

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION
ATOMIC SAFETY AND LICENSING BOARD

John F. Wolf, Chairman
Dr. Harry Foreman, Member
Dr. Martin J. Steindler, Member



SERVED

SEP 12 1980

In the Matter of)
WESTINGHOUSE ELECTRIC CORPORATION) Docket No. 70-2909
(Alabama Nuclear Fuel Fabrication)
Plant Special Material License) September 11, 1980

MEMORANDUM AND ORDER

Pursuant to an order, dated July 22, 1980, and published in the 45 Federal Register at page 50026, on July 28, 1980, a special prehearing conference was held in this matter in the Federal Building and United States Courthouse at 15 Lee Street, Montgomery, Alabama on Thursday, August 21, 1980.

Early in the prehearing conference, Mr. Aubrey V. Godwin of the State of Alabama, Department of Public Health, was recognized as the representative of Alabama as an interested State and in such capacity will be given an opportunity to participate in these proceedings subject to the conditions set forth in 10 CFR §2.715(c).^{1/}

^{1/}Tr. p. 18

DSO2
5
110

C

In accordance with that regulation, the State of Alabama is requested to indicate on or before October 21, 1980 and with reasonable specificity in advance of the hearing on merits, the subject matters in which it desires to participate.

On June 12, 1980, the Safe Energy Alliance of Central Alabama Inc. (SECA), petitioner for intervention, moved^{2/} to be relieved of the requirement of 10 CFR 2.708(d), i.e., that pleadings and documents, "other than correspondence, be filed in an original and twenty (20) conformed copies." The Staff supported the motion, but before any action could be taken, 10 CFR 2.708(d) was amended on July 21, 1980 changing the requirement to an original and two conformed copies. (45 Fed. Reg. 49537)

The motion was denied orally at the prehearing conference since it appeared that the justification for it had been eliminated by the amendment of 10 CFR 2.708(d).

In the course of the prehearing conference, the regulatory Staff's, Mr. Turk, agreed to furnish the petitioners for intervention with copies of 45 Federal Register p. 49535 et seq. relating to the amendment of regulations in order to provide a one year pilot program of procedural assistance in adjudicatory proceedings on applications for licenses and amendments to parties, other than applicant, upon a party's request.

^{2/}Tr. p. 18, 19

Any of the petitioners for intervention who are subsequently made parties will be eligible to apply to this Board for a transcript, without charge, and the copying and serving, without charge, of that party's findings of fact and conclusions of law and responses to discovery requests.

The motion of David L. Allred, petitioner for intervention, dated August 14, 1980, for a 90-day continuance of the prehearing conference was denied orally at the special prehearing conference for failure to show good cause.^{3/} That action is affirmed.

Following discussion, David L. Allred's motion dated August 5, 1980, for an extension of 90 days in which to file valid contentions and SECA's motion dated July 30, 1980 for an extension of 60 days in which to file valid contentions were denied. There was no showing of good cause for the requested delay found in either motion, accordingly, the Board denied them.^{4/} However, Mr. Allred and SECA were granted ten

^{3/} Tr. p. 20

^{4/} Tr. p. 32

days in which to file a motion requesting an extension of time in which to file additional valid contentions.

SECA and Mr. Allred on August 25, 1980 and August 29, 1980 respectively, filed motions for extensions of time in which to file additional valid contentions.

The motions are hereby granted and the petitioners will each have to and including October 1, 1980 in which to file additional contentions.

The contentions are to be based on the material which had not been examined previously by SECA and Mr. Allred. They are to be accompanied by memoranda setting forth facts showing good cause for the delayed filing as well as the bases for the contentions and their relevance to environmental issues, to public health and safety, and national defense in connection with the possible granting by the Nuclear Regulatory Commission, of a license to Westinghouse Electric Corporation to receive title to, own, acquire, deliver, receive, possess, use and transfer special nuclear material in accordance with its application. In preparing the memorandum in question, careful consideration should be given to the Nuclear Regulatory Commission's regulation 10 CFR §2.714 and the relevant sections of 10 CFR Part 70.

The Board has taken under advisement, SECA's and Mr. Allred's respective contentions both filed on August 5, 1980 and the presentations made at the prehearing in connection with them.

The Board will await the report of the result of the efforts of the Applicant, Staff and petitioners to stipulate in regard to the contentions before ruling on their admissibilities. It is understood that meetings for the purpose of stipulations regarding contentions will commence on October 7, 1980. The Applicant, the Staff, and the Petitioners for intervention are directed to file stipulations as to the admissibility of contentions and/or disagreements as to admissibility on or before October 21, 1980.

Petitioner, Mr. Allred raised a question of a possible conflict of interest regarding the Environmental Impact Statement.^{5/} Mr. Turk, of the regulatory Staff, stated on the record^{6/} that a letter stating the Staff conclusion, that there is no conflict of interest, is in preparation and will be sent to Mr. Allred "very soon". He also stated that

^{5/}Tr. p. 24

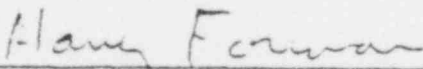
^{6/}Tr. p. 25, 164

the Staff would not oppose a new contention based on its "letter response".

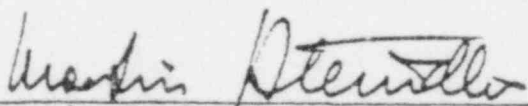
The motion dated August 25, 1980, to withdraw the individual petitions of the original petitioners: Randy Aronov, Charles O. Butler, Marilyn F. Butler, Robert H. Campbell, Sarah Draut, Robert E. Ely, John A. Johnson, Linda G. Moore, Ann Toledo and William Carroll is granted. The petitions filed by the above named individuals dated April 7, 1980 are withdrawn.

IT IS SO ORDERED.

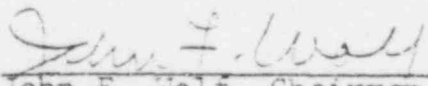
FOR THE ATOMIC SAFETY AND
LICENSING BOARD



Harry Foreman, Member



Martin J. Steindler, Member



John F. Wolf, Chairman

Dated at Bethesda, Maryland
this 11th day of September 1980.