

NRC PUBLIC DOCUMENT ROOM



UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matter of)	
)	
CAROLINA POWER & LIGHT COMPANY)	Docket No. 50-261
)	50-261 (OL Modification)
(H. B. Robinson, Unit No. 2))	

APPLICANT'S MOTION TO DISMISS PROCEEDING

At the conclusion of the conference call on April 24, 1979, the Board invited Applicant and the NRC Staff to file with the Board proposals for the disposition of the proceeding with respect to Applicant's request for an increase in the authorized power level of Robinson Unit No. 2.

On June 16, 1978, the Board issued a Partial Initial Decision disposing of the NEPA aspects of the requested increase in power level. There remains therefore only the question of the proper disposition of the safety aspects of the power increase.

In Applicant's view the Board's disposition of the safety aspects of the proceeding should be governed by Section 2.760a of the Commission's Rules of Practice, which provides that in operating license proceedings the Board will examine into matters not put in controversy by the parties only "in extraordinary circumstances where [the Board] determines that a serious safety, environmental, or common defense and security

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matter exists."^{1/}

On March 30, 1979, the Staff issued Supplement 2 to May 20, 1974, Safety Evaluation Report concerning the proposed increase in power level for Robinson, Unit No. 2. Supplement No. 1 to the SER was issued on July 31, 1975, following issuance of the ACRS report on the power increase. On May 2, 1979, Staff counsel also furnished to the Board certain safety evaluations supplementing the information contained in Supplement 2 to the SER.

The above documents support the Staff's conclusion that the power level of Robinson, Unit No. 2 can be safely increased to 2300 MWt. Certainly they do not, in Applicant's view, suggest "extraordinary circumstances" involving "a serious safety matter." In these circumstances, since there are no contested issues before the Board, the proceeding should be dismissed.

In the course of the April 24 conference call members of the Board alluded to the Three Mile Island accident and its possible implications for Robinson, Unit No. 2. Based upon published accounts of the accident, Applicant sees no connection between the accident and the requested increase in power level. This is, however, a matter best addressed at this time by the NRC Staff, and presumably will be encompassed by the Staff's response to the Board's question as to whether the

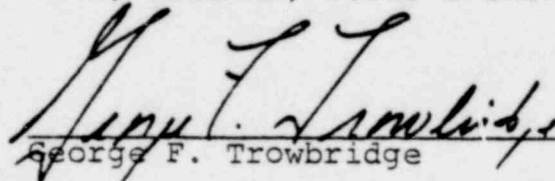
^{1/} See Applicant's Motion to Dismiss Hearing, dated December 29, 1977.

Staff is now prepared to issue a license amendment authorizing an increase in power level for Robinson, Unit No. 2.

Applicant advised the Board in the course of the April 24 conference call that the Robinson unit was expected to start up again after refueling on May 20, 1979, and that Applicant was anxious to proceed immediately to a power level of 2300 MWt. If by the time the Board receives this motion the Board has not had a response by the Staff to its question on the Staff's preparedness to issue the necessary license amendment, Applicant urges the Board to set an early date certain for such response.

Respectfully submitted,

SHAW, PITTMAN, POTTS & TROWBRIDGE


George F. Trowbridge

Dated: May 9, 1979

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CERTIFICATE OF SERVICE

I hereby certify that copies of "Applicant's Motion to Dismiss Proceeding," dated May 9, 1979, were served upon the following persons this 9th day of May, 1979. Those persons whose names are marked with an asterisk were served personally and those unmarked were served by deposit in the United States mail, postage prepaid.

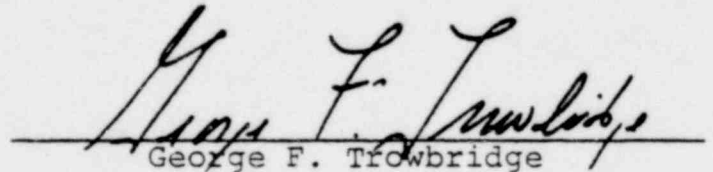
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Dated: May 9, 1979

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