

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matter of:

SOUTH CAROLINA ELECTRIC AND GAS)
COMPANY, et al.) Docket No. 50-395 OL
(Virgil C. Summer Nuclear)
Station, Unit 1)

APPLICANTS' STATEMENT REGARDING MATTERS
FOR CONSIDERATION AT
THIRD PREHEARING CONFERENCE

The Board has issued notices^{1/} that a third prehearing conference will be convened in the captioned matter to consider "all pending matters and further scheduling in the proceeding." The purpose of this memorandum is to set forth the Applicants' views with regard to the status of the proceeding and with regard to the scheduling of further proceedings.

As a practical matter, scheduling of the hearing sessions in this proceeding has turned on the status of NRC Staff review and the projected dates for completion of Staff review documents with respect to the issues in the proceeding.

The issues in this proceeding, as set forth in the Board's order admitting contentions (April 24, 1978), and as modified by the Board's order granting summary decision on certain conditions (April 9, 1979), are six. These are:

^{1/} Dated October 31, 1980 and November 10, 1980. The Third Prehearing Conference is to be held November 25, 1980 at 9:30 a.m. in Columbia, South Carolina.

- a. Financial qualifications (including cost of decommissioning) (Contention A-2)
- b. Whether Applicant has met Staff requirements as to probability of Anticipated Transients Without Scram (Contention A-3)
- c. Description of seismic activity in area and monitoring of seismicity ^{2/} (Contention A-4).
- d. Applicants' emergency planning preparations in areas where state and local assistance and cooperation are required. (Contention A-8).
- e. Quality control - conformance to NRC standards (Contention A-9).
- f. Health effects of reactor operation and uranium fuel cycle. (Contention A-10).

The NRC Staff has recently advised the Applicants (and we understand also, the intervenor, Mr. Bursey), that its Safety Evaluation Report is expected to be issued soon (now expected in early January, 1981). As to the contested issues, this report is expected to cover matters pertaining to ATWS and seismic considerations (including the description of the area seismic activity which is the subject matter of one of the admitted contentions). The Applicants understand that the Office of Inspection and Enforcement will perform the

^{2/} Monitoring of seismicity after reservoir filling has been accomplished, fulfilling the relief sought by, and thus mooted, this aspect of the contention.

staff review relative to the quality control contention and could be prepared to issue an appropriate staff review document on this matter in January, 1981. The Applicants further understand that a supplement to the Safety Evaluation Report regarding financial qualifications could be issued in February, 1981.^{3/} The Applicants are apprised that the Staff cannot accurately predict when it will complete its review of emergency planning considerations. According to the Staff, this review, consistent with the Commission's new emergency planning requirements, cannot be completed until the Federal Emergency Management Agency has reached a favorable finding and determination that the state and local government emergency response plans are adequate and capable of being implemented.

In other words, four of the five safety-related issues are expected to be covered in staff review documents and supplements in the period January - February 1981 and emergency plans as soon as practicable thereafter.

As to the environmental issue, i.e., health effects of operation and the fuel cycle, these matters are expected to be covered in the Final Environmental Statement which should be published in mid-February 1981. A supplement to the Draft Environmental Statement with regard to accidents, now required to be discussed in environmental statements (10 C.F.R. §51.23,

^{3/} We are advised that it is the Staff's practice, in cases where financial qualifications are a contested issue, to sequence the final financial review as late as possible in the review schedule in order to reflect the most current available information.

as amended 45 Fed. Reg. 40101, June 13, 1980) has recently been issued for comment by December 29, 1980 (45 Fed. Reg. 75 399 November 14, 1980).

Accordingly, the Staff advises that, assuming a favorable ACRS letter on contested issues, it could be ready to proceed to hearing on all issues other than emergency planning in mid to late March, 1981. The applicant will also, of course, be prepared to go to hearing on the issues in the proceeding by that date. This will require the submission of prefiled testimony on the part of Staff, Applicants and the Intervenor in early to mid-March, 1981 (i.e., at least 15 days in advance of the session of the hearing at which such testimony is to be presented, as contemplated by 10 C.F.R. §2.743(b)).

As the Board knows, Applicants would have preferred an earlier schedule for commencement of proceedings and would have been prepared to proceed to hearing on the Applicants' and Intervenors' case and then recess pending completion of Staff reviews. However, the Board's order of January 18, 1980 precluded such a bifurcated approach to the presentation of evidence. It appears that March is the earliest date acceptable to the Staff, although it would of course be possible to go to hearing on ATWS, seismic and QC matters in February, leaving financial and health effects for March, and emergency plans perhaps in April. However, the Staff is unwilling to agree to that schedule, on the theory that prolonged hearings will not be required and that it would be more efficient to consider the majority of the contentions in one continuous session.

