

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

ATOMIC SAFETY AND LICENSING BOARD

Marshall E. Miller, Chairman
Dr. Kenneth A. McCollom, Member
Dr. Hugh C. Paxton, Member



In the Matter of

PORTLAND GENERAL ELECTRIC COMPANY, et al.

(Trojan Nuclear Plant)

Docket No. 50-344

(Control Building)

ORDER DENYING MOTION FOR CLARIFICATION
OF TIME FOR RESPONSE TO MOTION FOR
SUMMARY DISPOSITION
(October 11, 1979)

The Licensee on September 27, 1979, filed a motion requesting the Board to clarify its Order of September 18, 1979. By that Order the motion of the State of Oregon for an extension of time in which to respond to the Licensee's motion for summary disposition of specified contentions, concurred in by the Joint Intervenor, was granted. Time was "extended to 14 days following service of the SER and completion of discovery among the parties." The Licensee seeks explicit confirmation that responses to its motion for summary disposition are due for filing no later than 14 days following service of the Staff's Safety Evaluation Report (SER). The State of Oregon and the Staff have replied that they have no objections to this motion.

The relief sought by the Licensee would amount to a modification, not a clarification, of our Order of September 27. The

time for responses to the summary disposition motion was intentionally extended to 14 days after both service of the SER, and completion of discovery reasonably related to it. As that Order noted, until the SER is actually issued and served, there can be no termination of discovery, further scheduling or other matters. For that reason, all prior orders relating to schedules were rescinded.

Because of several delays and slippage in the filing of the SER,^{1/} previously adopted schedules have necessarily been vacated. On the latest occasion the Staff attributed the continuing delay to a number of unresolved questions between the Staff and the Licensee, which the latter's written responses did not satisfactorily resolve. Weekly reports to the Board by the Staff have indicated that additional carefully-drafted questions have been submitted by the Staff,^{2/} and that further information is being and will be supplied by the Licensee.^{3/}

Although we do not question the necessity of the Staff obtaining more precise information from the Licensee concerning the proposed control building modifications, neither do we

1/ See Staff's motions for postponement dated May 21, 1979 and September 6, 1979.

2/ September 14, ten questions; September 20, six questions; September 28, seven questions; and October 2, twenty-five questions.

3/ See Licensee's letter to the Board dated October 5, 1979.

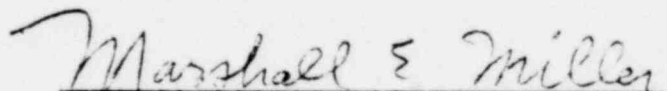
underestimate its potential significance to the Joint Intervenors. These matters have been under consideration by the Licensee and the Staff for some period of time. The original Order for Modification of License, dated May 26, 1978, recited that PG&E had indicated its intent to make appropriate modifications by June 1, 1979. The Acting Director, Office of Nuclear Reactor Regulation, determined that interim operation of the facility prior to such date should be permitted, subject to certain conditions (43 Federal Register 23768-23770, June 1, 1978). The issue of interim operation pending the Phase II evidentiary hearing on proposed modifications of the control building, was also the subject of evidence at the Phase I evidentiary hearings, held October-December, 1978.

The Joint Intervenors cannot be held responsible for whatever delays there may have been in preparing the design for control building modifications, filed January, 1979, and in developing and submitting the additional information presently required by the Staff. Even at this date that process has not been completed. We do not intend to guess or speculate as to the contents of the SER when it is filed. As indicated in the Order of September 18, 1979, we do not intend to take it on faith in establishing dates for the termination of all discovery, the filing of responses to summary disposition motions, or other scheduling matters. Any further schedules will await the actual filing of the SER.

This ruling is not meant to allow any party to be dilatory in completing discovery or preparing for the evidentiary hearing. All parties, especially the Joint Intervenors, are directed to proceed diligently with whatever discovery is presently obtainable. After the SER is filed, a schedule will be adopted which will set the termination date for discovery, especially discovery which could reasonably be triggered by the SER. Such dates will be established after consideration of the additional information requested by the Staff, as well as the SER itself.

IT IS SO ORDERED.

FOR THE ATOMIC SAFETY AND
LICENSING BOARD


Marshall E. Miller, Chairman

Dated at Bethesda, Maryland,
this 11th day of October, 1979.

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