

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION



In the Matter of: )  
SACRAMENTO MUNICIPAL UTILITY DISTRICT ) Docket No. 50-312  
Rancho Seco Nuclear Generating Station )

STATEMENT OF SACRAMENTO MUNICIPAL  
UTILITY DISTRICT ON REVISED CON-  
TENTIONS PRESENTED BY PETITIONERS  
FRIENDS OF THE EARTH, ENVIRONMENTAL  
COUNCIL OF SACRAMENTO, AND ORIGINAL  
SMUD RATEPAYERS ASSOCIATION.

As directed by the Board, the parties met among themselves on the afternoon of the prehearing conference and endeavored to reach agreement on a stipulation relating to the issues. After extensive discussion it appeared (A) that there was a basic disagreement among the parties as to whether the revised contentions filed on behalf of Friends of the Earth, Environmental Council of Sacramento, and Original SMUD Ratepayers Association set forth appropriate issues, and (B) that both petitioner Hursh and the California Energy Commission wished to amend their previous filings. It was therefore agreed that petitioner Hursh and the California Energy Commission would prepare their amended filings as quickly as practical and that the staff and the licensee would file statements advising the Board which of the contentions tendered by petitioners and the Commission they will stipulate are proper and which contentions they believe

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are improperly framed or are outside the Board's jurisdiction.

As time is short, and as the amended filings which petitioner Hursh and the Energy Commission are preparing are not yet available to us, we are filing this statement to set forth our position on each of the revised contentions of Friends of the Earth, the Environmental Council of Sacramento, and Original SMUD Ratepayers Association. We will file similar statements relating to the contentions of petitioners Hursh and the Energy Commission as soon as those revised contentions are made available to us.

Contention No. I: The fundamental purpose of this proceeding and of this Board is a determination of whether the terms and conditions of the various orders of the Nuclear Regulatory Commission relating to the Rancho Seco Nuclear Generating Station are sufficient to reasonably assure the safe operation of that facility and the safety of the public generally.

SMUD's position on Contention I: The statement made by petitioners does not satisfy the requirement in Section 2.714(b) of the rules of practice that "the basis for each contention [be] set forth with reasonable specificity." It does not even specify what "orders" of the Nuclear Regulatory Commission petitioners have in mind. "It is conclusional and fails to provide the necessary specificity and factual basis as required by Section 2.714."

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In the Matter of Offshore Power Systems, 6 NRC 249,250 (1977); Tennessee Valley Authority, 3 NRC 209, 212 (1976).

It is less specific than any of the three issues set forth in the Commission's June 21 Order, whereas the purpose of the Board's July 3 Order was obviously to require petitioners to set forth, with specificity, contentions lying within the scope of those three broad issues.

SMUD does not agree that Contention I is a proper contention.

Contention No. II: In order to determine whether the actions required by subparagraphs (a) through (e) of Section IV of the Order of May 7, 1979 are necessary and sufficient to assure public safety, the Board must consider (1) technically feasible actions known to but not taken by the Commission, including a shut-down order until the long term modifications are accomplished; (2) information made available subsequent to the May 7 Order as a result of the TMI-2 investigation, including but not limited to all possible safety measures identified in NU REG-0 0 and NU REG-0578 but not specified in the May 7 Order; (3) the items specified in part III, subparagraphs (a) through (e), inclusive, hereof.

SMUD's position on Contention II: In form, this is neither a contention nor a proposed issue; instead it is a list

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of items which petitioners wish the Board to consider, presumably as evidence. Moreover, the statement that the Board must consider "technically feasible actions known to but not taken by the Commission" lacks the specificity required by Section 2.714. The same is true of the statement that the Board must consider "all possible safety measures identified in NUREG-0560 and NUREG-0578." In In the Matter of Gulf States Utilities Company, 6 NRC 770, 772 (1977), it was held that "in order to introduce a new issue into a proceeding, a party ... must do more than present what amounts to a check list of items contained in the TSAR or in regulatory guides" and that the licensing board properly imposed a nexus requirement. While the NUREGs to which petitioners refer are not precisely the same type of document as those referred to in the Gulf States decision, we think it reasonable that petitioners be required to identify each "safety measure" to which they refer and to allege facts to indicate that each such safety measure would be appropriate for the particular facility involved in this proceeding. We point out that some of the recommendations in NUREG-0578 relate to boiling water reactors (Section 2.1.5(b)) and that others relate to Westinghouse and Combustion Engineering designs. (Section 2.1.7).

SMUD does not agree that Contention II is a proper contention.

