

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION
ATOMIC SAFETY AND LICENSING BOARD

Before Administrative Judges:

Michael M. Gibson, Chairman
Dr. Gary S. Arnold
Dr. Randall J. Charbeneau

In the Matter of

NUCLEAR INNOVATION NORTH AMERICA
LLC

(South Texas Project Units 3 and 4)

Docket Nos. 52-12-COL and 52-13-COL

ASLBP No. 09-885-08-COL-BD01

January 9, 2013

ORDER

(Holding Motion to Proceed to Hearing in Abeyance)

Applicant Nuclear Innovation North America, LLC has filed a Motion to Proceed with a Hearing on Contention FC-1 (Motion to Proceed).¹ Applicant argues that continuing delays by the Nuclear Regulatory Commission (NRC) Staff in completing its review of the foreign ownership, control, and domination (FOCD) issues that are at the heart of Contention FC-1 warrant an order by this Board setting a date for hearing on the contention, regardless of the Staff's completion of its review. On January 4, 2013, the NRC Staff and Intervenors filed answers opposing the motion.²

¹ NINA's Motion to Proceed with a Hearing on Contention FC-1 (Dec. 21, 2012).

² NRC Staff's Answer to NINA's Motion to Proceed with a Hearing on Contention FC-1 (Jan. 4, 2013); Intervenors' Response to NINA's Motion to Proceed with a Hearing on Contention FC-1 (Jan. 4, 2013).

Concurrently, on January 2, 2013, the NRC Staff filed its most recent Monthly Status Report, in which it states that “the NRC staff expects to issue a schedule this month for resolving FOCD issues” (Staff FOCD Schedule).³

In light of the forthcoming Staff FOCD Schedule, the Board will hold Applicant’s motion in abeyance pending the release of the Staff FOCD Schedule. Within ten (10) days following the filing of the Staff FOCD Schedule, Applicant shall file a supplement to the Motion to Proceed detailing the impact, if any, of the Staff FOCD Schedule on the Motion to Proceed.⁴ The Staff and Intervenors will then have five (5) days within which to file a supplemental response if they so choose.

If the Staff FOCD schedule is not filed by January 31, 2013, the Board will proceed to rule on the motion without further briefing.

It is so ORDERED.

FOR THE ATOMIC SAFETY
AND LICENSING BOARD

/RA/

Michael M. Gibson, Chairman
ADMINISTRATIVE JUDGE

Rockville, Maryland
January 9, 2013

³ NRC Staff Status Report Update (Jan. 2, 2013).

⁴ To the extent that the parties dispute the timeliness of Applicant’s December 21 Motion to Proceed, the Board will consider that motion as timely following the issuance of the Staff FOCD Schedule and Applicant’s supplement to its Motion to Proceed.

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

In the Matter of)
)
NUCLEAR INNOVATION NORTH AMERICA LLC) Docket Nos. 52-012-COL and 52-013-COL
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)
(South Texas Project, Units 3 and 4))
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CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing **ORDER (Holding Motion to Proceed to Hearing in Abeyance)** have been served upon the following persons by the Electronic Information Exchange.

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Docket Nos. 52-012-COL and 52-013-COL

ORDER (Holding Motion to Proceed to Hearing in Abeyance)

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[Original signed by Herald M. Speiser ____]
Office of the Secretary of the Commission

Dated at Rockville, Maryland
this 9th day of January, 2013