

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

In the Matter of)
CAROLINA POWER AND LIGHT COMPANY)
(H. B. Robinson Steam Electric)
Plant, Unit No. 2))

Docket No. 50-261

PETITION FOR HEARING ON ORDER
MODIFYING LICENSE

Pursuant to 10 CFR §2.204 CAROLINA POWER & LIGHT COMPANY ("CP&L" or "Licensee") hereby requests a hearing for the purpose of reviewing the terms and conditions of the Order for Modification of License for the H. B. Robinson Steam Electric Plant Unit No. 2 dated October 24, 1980, as said Order has been expanded and modified by the Office of Nuclear Reactor Regulation Safety Evaluation Report ("SER") pertaining to the environmental qualification of safety-related electrical equipment which was transmitted to Licensee by letter dated May 21, 1981 and received on May 26, 1981. The issues raised for consideration are (1) whether Licensee is required to comply with the SER, and, if so, whether the SER properly interprets and applies the DOR guidelines referenced in the October 24, 1980 Order and (2) whether all safety-related electrical equipment should be qualified by June 30, 1982 as required by Section IV of the October 24, 1980 Order for Modification and the SER letter of transmittal:

I.
Background

The events leading up to the issuance of the October 24, 1980 Order for Modification are succinctly summarized in the Order as follows:

On November 4, 1977, the Union of Concerned Scientists (UCS) filed with the Commission a "Petition for Emergency and Remedial Relief." The petition sought action in two areas: fire protection for electrical cables, and environmental qualification of electrical components.

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By Memorandum and Order dated April 13, 1978 (7 NRC 400), the Commission denied certain aspects of the petition and, with respect to other aspects, ordered the NRC staff to take several related actions. UCS filed a Petition for Reconsideration on May 2, 1978. By Memorandum and Order, dated May 23, 1980 [11 NRC 707 (1980)], the Commission reaffirmed its April 13, 1978 decision regarding the possible shutdown of operating reactors. However, the Commission's May 23, 1980 decision directed licensees and the NRC staff to undertake certain actions.

With respect to environmental qualification of safety-related electrical equipment, the Commission determined that the provisions of the two staff documents - the Division of Operating Reactors "Guidelines for Evaluating Environmental Qualification of Class IE Electrical Equipment in Operating Reactors" (DOR Guidelines) and NUREG-0588, "Interim Staff Position on Environmental Qualification of Safety-Related Electrical Equipment," December 1979... "form the requirements which licensees and applicants must meet in order to satisfy those aspects of 10 CFR 50, Appendix A General Design Criterion (GDC-4), which relate to environmental qualifications of safety-related electrical equipment." The Commission directed, for replacement parts in operating plants, "unless there are sound reasons to the contrary, the 1974 standard in NUREG-0588 will apply." The Commission also directed the staff to complete its review of the information sought from licensees by Bulletin 79-01B... and to complete its review of environmental qualification of safety-related electrical equipment in all operating plants, including the publication of Safety Evaluation Reports, by February 1, 1981. The Commission imposed a deadline that, "by no later than June 30, 1982 all safety-related electrical equipment in all operating plants shall be qualified to the DOR Guidelines or NUREG-0588." [At 1-2; emphasis added, footnote omitted].

By way of implementing the Commission's May 23, 1980 Order to the Staff--it has no direct applicability to Licensees--the October 24th Order for Modification required CP&L no later than June 30, 1982 to qualify all safety-related electrical equipment to the standards in the Division of Operating Reactors Guidelines for Evaluating Environmental Qualification of Class IE Electrical Equipment in Operating Reactors ("DOR Guidelines") or NUREG-0588, Interim Staff Position on Environmental Qualification of Safety-Related Electrical Equipment (December 1979) ("NUREG-0588"). It is clear that only the DOR Guidelines apply to

operating plants. The two exceptions are replacement equipment and equipment which does not meet DOR Guidelines. In those two situations NUREG-0588 must be followed. It is also clear that timely issuance of the SER was, and is, an integral and essential part of the over-all regulatory scheme contemplated by the Commission in its May 23, 1980 Order to the Staff. See 11 NRC 714-15.

II.

