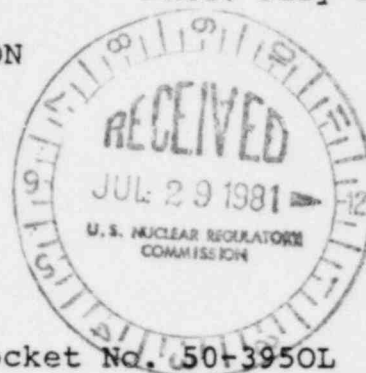




UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION
BEFORE THE COMMISSION

Date: July 28, 1981



In the Matter of:

SOUTH CAROLINA ELECTRIC AND
GAS COMPANY, et al.

(Virgil C. Summer Nuclear
Station, Unit 1)

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)
Docket No. 50-395OL

APPLICANTS' RESPONSE TO
SOUTH CAROLINA CHAPTER OF THE SIERRA CLUB'S
REQUEST FOR LEAVE TO FILE
STATEMENT IN SUPPORT OF
FAIRFIELD UNITED ACTION'S APPEAL

On July 21, 1981, Sierra Club Legal Defense Fund (as counsel for South Carolina Chapter of the Sierra Club, "SCCSC") served by mail ^{1/} certain papers pertaining to the pending petition for review filed by Fairfield United Action with respect to ALAB-642. Applicants South Carolina Electric and Gas Company and South Carolina Public Service Authority object to the receipt of these unauthorized pleadings at this juncture.

1/ The papers in question, i.e., the request for leave to file statement and the statement itself each bear the date June 15, 1981 while the accompanying notice of appearance bears the date July 15, 1981. We believe the correct service date to be July 21, 1981, inasmuch as that date was filled in by hand on the certificate of service and since the papers were received by us on July 22, 1981.

DSB
50/1

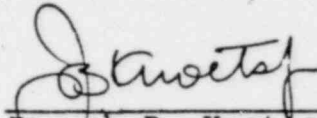
Our objection at this point is that the only questions pending before the Commission are whether or not to grant review and, if so, on what issues. The approach of the SCCSC is to bypass that threshold matter and address the merits.^{2/} SCCSC seeks affirmance of the Licensing Board and (by necessary implication) reversal of the Appeal Board on grounds having to do with the alleged impropriety of an Appeal Board making its own assessment of the factors governing late intervention, apparently even to ascertain whether the Licensing Board exceeded its discretion.

Suffice it to say that the statement of SCCSC adds nothing of substance or of aid to the Commission in determining whether or not to grant a petition for review. In the event that review is granted (which we think it should not be -- see our opposition of June 26, 1981 to FUA's petition for review), then we would have no objection to the receipt of the statement submitted by SCCSC as an amicus statement, provided that in such event any issues set down for briefing by the Commission pursuant

^{2/} While we note in passing that the argument offered in the SCCSC statement is neither internally consistent nor persuasive, our objection is that the statement does not squarely address the question whether review is warranted, except inferentially in that it argues for a different result and predictably sees the decision of the Licensing Board as better squaring with earlier rulings on intervention than does its reading of ALAB-642.

to 10 C.F.R. §2.786(d)(6) were to include the matters addressed in the statement.

Respectfully submitted,



Joseph B. Knotts, Jr.

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Counsel for Applicants

Date: July 28, 1981

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

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SOUTH CAROLINA ELECTRIC AND
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Docket No. 50-395-OL

CERTIFICATE OF SERVICE

I hereby certify that copies of "Applicant's Response to South Carolina Chapter of the Sierra Club's Request for Leave to File Statement in Support of Fairfield United Action's Appeal" in the above captioned matters, were served upon the following persons by deposit in the United States mail, first class postage prepaid this 28th day of July, 1981. Hand delivery was accomplished to those names marked with an asterisk.

* Chairman Paladino
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Washington, D.C. 20555

* Commissioner Gilinsky
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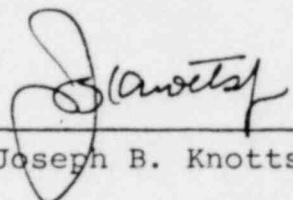
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