

UNITED STATES COURT OF APPEALS  
FOR THE THIRD CIRCUIT

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NEW JERSEY ENVIRONMENTAL	)	
FEDERATION; SIERRA CLUB; NUCLEAR	)	
INFORMATION AND RESOURCE SERVICE;	)	
NEW JERSEY PUBLIC INTEREST RESEARCH	)	
GROUP; GRANDMOTHERS, MOTHERS and	)	No. _____
MORE for ENERGY SAFETY	)	
	)	
Petitioners;	)	
	)	
v.	)	
	)	
UNITED STATES NUCLEAR REGULATORY	)	
COMMISSION and the UNITED STATES	)	
OF AMERICA,	)	
	)	
Respondents	)	

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**PETITION FOR REVIEW**

Pursuant to F.R.A.P. 15 and 28 U.S.C. § 2342-2344, Petitioners, New Jersey Environmental Federation; Sierra Club; Nuclear Information and Resource Service; New Jersey Public Interest Research Group; and Grandmothers, Mothers and More for Energy Safety hereby petition the Court for review of the decision by the U.S. Nuclear Regulatory Commission (“NRC” or “Commission”) to renew the operating license for the Oyster Creek Nuclear Generating Station (“Oyster Creek”) in Lacey Township, New Jersey and a number of prior interlocutory decisions (the “Decisions”).

More specifically, the decisions Petitioners are asking this court to review are:

— In the Matter of AmerGen Energy Co, LLC (License Renewal for Oyster Creek Nuclear Generating Station), CLI-09-07, Memorandum and Order, dated April 1, 2009 (the “Final Decision”)

— In the Matter of AmerGen Energy Co, LLC (License Renewal for Oyster Creek Nuclear Generating Station), CLI-08-23, Memorandum and Order, dated October 6, 2008 (the “Supervision Decision”)

— In the Matter of AmerGen Energy Co, LLC (License Renewal for Oyster Creek Nuclear Generating Station), CLI-08-28, Memorandum and Order, dated November 6, 2008 (the “Metal Fatigue Decision”).

These decisions are provided in Attachment 1.

Petitioners contend that, in granting the license renewal to Oyster Creek, the Commission violated the Atomic Energy Act (“AEA”), the Administrative Procedure Act, and its own regulations. For example, although the Commission recognized that further review of the strength of the containment system was necessary before it could make the safety findings required by the AEA and the Commission’s own regulations, it nonetheless approved the issuance of a renewed license to operate. This need for further analysis was caused by the Commission’s failure to require the applicant to carry its burden of showing that all the safety requirements are met and will continue to be met for another 20 years.

In addition, the Commission failed to offer Petitioners an opportunity to obtain a hearing on the issue of how many measurements are required to show that the containment at Oyster Creek meets the Commission’s safety requirements with reasonable certainty. The decisions that Petitioners are asking this Court to review were

also unreasonable, unsupported by the record, and otherwise arbitrary and capricious. For example, even though the record generated by the hearing regarding the required frequency of measurements was insufficient and events after the hearing showed that the testimony that the Atomic Safety and Licensing Board (the "Board") relied upon was "optimistic, at best," the Commission based its decision on the insufficient and unsound record made before the Board. Furthermore, even though the Commission knew that the safety reviews carried out at Oyster Creek and other plants were at best very poorly documented, it failed to remedy this situation. Therefore, Petitioners seek review and reversal of the decisions that they are asking this Court to review.

Respectfully submitted,

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