The Applicants are presently on a construction completion and pre-operational testing schedule which should have the plant ready for fuel loading about June, 1981. It is our understanding that the NRC Staff believes that, the earliest date for fuel loading is August, 1981. Obviously, given the normal time for the conduct of proceedings, for post-hearing pleadings, and the initial decision, the schedule is a very tight one. We believe it is incumbent upon us to apprise the Board and Parties now that we expect to move for the establishment of an expedited schedule leading to an initial decision in advance of scheduled fuel loading.

Accordingly, we believe it will be important for the Parties to be prepared to advise the Board at the upcoming prehearing conference or in any event well before any hearing) who their witnesses will be,^{4/} how long any direct oral presentation is expected to take, what exhibits will be offered, about how long will be required for cross examination of adverse witnesses, what documents will be used for cross, and whether they will commit (and if not, why not) to expedited schedules for the hearing and for post-hearing briefs, such as would permit the Board the time it needs to render an initial decision.

4/ In its Memorandum and Order dated October 2, 1978, the Licensing Board ordered that the list of witnesses theretofore furnished by the intervenor was final, and also limited Mr. Bursey (for purposes of his affirmative case and cross-examination as well) to those documents produced and identified in discovery subject to the exceptions therein provided. (Memorandum and Order at 3).

We also believe it is incumbent upon us to apprise the Board, the Parties, the Appeal Board and the Commission now that we intend to move for appropriate relief to truncate the post-decisional schedule for exceptions, supporting briefs, and requests for and consideration of stays.

We believe that there is ample basis for adopting expedited schedules in this proceeding inasmuch as only a few issues are in controversy, the Applicants offered to go to hearing in early 1980, and the facility is needed on schedule to avoid unnecessary delay and expense and to serve the power and energy needs of the Applicants, their customers and indeed the entire region.

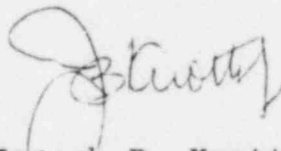
In its order of August 6, 1979, the Board invited the Parties to identify issues which were capable of being handled by summary decision. In its response of September 6, 1979, the NRC Staff advised that its review had not progressed far enough for it to know which matters of the six remaining contentions might be appropriate for summary decision. Taking into account the status of NRC Staff's review, it appears to us at this time that the ATWS and Quality Control contentions may be appropriate for summary decision. In our view (although not necessarily the NRC Staff's), any of the other issues may become ripe for summary decision, depending largely on the ability of the Staff to complete related written reviews and the schedule for hearings on those issues.

Should the Board desire further information or documentation of any of the matters adverted to herein (by affidavit or

otherwise), the Applicants would be happy to provide it. It may be added that we have not filed motions for particular schedules at this time but rather have given notice of our intention to do so and the general terms thereof with the thought that it is premature to attempt to set a precise schedule until the Parties are heard and because we do not wish to presume to ask the Board to commit to a particular schedule for rendering a decision before it has been apprised by the Parties of the likely breadth, depth and complexity of the evidentiary presentations contemplated.

We believe it would be helpful to orderly discussion at the upcoming prehearing conference to invite or direct the other parties to comment on the foregoing.

Respectfully submitted,



Joseph B. Knotts, Jr.
DEBEVOISE & LIBERMAN
1200 Seventeenth Street, N.W.
Washington, D.C. 20036
(202) 857-9831

Attorney for South Carolina Gas &
Electric Company

Date: November 19, 1980

OF COUNSEL:

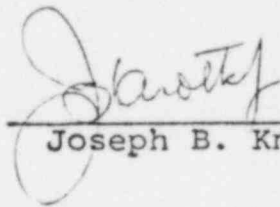
Randolph Mahan
South Carolina Electric &
Gas Company
Post Office Box 764
Columbia, South Carolina 29202
(803) 748-3538

Mr. Chase R. Stephens
Docketing and Advice Section
Office of the Secretary
U.S. Nuclear Regulatory
Commission
Washington, D.C. 20555

Richard P. Wilson, Esq. (Exp. Mail)
Assistant Attorney General
South Carolina Attorney General's
Office
P.O. Box 11549
Columbia, South Carolina 29211

Samuel J. Chilk
Secretary of the Commission
U.S. Nuclear Regulatory
Commission
Washington, D.C. 20555

Leonard Bickwit, Esq.
General Counsel
U.S. Nuclear Regulatory
Commission
Washington, D.C. 20555



Joseph B. Knotts, Jr.