

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

In the Matter of:

SOUTH CAROLINA ELECTRIC AND GAS
COMPANY, et al.

(Virgil C. Summer Nuclear Station,
Unit 1)

Docket No. 50-395

May 27, 1981

INTERVENOR FUA'S RESPONSE IN OPPOSITION TO
NRC STAFF MOTION FOR SUMMARY DISPOSITION
OF INTERVENOR BRETT A. BURSEY'S CONTENTION 2



Intervenor Fairfield United Action (FUA) hereby opposes the NRC Staff Motion for Summary Disposition of Intervenor Brett A. Bursey's Contention A2 regarding the financial qualifications of the Applicants safely to operate and decommission the V.C. Summer Nuclear Station.

As set forth in the attached Statement of Material Facts to Which There is Genuine Issue and affidavit, genuine issues of material fact which should be litigated before the Board exist.

Moreover, Intervenor FUA maintains that further evidence regarding the issues set forth in Contention A2 exist under the control of the Applicants, especially more recent financial information on the Applicant South Carolina Public Service Authority. FUA is thus unable adequately to address the genuine issues of material fact on this contention as they pertain to the South Carolina Public Service Authority. Consistent with 10 CFR 2.749(c), the enclosed affidavit sets forth those factual matters. FUA urges the Board either to refuse to grant summary disposition or to grant FUA a continuance until such time as Applicant South Carolina Public Service Authority makes current financial and operating data available to FUA.

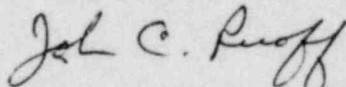
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Moreover, in its Motion for Summary Disposition the Staff has failed to carry its burden of demonstrating the absence of any genuine material issue of fact. Cleveland Electric Illuminating Company, et al. (Perry Nuclear Power Plant, Units 1 and 2), ALAB-443, 6 NRC 741, 753-754.

Therefore, the NRC Staff is not entitled as a matter of law to summary disposition of Intervenor Bursey's Contention A2 under 10 CFR § 2.749. Therefore, FUA urges the Board to dismiss the Staff's Motion for Summary Disposition of Contention A2.

Respectfully submitted,

A handwritten signature in cursive script, reading "John C. Ruoff".

John C. Ruoff, Ph.D.
Authorized Representative

For Intervenor
Fairfield United Action

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INTERVENOR FUA'S
STATEMENT OF MATERIAL FACTS TO WHICH THERE IS GENUINE ISSUE
TO BE HEARD RESPECTING INTERVENOR BRETT A. BURSEY'S CONTENTION 2

1. The materials submitted by the Applicants on December 31, 1980, are not sufficient information upon which to base a conclusion that the Applicants possess the financial qualifications necessary safely to operate and decommission the Summer plant in the light of all relevant circumstances.
2. The estimates of the Applicants regarding the costs of decommissioning the Summer plant are without basis and the Applicants have provided no such basis.
3. Decommissioning costs for a pressurized water reactor of the size of the Summer station can be expected to exceed \$1 billion dollars.
4. Decommissioning funding strategies which assume a plant life in excess of ten years are without basis in the operating experience of large (over 800 MW) light water reactors.

5. The generic steam generator tube cracking problem is of such magnitude that steam generator replacement must be considered a normal part of operations of a Westinghouse Nuclear Steam Supply System, such as that in the Summer plant. The Applicants have failed to demonstrate their ability to pay for the expectable costs of repair or replacement of the steam generators at the Summer plant.

6. Under law, the South Carolina Public Service Commission (SCPSC) can only allow Applicant South Carolina Electric and Gas Company (SCE&G) to recover operating, maintenance, and capital costs from ratepayers where those costs are for investment in plant "used and useful" in providing electrical service to its customers, where they result from economical and efficient management of the utility, and where they are not incurred for corrupt purposes.

7. If the Summer Station is placed in service before the Summer peak of 1982, SCE&G would have reserve capacity of 59.4 %. That extreme excess reserve capacity results from uneconomical and inefficient management of the utility in its demand forecasting and the Summer plant would not, therefore, be useful to the Company's customers. Thus, the investment in the Summer Station, from a regulatory standpoint, cannot reasonably be expected to qualify as "property used and useful in providing retail electric service to the public" as required for inclusion in the rate base by the SCPSC.

12. SCPSA is not a regulated utility. SCPSA and SCE&G do not operate exclusively in their service areas.

13. The legal obligation of SCPSA to establish rates and charges which can provide funds to pay its debts and costs of operation and maintenance does not mean that the SCPSA is able to collect sufficient revenues to cover the costs of operation and decommissioning.

14. The Applicants are not in good financial strength. Their current bond ratings, net income over the past five years, and ability to raise sizeable funds over the past 13 years to finance construction are inadequate indicia of financial strength.

15. There is no reasonable assurance pursuant to 10 CFR §50.33(f) that funds sufficient to cover estimated operating costs for each of the first five years plus the estimated costs of permanent shutdown and maintenance of the facility in a safe condition. The Applicants have failed to demonstrate that they have a reasonable financing plan in light of relevant circumstances and, thus, fail to satisfy NRC regulations regarding financial qualifications.

16. Applicants' estimates of decommissioning costs are not conservative and they have no reasonable assurance of obtaining the necessary funds to meet such costs through revenues.

8. Without the inclusion of the non-cash Allowance for Funds Used During Construction in its revenue accounting SCE&G is currently unable to recover its costs of operations from revenues.

9. Applicant SCE&G has overbuilt its capacity beyond its ability to generate revenues from electrical sales and so over-extended its credit that SCE&G is unable to sell common stock at book value, the Company is prohibited from selling preferred stock until its preferred debt coverage improves, and the Company's common equity comprises only a dangerously low percentage of the capital structure.

10. The creation of unfunded reserves to accumulate depreciation calculated on a Negative Net Salvage approach by a utility with difficulty raising external capacity and internal cash flow problems fails to provide reasonable assurance that cash needed for safe decommissioning of the plant, under any scenario or at any reasonable cost figure, will be available to the Applicants.

11. SCE&G and SCPSA have no reasonable assurance under 10 CFR 50.33(f) of obtaining the necessary funds to cover the estimated operating costs to the extent of their ownership in the facility. SCE&G and SCPSA have failed to demonstrate that they have the availability of resources to cover estimated costs of permanent shutdown and maintenance of the facility in a safe condition as required at 10 CFR Part 50, Appendix C(I)(B).