

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE COMMISSION

THE COMMISSION:

SERVED JAN 26 1979

Joseph M. Hendrie, Chairman
Victor Gilinsky
Richard T. Kennedy
Peter A. Bradford
John F. Ahearne



In the Matter of

SOUTH CAROLINA ELECTRIC AND GAS,
et al.

(Virgil C. Summer Nuclear Station
(Unit 1))

Docket No. 50-395A

ORDER

On December 6, 1978, Central Electric Power Cooperative (Central) petitioned the Commission to make a finding of "significant changes" in licensees', South Carolina Electric and Gas (SCE&G) and South Carolina Public Service Authority (Santee Cooper), activities and proposed activities so as to initiate antitrust review prior to the grant of an operating license for the Summer facility.*

Responsive and related correspondence have subsequently been addressed to the Commission by SCE&G and Santee Cooper, as well as Central.

* Central's petition originally requested a hearing as well; however, Central withdrew the request for hearing by letter to Mr. Chalk on December 22, 1978.

The petition was properly lodged with the Commission. The Commission has never delegated its statutory authority to make the threshold determination of "significant changes" prescribed by section 105(c)(2) of the Atomic Energy Act as the condition precedent of anti-trust review at the operating license stage.

In order to make its decision on whether or not a "significant changes" determination is warranted, the Commission requires additional information. Accordingly, the Commission asks the assistance of Petitioners and Applicants in conformity with the following schedule.

Within 20 days after the issuance of this order Central should amend its petition to state more clearly the changes it believes have occurred that should cause the Commission to refer the matter to the Attorney General for his advice. The statement should include an explanation of the significance of those changes to the competitive situation.

Central's submission to us should also address the following issues.

- (1) whether the operative date for determining whether changes have transpired is the date of the Attorney General's past advice or whether any other date would be consistent with the policy underlying the statutory plan for antitrust review;
- (2) whether the Attorney General's advice anticipated the changes Central now alleges and took account of those changes in arriving at a "no hearing" recommendation; and


- (3) whether changes in the competitive structure flowing from state legislation may constitute or contribute to significant changes within the meaning of § 105(c)(2).

Within 40 days after the issuance of this order the Applicants may submit any further response they care to make.

Within 50 days after the issuance of this order the Staff is directed to file its response to the petition and position on the issues stated above. The Staff should include as well a description of any inquiry and conclusions the Staff made independently at the time of the application for the operating license with regard to whether or not "significant changes" had taken place. The Staff should also state the criteria for any decision it made in this regard.

It is so ORDERED.

FOR THE COMMISSION



Samuel J. Chalk
Secretary of the Commission

Dated at Washington, D.C.

January 26th, 1979.