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Contention No. III(a): The NRC orders fail to evaluate or comment upon the acceptability of 27 feedwater transients over the past year in nine Babcock and Wilcox reactors, a frequency which is 50 percent greater than the corresponding rate for other pressurized reactors.

SMUD's position on Contention III(a): In form, this is neither a contention nor an issue. It is merely a statement that the NRC orders of May 7, 1979, and June 21, 1979, fail to evaluate or comment upon certain data. It tenders no issue for this Board to decide.

SMUD does not agree that Contention III(a) is a proper contention.

Contention No. III(b): The Order of June 21, 1979 establishing this Board and giving it the function of determining the adequacy from a safety standpoint of the various provisions in the May 7 Order is an implicit recognition of possible safety problems; therefore, the two Orders, taken together, are deficient, or, in the alternative, the jurisdiction of this Board is unduly limited, in that no consideration is given to emergency response and evacuation planning.

SMUD's position on Contention III(b): This is neither a contention nor an issue. It is an allegation that the two NRC Orders, taken together, are deficient or that the jurisdiction of this Board is unduly limited. It

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tenders no issue for this Board to decide.

SMUD does not agree that this is a proper contention.

Contention No. III(c): There is no reasonable time table for implementation of the long-term modifications established in the orders for subsequently identified long-term modifications.

SMUD's position on Contention III(c): To the extent that this is a contention that a reasonable time table should be established for implementation of the long-term modifications specified in the Commission's May 7 Order, it appears to be virtually identical to Issue 2 in the Commission's June 21 Order. We will stipulate that the following is a proper contention: Petitioners contend that a reasonable time table should be established for implementation of the long-term modifications specified in the Commission's May 7 Order.

We do not understand the reference to "subsequently identified long-term modifications." It has occurred to us that there may be a typing error in the contention and that petitioners may have intended the final phrase to read "or for subsequently identified long-term modifications." If so, our comment is that we should think the Board would be reluctant to issue an order relating to the implementation of modifications which have not yet been identified. We believe a contention that the

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Board issue such an order would be "barren and unfocused" and would not have the "factual bases ... required by Section 2.714." In the Matter of Offshore Power Systems, 6 NRC 249, 250-251 (1977).

If petitioners seek to contend that the Board should issue an order relating to as yet unidentified long-term modifications, SMUD does not agree that this is a proper contention.

Contention No. III(d): No procedures have been taken to assure facility management competence.

SMUD's position on Contention III(d): The discussion at the public meeting of the Commission on July 11 shows that the Commission did not intend to preclude the Board from considering this issue. However, the discussion also shows that there is nothing presently before the Commission to indicate that management competence and control is a problem at Rancho Seco. Under the circumstances, we suggest that the Board ask the petitioners to set forth with specificity facts showing that there is a problem before deciding whether to consider this as an issue. Contentions which are "conclusional, unspecific, and are not supported by factual bases" are inadmissible. In the Matter of Offshore Power Systems, 6 NRC 249, 256 (1977).

SMUD does not agree that Contention III(d) is a proper contention in its present form.

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Contention No. III(e): No procedures for the determination of the adequacy of operator competence.

SMUD's position on Contention III(e): It is obvious that the statement made by petitioners is incorrect since SMUD's operators must be licensed by the Commission and the licensing process constitutes a "procedure for the determination of operator competence." If petitioners believe that the operators at Rancho Seco are not competent, they should make such an allegation with the specificity required by Section 2.714 of the rules of practice and support that conclusionary allegation with "factual bases", as required by the Board in In the Matter of Offshore Power Systems, 6 NRC 249, 256 (1977).

SMUD does not agree that Contention III(e) is a proper contention in its present form.

Dated: August 16, 1979

Respectfully submitted,

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UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matter of )  
SACRAMENTO MUNICIPAL UTILITY )  
DISTRICT )  
 ) Docket No. 50-312  
Rancho Seco Nuclear Generating )  
Station )  
 )

CERTIFICATE OF SERVICE

I hereby certify that copies of the following document:

Statement of Sacramento Municipal Utility District  
on Revised Contentions Presented by Petitioners  
Friends of the Earth, Environmental Council of  
Sacramento, and Original SMUD Ratepayers Association.

in the above captioned proceeding have been served on the following  
by deposit in the United States mail, first class, on this  
16th day of August 1979 :

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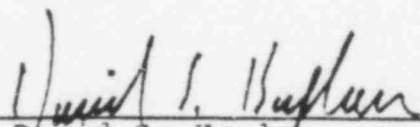
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