

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

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In the Matter of)	Docket No. 50-395-OL
)	
SOUTH CAROLINA ELECTRIC AND GAS COMPANY,)	
<u>et al.</u>)	
)	
(Virgil C. Summer Nuclear Station, Unit 1))	October 12, 1982

MEMORANDUM
(Confirming Order Denying Intervenor's Motion
to Reconsider Denial of Stay)

On October 7, 1982, Intervenor moved to reconsider the Board's denial of its motion to stay the implementation of the initial decision authorizing the issuance of a full term operating license. The motion for stay had been made on the basis of allegations by a former worker concerning improper cadwelding on vertical rebars in the containment structure. In support of its motion for reconsideration of October 7, 1982, Intervenor submitted an affidavit of a structural engineer with a background also in soil mechanics, geology, civil engineering and law. The affidavit contained approximately 2 pages of "findings" based upon "cursory and partial reviews" of the materials submitted by the parties concerning the allegedly defective cadwelding.

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On October 8, 1982, a conference call was held between the Board and all of the parties. It was disclosed that the plant was projected to be going critical on or about October 17, 1982. Intervenor sought the stay to prevent that occurrence. He also submitted the new materials in further support of his motion to reopen the proceedings for which the Board had set an October 18, 1982 deadline for the submission of his reply and supporting materials.

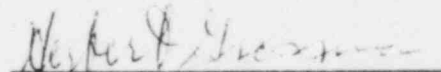
Licensees and Staff orally opposed Intervenor's motion during the conference call on procedural, jurisdictional and substantive grounds. In particular, they characterized the new materials as being "conclusory" and lacking in substance.

The Board agreed with that characterization. As we pointed out in our Memorandum and Order of September 24, 1982 denying stay, unless the first factor of the four-factor test of 10 CFR § 2.788(e) on granting stays is satisfied, namely, that the moving party make a strong showing that it is likely to prevail on the merits, the other factors will not weigh in Intervenor's favor in this case.

We do not see how mere conclusional statements made by Intervenor's affiant, regardless of how qualified he might be, could constitute the required strong showing that Intervenor is likely to prevail on the merits. We orally denied Intervenor's motion for

reconsideration during the conference on that ground. We confirm that ruling here. It is not necessary to discuss the other grounds raised by Licensees and Staff in opposition to Intervenor's motion, involving procedural and jurisdictional objections.

FOR THE ATOMIC SAFETY AND
LICENSING BOARD



Herbert Grossman, Chairman
ADMINISTRATIVE JUDGE

Dated at Bethesda, Maryland,
this 12th day of October, 1982.