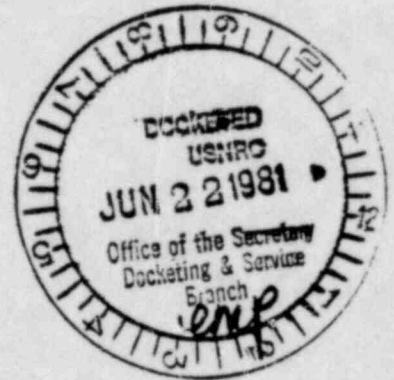


UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION
ATOMIC SAFETY AND LICENSING BOARD

Before Administrative Judges:
Herbert Grossman, Chairman
Dr. Frank F. Hooper
Gustave A. Linenberger



In the Matter of:

SOUTH CAROLINA ELECTRIC AND GAS
COMPANY, ET AL.

(Virgil C. Summer Nuclear Station,
Unit 1)

Docket No. 50-395 OBSERVED JUN 22 1981

June 19, 1981

MEMORANDUM AND ORDER
(Ruling on Motions for Summary Disposition)



MEMORANDUM

On May 7, 1981, the NRC Staff filed motions for summary disposition of Intervenor Brett A. Bursey's Contentions 2, 3, and 4(b).^{*/} On the same day Applicants filed motions for summary disposition of Intervenor's Contentions 3 and 10.^{*/} On May 27, 1981, Staff and Applicants filed responses supporting each other's motions. On May 28, 1981 and June 2, 1981, Intervenor Bursey filed responses in opposition to the May 7, 1981 motions of Staff and Applicants.

We grant summary disposition only on Contention 3, regarding Anticipated Transient Without Scram (ATWS), and deny summary disposition

^{*/} Contention 2 states:

(a) The Applicant lacks the financial qualifications necessary to safely operate and decommission the Summer station in compliance with NRC rules and regulations;

(b) The sum allocated by the Applicant for decommissioning of the Summer Plant (less than \$10 million) is grossly inadequate and does not conform to the requirements of 10 C.F.R. § 50.33(f).

(Continued)

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on all of the other contentions. Because the evidentiary hearing is scheduled to begin on June 22, 1981, we decide these motions with minimal discussion. Our reasons will be fully discussed in the Initial Decision following the conclusion of the hearing.

Contention 2

As Staff's motion indicates (pp. 5, 10), the issues raised in this contention will be resolved on the basis of whether Applicant's have demonstrated a "reasonable financing plan" so as to be considered financially

* / Continued -

Contention 3 states:

The Applicant has not met the requirements of the NRC Staff to assure that the probability of occurrence of an anticipated transient without scram (ATWS) event is acceptably small.

Contention 4(b), as amended, states:

The plans for monitoring site seismicity are inadequate in that they do not consider the seismic effect of filling the reservoir. Site seismicity monitoring conducted after the filling of the reservoir should be continued through 1983.

Contention 10 states:

The following effects - on a long term basis - have been sufficiently underestimated by the Applicant and the Staff so as to compromise the validity of the favorable Benefit-Cost balance struck at the construction permit phase of this proceeding:

- a) The somatic and genetic effects of radiation releases, during normal operation, to restricted and unrestricted areas, said releases being within the guidelines and/or requirements of 10 CFR Part 20, and Appendix I to 10 CFR Part 50;
- b) The health effects of the uranium fuel cycle, given the release values of the existing Table S-3 of 10 CFR Part 51. (Should the Commission modify Table S-3 prior to the litigation of this contention, the Board will entertain motions from any of the parties respecting modifications to this contention.)

qualified to operate and safely decommission the plant. On the basis of the matters raised in the responses by FUA and Dr. Ruoff, which Intervenor Bursey incorporated by reference, the Board deems it desirable to have the reasonableness of the financial plans tested by examination at the evidentiary hearing.

Contention 3

Intervenor Bursey neither raises an issue of fact nor attempts to contravert any of the information supplied by the Staff and Applicants in support of their motions for summary disposition. He makes the barren claim that a generic resolution of ATWS will not assure that the Summer plant will be properly retrofitted.

We find no issues concerning ATWS to be entertained at the forthcoming evidentiary hearing and grant the motions of Staff and Applicants for summary disposition on this contention. Our complete findings on this issue will be set forth in our Initial Decision.

Contention 4(b)

Staff requests that we summarily dispose of Intervenor Bursey's contention that seismic monitoring should continue through 1983, on the basis of Staff's belief that the present commitment to continue monitoring until the end of 1982 is sufficient. Without the aid of evidentiary hearings, we see no basis in the record for accepting the Staff's judgment over that of Intervenor.

Contention 10

Applicants and Mr. Bursey present seemingly competent affidavits by persons with apparently impeccable credentials regarding the health effects of low-level radiation. Applicants' affiant Hamilton relies heavily upon the results contained in the BEIR committee reports but fails to address two possibly significant factors that Intervenor's affiants Drs. Kaku and Morgan claim as bases for reevaluating the BIER results: (1) the population samples used in the health effects studies were biased and yielded unreliable results; and (2) a recently reported study of atomic bomb radiation indicates that original reports underestimated the gamma radiation to which residents of Hiroshima and Nagasaki were subjected.

We conclude that an evidentiary presentation is necessary to resolve the matter.

ORDER

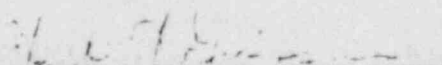
For all of the foregoing reasons and based upon a consideration of the entire record in this matter, it is, this 19th day of June 1981

ORDERED

That the motions of Staff and Applicants for summary disposition of Contention 3, concerning ATWS are granted; and

That the motions of Staff for summary disposition of Contentions 2 and 4(b) and of Applicants for summary disposition of Contention 10, are denied.

FOR THE ATOMIC SAFETY AND
LICENSING BOARD


Herbert Grossman, Chairman
ADMINISTRATIVE JUDGE