Licensee Has Right to a Hearing After Issuance of the SER but Prior to Modification of Equipment

A quick reading of the Commission's May 23, 1980 Order shows that standards for the environmental qualification of electrical equipment are in a state of flux and subject to change. See 11 NRC 711-12. In light of this, the Commission sought in its Order to accomplish three things. First, it sought to force the gathering of necessary data to permit a complete Staff review of the status of the environmental qualification of electrical equipment at each operating plant. Second, it sought to force the Staff to complete by an early date its plant by plant evaluation, which the Commission obviously believed was taking too long. Third, it sought to force Licensees to expeditiously correct deficiencies identified in the Staff SER. These are sequential steps designed to lead to early assurance of full qualification of essential electrical equipment. If modifications were intended by the Commission to be made before the Staff review was completed, there of course would have been no urgency or need for setting a February 1, 1981 deadline for the completion of SER's.

While there was opportunity for requesting a hearing at the time the October 24 Order for Modification was issued, it was not possible at that time to identify all issues in dispute since the full Staff requirements could not be ascertained until the SER had been issued.¹ Moreover, until the Staff position became

¹Indeed, CP&L understands that the few Licensees who did request hearings at the time the October 24, 1980 Order for Modification was issued have been told to wait until 30 days after the SER is issued and to renew the request at that time.

known it was not possible to ascertain whether necessary modifications could be made by June 30, 1982. Consequently, a hearing prior at least to ascertaining the Staff's initial position² would be without substance or meaning. It follows, therefore, that an opportunity for hearing must be made available after the publication of the SER and prior to the time significant expenditures to achieve compliance by June 30, 1982 are required (assuming, for the sake of argument, that compliance is physically possible by that date, which may not be the case).

III.

The SER Modifies and Expands the October 24 Order for Modification and Raises Material Issues which Require Hearing and Review

There are serious questions surrounding the validity of the conclusions reached in the SER. If it accurately reflects the intent of the October 24, 1980 Order for Modification, it greatly expands the scope of the requirements beyond those which reasonably could be assumed from a mere reading of the Order and the DOR guidelines. Among other things,

1. The SER requires that equipment be qualified to a different, and more conservative, maximum temperature than required by the DOR guidelines. The effect of this is to change the FSAR plant design basis without specific justification or a showing of necessity.
2. The SER requires that certain important calculations be based on guidance found in NUREG-0588 even though

²In fact, the most appropriate time for hearing may be following the Staff's review of the additional response it has required Licensee to submit within 90 days from the date of receipt of the SER. However, due to the lateness of the Staff's SER for Robinson (which was to have been available by February 1, 1981) postponing a hearing on the reasonableness and necessity of the June 30, 1982 final compliance date seriously prejudices Licensee.

NUREG-0588 is not applicable to operating plants except where equipment does not comply with the DOR guidance or where equipment is being replaced.

3. The SER totally ignores critical information previously supplied to the Staff and asserts, without explanation sufficient for formulating any corrective action, that as many as 38 items of equipment require additional information and/or corrective action. In most instances complete information has already been supplied and it is impossible to determine in what respect the Staff has found it insufficient.

4. The SER transmittal letter asserts that the Licensee is responsible for assuring "that the qualification deadline is met for all safety-related equipment" and that "Staff review of [Licensee's] response to the SER should not delay any action which is required in order to meet the deadline." The SER, however, is to a large extent in the nature of a request for information, much of which has been supplied already but not reviewed, rather than the definitive description of the corrective action required to be completed by June 30, 1982 which the Commission's May 23, 1980 Order contemplated. The SER, therefore, vastly expands the scope of the October 24, 1980 Order for Modification by expecting corrective action to precede definitive Staff guidance.

Under the circumstances, and in view of the confusion which prevails, a hearing is absolutely necessary in order to determine precisely what is now required by the October 24, 1980 Order for Modification and to determine

the earliest date compliance can reasonably be required.

IV.
Conclusion

Because new and material issues of fact, law and discretion have been raised by the issuance of the Staff SER for H. B. Robinson Unit No. 2, CP&L is entitled to a hearing as a matter of right pursuant to 10 CFR §2.204. CP&L is further entitled to a hearing as a matter of administrative due process in order to obtain declaratory relief and to test the reasonableness of the June 30, 1982 compliance deadline in light of the belated, incomplete, and imprecise SER, since the Commission clearly contemplated that a detailed SER would be available to Licensee for definitive guidance prior to taking corrective action.

Finally, and in the alternative, Licensee respectfully prays for leave to file a late request for hearing on the original issuance of the October 24 Order for Modification based on good cause shown and the changed circumstances occasioned by the untimely and incomplete nature of the SER.

Respectfully submitted,

CAROLINA POWER & LIGHT COMPANY

By: Richard E. Jones
Richard E. Jones
Associate General Counsel
Post Office Box 1551
Raleigh, North Carolina 27602
Telephone: 919/836-6517

Dated this 17th day of June, 1981.