

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

Before Administrative Judges:

E. Roy Hawkens, Chairman
Dr. Anthony J. Baratta
Dr. Gary S. Arnold

In the Matter of

SOUTHERN CALIFORNIA EDISON CO.

(San Onofre Nuclear Generating Station, Units
2 and 3)

Docket Nos. 50-361-CAL, 50-362-CAL

ASLBP No. 13-924-01-CAL-BD01

March 12, 2013

ORDER

(Format for Oral Argument)

As stated in our previous Order,¹ on Friday, March 22, 2013, this Licensing Board will hear oral argument on the issues referred by the Commission in CLI-12-20 from:

(1) counsel for Friends of the Earth (Petitioner); (2) counsel for Southern California Edison Company (SCE); and (3) counsel for the NRC Staff.²

The proceeding will be held in the Atomic Safety and Licensing Board Panel's (ASLBP's) Rockville Hearing Room, located on the third floor of Two White Flint North, 11555 Rockville Pike, Rockville, Maryland. The proceeding will commence at 10:00 AM Eastern Standard Time (EST). If we do not finish prior to lunch, we will break at an

¹ See Licensing Board Order (Setting Oral Argument) (Feb. 22, 2013) at 2 (unpublished) [hereinafter Setting Oral Argument Order].

² In CLI-12-20, the Commission referred to the ASLBP the following two issues, which arose from the June 18, 2012 intervention petition filed by Petitioner challenging a Confirmatory Action Letter (CAL) issued by the NRC to SCE on March 27, 2012: (1) whether the CAL constitutes a de facto license amendment that is subject to a hearing opportunity, and if yes, (2) whether Petitioner's hearing request meets the agency's standing and contention admissibility requirements. See Southern Cal. Edison Co. (San Onofre Nuclear Generating Station, Units 2 and 3), CLI-12-20, 76 NRC ___, ___ slip op. at 5 (Nov. 8, 2012).

appropriate time for lunch, resume in the afternoon, and continue until finished.

For the benefit of the public, this oral argument will be webcast live on the following link, <http://www.visualwebcaster.com/event.asp?id=92668>. The webcast will be recorded and will remain accessible for viewing at that link for ninety (90) days after the argument.

The oral argument will proceed as follows. The Board will hear, in the following order, from (1) Petitioner, (2) SCE, and (3) the NRC Staff. The Board anticipates hearing from each party for about 45 minutes. Each party may, if it elects, start its argument with a 5-minute opening statement. Petitioner may, if it elects, provide a final rebuttal argument not to exceed 5 minutes.

The parties should be aware that the Board is familiar with the arguments in their briefs. The principal purpose of this argument is not for the parties simply to repeat those arguments; rather, the purpose of this argument is to enable the Board to ask questions about the parties' positions. The Board will permit a party to argue for more than 45 minutes if the Board determines that additional time is necessary for the Board to fully understand a party's position. Conversely, if the Board concludes that it fully understands a party's position in less than 45 minutes, the Board will hear from the next party, with the understanding that the Board may subsequently return to a party with a follow-up question.

Although the parties should be prepared to answer questions relating to all matters in their pleadings, they should expect questioning on the following topics:

(1) Taking into account the language in CLI-12-20, the fact that the CAL is an evolving process, and relevant precedent, whether this Board should limit its review to the four corners of the March 27, 2012 letter to resolve the de facto license amendment issue referred by the Commission.

(2) Assuming arguendo that the scope of the de facto license amendment issue requires this Board to look beyond the March 27, 2012 letter and to consider whether SCE's start-up plan, if authorized, would

constitute a de facto license amendment, do the standards in 10 C.F.R. § 50.59 provide relevant guidance for this Board in resolving that issue.

(3) Assuming the standards in 10 C.F.R. § 50.59 provide relevant guidance for this Board in resolving the de facto license amendment issue, whether the information in SCE's October 3, 2012 Unit 2 "Start-Up Letter," including its enclosures, satisfies any of section 50.59 criteria that mandate a license amendment. Also, please be prepared to address provisions in (i) the FSAR, (ii) Technical Specifications, and (iii) responses to RALs that may be relevant to the de facto license amendment issue.

We anticipate that a short portion of this oral argument will address proprietary information. If that occurs, in accordance with the governing Protective Order, only individuals who have signed Non-Disclosure Agreements or are otherwise authorized to have access to proprietary information may be in the Hearing Room during that discussion.³ This portion of the argument -- which will be closed and will not be webcast -- will take place after the non-proprietary segment of this proceeding that is described above. To ensure protection of the proprietary information, each party will -- no later than March 19, 2013 -- provide via email a list to the other parties (and to the Board's Law Clerk, Ms. Onika Williams) of individuals associated with that party who are authorized to remain in the Hearing Room during the discussion of proprietary information. Counsel for the parties will collectively take responsibility to ensure that no unauthorized person remains in the Hearing Room during the closed session.

As indicated in our February 22, 2013 Order setting this oral argument, members of the public and representatives of the media are welcome to attend the non-proprietary portion of this oral argument. See Setting Oral Argument Order at 2. Because security screening measures are employed at the entrance of the NRC Building, individuals who

³ See Licensing Board Order (Granting Joint Motion for Entry of a Protective Order and Non-Disclosure Agreement) (Dec. 10, 2012) (unpublished).

are attending may wish to arrive early. Signs, banners, posters, and displays are prohibited in the Hearing Room in accordance with NRC policy. See id.

It is so ORDERED.

FOR THE ATOMIC SAFETY
AND LICENSING BOARD
/RA/

E. Roy Hawkens, Chairman
ADMINISTRATIVE JUDGE

Issued at Rockville, Maryland
this 12th day of March 2013.

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

In the Matter of)
)
SOUTHERN CALIFORNIA EDISON CO.)
)
) Docket Nos. 50-361-CAL
(San Onofre Nuclear Generating Station -) 50-362-CAL
Units 2 and 3))

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing **ORDER (Format for Oral Argument)** have been served upon the following persons by Electronic Information Exchange and by electronic mail as indicated by an asterisk*.

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San Onofre Nuclear Generating Station, Units 2 and 3, Docket Nos. 50-361 and 50-362-CAL
ORDER (Format for Oral Argument)

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Dated at Rockville, Maryland
this 12th day of March, 2013

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