

DOCKET NUMBER
PETITION RULE PRM. misc Notice
UCS Petition for Emergency
& Remedial Action

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE COMMISSION

In the Matter of)
)
CLI-80-21, COMMISSION)
MEMORANDUM AND ORDER)



PETITIONERS' ANSWER TO UCS MOTION FOR
OPPORTUNITY TO RESPOND AND FOR FURTHER RELIEF

By motion dated August 31, 1981, the Union of Concerned Scientists ("UCS") requested that the Commission require (1) that the petition for deadline extension filed by Petitioners 1/ in the captioned matter on June 22, 1981, and all subsequent related filings be docketed in the matter designated "Petition For Emergency And Remedial Action" and (2) that all filings be served on UCS.. The motion also requests leave to respond by September 18, 1981, to the petition and the NRC Staff's July 31, 1981 response thereto.

1/ Arkansas Power & Light Company, Baltimore Gas & Electric Company, Boston Edison Company, Carolina Power & Light Company, Commonwealth Edison Company, Duke Power Company, Duquesne Light Company, Florida Power & Light Company, Iowa Electric Light & Power Company, Mississippi Power & Light Company, Northeast Utilities, Northern States Power Company, Power Authority of the State of New York, Southern California Edison Company, Texas Utilities Generating Company, Toledo Edison Company, Virginia Electric & Power Company, Washington Public Power Supply System, Wisconsin Electric Power Company, and Yankee Atomic Electric Company.

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I. Proper Docket

Petitioners object to the request by UCS that this matter be docketed in the matter involving the UCS petition. Simply stated, Petitioners seek relief not from CLI-80-21 per se, but from individual orders entered on specific dockets that imposed the compliance deadline announced by the Commission in CLI-80-21. See CLI-80-21, 11 NRC 707 (1980). That Commission decision did not relate to any specific operating license or have binding legal effect on any licensee. The Commission decision was neither rule-making nor an adjudication on a specific docket. From a legal perspective, CLI-80-21 was a generic declaration of policy prescribing the criteria and guidance to be used by the Staff for verifying compliance with General Design Criterion 4 of 10 C.F.R. Part 50, Appendix A, for the environmental qualification of Class IE equipment. It did not actually impose those criteria and guidance on any licensee.

In order to implement the Commission's guidance in CLI-80-21, the Staff was required to issue orders to individual licensees. By orders issued on October 24, 1980, the Staff amended operating licenses to include in plant technical specifications, inter alia, the requirement that "[b]y no later than June 30, 1982, all safety-related electrical equipment in the facility shall be qualified in accordance

with the provisions of" the DOR Guidelines or NUREG-0588. 2/
There was no mention in the ordering clause of the UCS
petition or even the Commission's decision in CLI-80-21.

When it became apparent to Petitioners that the June
30, 1982, deadline imposed by the orders was unachievable,
they elected to seek generic relief from that deadline from
the Commission. That approach was necessary because the
Staff had already stated that it could not grant relief from
the deadline. Because the Peititoners were not parties to
the matter which culminated in the issuance of CLI-80-21,
and because that matter had been terminated with the dis-
position of the UCS petition, there was no obligation or
reason to caption the petition for deadline extension as
relating to the UCS petition. Rather, the petition was
properly captioned "In the Matter of CLI-80-21, Commission
Memorandum and Order" because it was in CLI-80-21 that the
Commission had provided the policy directives (including the
deadline) to the Staff. The petition for deadline extension
could just as easily have been captioned "In the Matter of
Petition for Modification of October 24, 1980 Orders."

2/ Division of Operating Reactors "Guidelines for Evaluating
Environmental Qualification of Class IE Electrical
Equipment in Operating Reactors" ("DOR Guidelines");
NUREG-0588, "Interim Staff Position on Environmental
Qualification of Safety-Related Electrical Equipment,"
December 1979.

At bottom, the request by UCS that the petition be redesignated and redocketed elevates form above substance and is otherwise inappropriate, as discussed above. For these reasons it should be denied.

II. Service

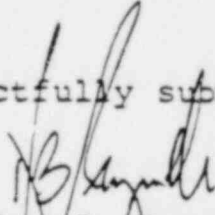
As to the UCS request that it be served with filings regarding the petition for deadline extension, that request also should be denied. UCS stands in no different position from any other member of the public in the context of the petition for deadline extension. Accordingly, UCS should obtain copies of the filings in this matter from the NRC Public Document Room, as would any other member of the public.

III. UCS Response

Finally, as to the UCS request that it be permitted to respond by September 18, 1981, to the petition for deadline extension and the Staff's response thereto, we submit that the Commission should not delay consideration and disposition of the petition to await receipt of a UCS response. Obviously, the Commission is not barred from considering

any public input it receives on the petition for deadline extension prior to Commission disposition.

Respectfully submitted,



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September 14, 1981

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE COMMISSION

_____)
In the Matter of)
CLI-80-21, COMMISSION)
MEMORANDUM AND ORDER)
_____)

CERTIFICATE OF SERVICE

I hereby certify that copies of "Petitioners' Answer to UCS Motion For Opportunity To Respond And For Further Relief" dated September 14, 1981 in the captioned matter, have been served upon the following by deposit in the United States mail this 14th day of September, 1981.

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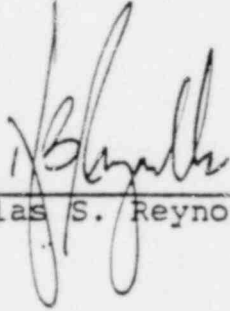
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