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We also rule that Mr. Bursey may not use in his affirmative case nor in cross-examination any document he has failed to produce or identify in discovery without a showing that with the exercise of due diligence he could not have produced or identified the document earlier.

Implicit in the Board's Order is a requirement that you make good your promise to provide the parties with the requested summary of testimony which has been promised more than a year ago and which has not yet been received.

Accordingly, we shall expect to be furnished with a summary of the proffered testimony of your prospective witnesses regarding Contention A-10 no later than October 1, 1979. Otherwise, we shall consider the Board's invitation "to seek relief consistent with the observations" in its Memorandum and Order of October 2, 1978.

Sincerely,

  
Troy B. Conner, Jr.  
Counsel for the Applicant

/dr

Enclosure

cc: w/o enclosure

Ivan W. Smith, Esq.  
Dr. Frank F. Hooper  
Mr. Gustave Linenberger  
Chairman, Atomic Safety and  
Licensing Appeal Board Panel  
Chairman, Atomic Safety and  
Licensing Board Panel  
George Fischer, Esq.  
Steven C. Goldberg, Esq.  
Mr. Chase R. Stephens  
Richard P. Wilson, Esq.

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