

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD



In the Matter of:

SACRAMENTO MUNICIPAL UTILITY DISTRICT  
(Rancho Seco Nuclear Generating  
Station)

Docket No. 50-312

Motion of the California Energy Commission for Leave to Reply  
to the "Response of Sacramento Municipal Utility District to  
Revised Statement of Issues of Concern to the  
California Energy Commission"

The California Energy Commission has received the August 17, 1979  
Response of the Sacramento Municipal Utility District ("SMUD") to the Revised  
Statement of Issues of Concern, filed by the California Energy Commission,  
and respectfully moves for leave to file the following reply to SMUD's  
response. We seek this leave to clarify certain issues and to respond to  
certain assertions made in the SMUD filing. <sup>\*/</sup>

Issues 1 and 2. SMUD objects to these issues on the ground of  
lack of specificity. These issues raise the question whether the short-term  
and long-term measures identified in the May 7, 1979 NRC Order are sufficient  
to ensure that the facility can respond safely to feedwater transients. The

\*/ We will not reply at length to SMUD's apparent assertion that the  
California Energy Commission, as an interested state, must file "contentions."  
That clearly is incorrect under 10 C.F.R. §2.715(c) and Appeal Board decisions.  
See, e.g., Gulf States Utilities Co., 6 NRC 760 (1977).

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Energy Commission has identified a number of additional measures which might also have been required for the Rancho Seco facility, thus giving participants specific information regarding areas of inquiry into the sufficiency of the short-term and long-term solutions already adopted by SMUD. These measures are directly related to safe operation of the Rancho Seco facility since each deals with problems associated with Babcock and Wilcox nuclear generating plants. We submit that Issues 1 and 2 clearly are adequate to apprise all parties with sufficient specificity to permit adjudication. <sup>\*/</sup>

Issue 3. SMUD agrees that this issue is proper for adjudication except for the last four words: "and other unexpected events." The Energy Commission agrees to deletion of those words but reserves the right to amend this issue if subsequent information (particularly related to Three Mile Island) reveals other events within the scope of this proceeding which should be addressed.

SMUD also objects on various grounds to the fifth through seventh subissues listed under Issue 3. With respect to subissues 5 and 6, SMUD objects because we allegedly assume facts regarding facility design without alleging facts to support the assumptions. We believe that the investigations and remedial measures taken since Three Mile Island adequately support these "assumptions." It will be appropriate to introduce evidence on these matters, however. With respect to subissue 7, the references to NUREG-0560 and NUREG-0578 are adequately specific since those references clearly relate to a Babcock and Wilcox reactor of similar design to Rancho Seco.

\*/ On August 24, 1979, the Energy Commission and the NRC staff met and agreed to hold discussions in the near future regarding these and other issues. These discussions, which we hope SMUD and other parties will attend, should clarify any items which SMUD alleges it does not fully understand.

Issue 4. This issue concerns the facility's emergency response plans in the event of an accident triggered by a feedwater transient. SMUD objects to this issue only as being outside of the scope of the Board's jurisdiction. We address that issue in our separate brief on the Board's jurisdiction.

Issue 5. This issue concerns additional mitigation measures which might be required so that the facility will respond safely to accidents triggered by a feedwater transient. To the extent that SMUD alleges this issue is outside the scope of the Board's jurisdiction, our response is the same as to Issue 4. With respect to the alleged lack of specificity, we note that this is merely a bald assertion by SMUD which fails, in any way, to identify what information it lacks in order to litigate this issue. Finally, an interested state is not required to allege that these specific hazards which were present at Three Mile Island also exist at Rancho Seco. This proceeding is a proper forum to inquire into that issue.

Issue 6. This issue questions whether the facility should be required to operate at less than full rated capacity, a measure which would increase response time in the event of feedwater transients. To the extent SMUD alleges that this issue is outside the scope of this Board's jurisdiction, our response is the same as to Issue 4. With respect to specificity, SMUD's argument is not that the issue is vague or that SMUD is confused over the meaning of this issue. Instead, SMUD urges this Board to reject this legitimate issue because the Energy Commission has not expressed a position on it, together with facts supporting our position. Section 2.715(c) makes

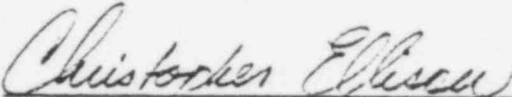
clear that an interested state is not required to take a position on issues, much less present supporting evidence before such issues can be accepted by the Board.

Moreover, SMUD also urges this Board not to consider this issue "until and unless it determines that the plant cannot be operated safely at its design rating." By asking the Board to make this determination, SMUD asks it to consider Issue 6. The Energy Commission does not suggest that the Board should impose "remedies" without determining whether they are necessary. Issue 6 addresses the question of whether such a remedy is required. In sum, Issue 6 is specific and SMUD is fully aware of the matters requiring adjudication.

Issue 7. This issue questions whether safety devices required on new facilities should be required on Rancho Seco. SMUD's objection to this issue is that we failed to list the specific devices which might be required. SMUD acknowledges that it knows what those devices are and states that we could have asked them about the devices. Nevertheless, SMUD objects to this issue. The Energy Commission has not been able to prepare a complete list of those devices at this time. We hope to have such a list in the near future and will submit it to the Board as soon as it is available. In the meantime, however, SMUD clearly has not been prejudiced by an alleged lack of specificity since it acknowledges that it knows what these devices are.

Issues 8-10. The California Energy Commission agrees to withdraw these issues at this time, reserving the right to seek amendment at

a later date if subsequent information indicates that important issues in these areas should be addressed.

  
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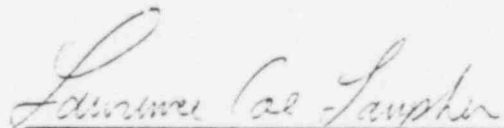
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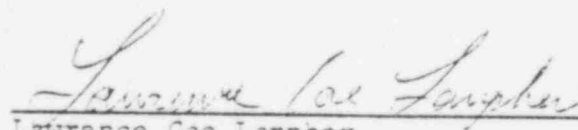
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I am and was at the time of the service of the attached paper over the age of 18 years and not a party to the proceeding involved.

I declare under penalty of perjury that the foregoing is true and correct.

  
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Lawrence Coe Lanpher