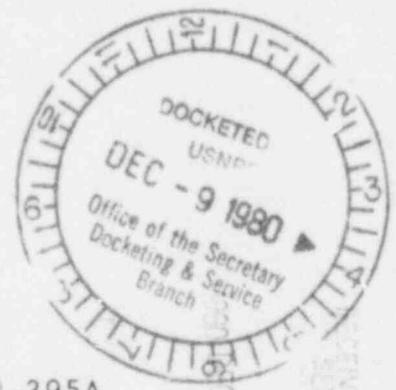


~~Sept~~ 9, 1980  
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UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION



In the Matter of )  
South Carolina Electric & )  
Gas Company )  
and )  
South Carolina Public )  
Service Authority )  
(Virgil C. Summer Nuclear )  
Station Unit No. 1) )

Docket No. 50-395A

OPPOSITION OF INTERVENOR CENTRAL ELECTRIC  
POWER COOPERATIVE, INC., TO MOTION OF  
SOUTH CAROLINA ELECTRIC & GAS COMPANY  
TO DEFER RULING ON PENDING PETITION FOR  
SIGNIFICANT CHANGE DETERMINATION AND TO  
ESTABLISH SCHEDULE FOR FINAL SETTLEMENT  
STATUS REPORTS

Intervenor Central Electric Cooperative, Inc.,  
("Central"), pursuant to 10 C.F.R. §§2.730 and 2.710,  
respectfully submits this Opposition to the Motion to Defer  
Ruling On Pending Petition For Significant Change Determina-  
tion And To Establish Schedule For Final Settlement Status  
Reports served upon it by South Carolina Electric & Gas  
Company ("SCE&G) by mail on November 24, 1980.

SCE&G's motion rests upon two assumptions:  
(1) that Central's case is "primarily directed against" SCPSA  
(Motion at page 2) and (2) that the plant in question will  
be ready to be loaded in the period June - August 1981 (id).  
The first assumption is palpably incorrect. The second is  
questionable at best.

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### Status of Settlement Negotiations

As should be evident by now, and as the Commission recognized in its Memorandum and Order issued June 30, 1980, Central's intervention is directed at, inter alia, a territorial and customer allocation scheme not sanctioned by state law, formed and enforced by both applicants. While it is true that the scheme seeks to force Central to rely exclusively upon SCPSA for needed services, it should be evident that Central has not acceded to this arrangement. On the contrary, the entire purpose of Central's intervention in this proceeding is to thwart it or at least to avoid its effect. Consequently, the fact that the co-conspirator to which Central has been allocated, SCPSA, is negotiating with its captive, while SCE&G is not, hardly suggests that alleviation of the anticompetitive conditions of which Central complains is imminent.

It should not need to be pointed out that there is nothing unusual about a utility's engaging in power exchange arrangements with more than one other utility in order to obtain competitive prices, terms and conditions. Indeed, it is the norm in competitive markets. For instance, SCE&G sells, purchases or exchanges power with Carolina Power & Light Company, Duke Power Company and Georgia Power Company as well as with SCPSA and Central. Similarly, SCPSA purchases, sells or exchanges with CP&L and the Southeast Power Administration as well as with SCE&G and Central.

Central cannot conceive what reason SCE&G has to believe that Central would be satisfied with the opportunity to deal with only one of the parties that it has expressly charged with a group boycott in the nature of that presented in St. Paul Fire & Marine Ins. Co. v. Barry, 438 U.S. 531 (1978). As Central has advised the Commission, it is plain to Central that it cannot achieve acceptable results even with SCPSA without the bargaining power which only competition can confer upon entities that labor under a poor bargaining position in the power exchange market.

It should be evident that correction of the anti-competitive situation under which Central now labors requires power exchange arrangements with both applicants. This is particularly the case here because SCPSA is relatively small and is itself dependent upon SCE&G and the other former CARVA Pool companies for power exchange services.

Thus, SCE&G's suggestion that Central's petition may be answered by the outcome of its negotiations with SCPSA is incorrect, and SCE&G's invitation to the Commission to defer ruling on the petition pending such outcome is wholly misplaced.

Of course, Central has no objection to making status reports on negotiations. Central objects only to such an order as would appear to place the Commission's imprimatur on the notion that SCE&G need not deal with Central. In this

connection, Central would be pleased to furnish the Commission with status reports on its negotiations with SCE&G as well as with SCPSA.

#### The Period for Hearing

SCE&G also argues that it would be impossible to complete a prelicensing antitrust review in the period remaining before the plant in question is ready for fuel loading.

As this Commission is no doubt aware, scheduled fuel loading dates for these nuclear projects are moving targets. The scheduled fuel loading date for the plant in question has marched steadily forward since issuance of the construction permit, from October 1977 to, apparently, summer 1981. As recently as April 30 of this year the scheduled loading date was January 30, 1981. See Construction Status Report, vol. III, no. 2, p. 1-6 (N.R.C. June, 1980). The record thus suggests that the period remaining for review before fuel loading is probably significantly longer than seven to nine months. In fact, Central has reason to believe that the plant will not be ready for loading before the summer of 1982.

Moreover, even if events prove SCE&G's assumption correct, it is not clear how the shortness of time available for review argues for further delay in deciding whether review should be undertaken. Indeed simple logic indicates the contrary; if Central's petition is to be granted, the

sooner the decision is taken, the sooner whatever inquiry is required can be completed.

In this connection, Central would suggest that documents already in the possession of Central's counsel through discovery in the related antitrust litigation in the United States District Court for the Middle District of North Carolina could, with the agreement of SCE&G, be made available to the Commission now for use in determining the import and the scope of the issues presented and their amenability to expedited treatment. If SCE&G is seriously concerned about delay, it should concur in this suggestion.

Conclusion

For the foregoing reasons Central requests that the Commission deny SCE&G's motion to defer its decision on Central's pending petition.

Respectfully submitted,

CENTRAL ELECTRIC POWER COOPERATIVE,  
INC.

By Wallace E. Brand  
Wallace E. Brand

Edward E. Hall  
Edward E. Hall

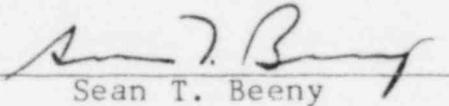
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Attorneys for Central Electric  
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CERTIFICATE OF SERVICE

I, Sean T. Beeny, hereby certify that I have served a copy of the foregoing Opposition of Intervenor Central Electric Power Cooperative, Inc. To Motion of South Carolina Electric & Gas Company to Defer Ruling on Pending Petition For Significant Change Determination and to Establish Schedule for Final Settlement Status Reports on the persons listed below by depositing a copy thereof, postage prepaid in the United States mail this 9th day of December, 1980.

  
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