

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

Administrative Judges:

Alan S. Rosenthal, Chairman
Dr. John H. Buck
Dr. W. Reed Johnson

In the Matter of

PORTLAND GENERAL ELECTRIC COMPANY,
et al.

(Trojan Nuclear Plant)

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) Docket No. 50-344
) (Control Building)
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Mr. Frank W. Ostrander, Jr., Assistant Attorney
General of Oregon, Portland, Oregon, for the
State of Oregon.

Messrs. Maurice Axelrad and Albert V. Carr, Jr.,
Washington, D.C., and Mr. Ronald W. Johnson,
Portland, Oregon, for the licensee, Portland
General Electric Company, et al.

Mr. Joseph R. Gray for the Nuclear Regulatory
Commission staff.

MEMORANDUM AND ORDER

January 6, 1981

(ALAB-627)

1. Last July, the Licensing Board issued an initial decision in which it authorized the modification of the Trojan facility's control building to bring it into conformity with prevailing seismic requirements. LBP-80-20, 12 NRC 77. By

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the addition of a license condition, identified in the decision as "2.C.11" but then incorporated into the Trojan operating license as "2.C.(12)", the Board directed, inter alia, that the modification program be carried out in accordance with plans which the licensee^{1/} had devised and introduced into evidence. 12 NRC at 112. The condition further mandates that any "deviations or changes" from those plans be "accomplished in accordance with the provisions of" 10 CFR 50.59. Ibid.

Insofar as here relevant, that Section allows the holder of an operating license to make changes in the facility or procedures "as described in the safety analysis report" without obtaining prior Commission approval so long as neither an alteration of the technical specifications incorporated in the license nor an unreviewed safety question is involved.^{2/} Such changes must be reported to the Commission on an annual basis or at such shorter intervals as may be specified in the license.^{3/}

At least by implication, the initial decision thus rejected the assertion of the State of Oregon,^{4/} embodied in its proposed

^{1/} As in the initial decision, the co-owners of the Trojan facility are collectively referred to herein as the "licensee".

^{2/} Section 50.59(a)(1).

^{3/} Section 50.59(b).

^{4/} Oregon has participated in the proceeding under the "interested State" provisions of 10 CFR 2.715(c).

findings of fact, that the licensee should be required by license condition to report deviations or changes on an accelerated basis.^{5/} Dissatisfied with this rejection, Oregon simultaneously both moved for reconsideration before the Licensing Board and appealed to us.^{6/} In an unpublished order entered on September 4, 1980, the motion was denied on the ground that the record did not establish a need for accelerated reporting of "minor changes or deviations undertaken pursuant to Section 50.59". Order, pp. 2-3. Oregon thereupon moved forward with the appeal.

2. On December 18, shortly after the briefing of the Oregon appeal had been completed, the licensee's counsel advised us that the parties had reached agreement on the matter in dispute and that that agreement was reflected in a stipulation. On December 24, the stipulation -- duly executed by counsel for the licensee, the NRC staff and Oregon -- was transmitted to us. In an accompanying joint motion, we were asked (1) to reopen the record to receive both the stipulation

^{5/} More particularly, Oregon proposed that the deviation or change be reported either prior to its commencement or within 14 days after the licensee initially decided to implement it (depending on the nature of the deviation or change).

^{6/} In an unpublished July 28, 1980 order, we instructed the Board below to pass upon the reconsideration motion on the merits notwithstanding the pendency of the appeal.

and certain documents which had been previously furnished to us by the staff on November 24, 1980; ^{7/} and (2) to modify license condition 2.C.(12) to take account of the agreement.

We grant the motion in its entirety. Accordingly, the Director of the Office of Nuclear Reactor Regulation is directed to amend forthwith the introductory portion of condition 2.C.(12) in the Trojan operating license so as to read as follows:

(12) Control Building Modifications. The Licensee is authorized to and shall proceed with modifications to the Control Building in order to restore substantially the originally intended design margins. The modification program shall be accomplished in accordance with PGE-1020, "Report on Design Modifications for the Trojan Control Building", as revised through Revision No. 4, and as supplemented by PGE Exh. 27 (Licensee's Testimony ("Broehl, et al.") on Matters Other Than Structural Adequacy of the Modified Complex, March 17, 1980). Any deviations or changes from the foregoing documents shall be accomplished in accordance with the provisions of 10 CFR part 50.59. Prior to completion of the modification, any reports under this condition required by 10 CFR 50.59(b) shall be made to the NRC for information in accordance with the following schedule:

(i) Any deviations or changes which require or cause the Licensee to perform calculations to ensure compliance with 10 CFR 50.59 shall be reported prior to commencement of the deviations or changes.

^{7/} These documents were (1) an October 14, 1980 letter from J.L. Crews, Chief, Reactor Operations and Nuclear Support Branch, Office of Inspection and Enforcement, Region V, to the Portland General Electric Company; and (2) a September 25, 1980 internal Region V memorandum which was enclosed therewith.

(ii) All other deviations or changes shall be reported within fourteen (14) days after the Licensee initially decides to implement them.

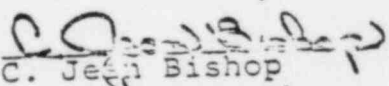
(iii) A copy of all reports submitted to the NRC pursuant to 10 CFR 50.59 shall be sent to the Office of Nuclear Reactor Regulation.

The Control Building modification program shall further be subject to the following:

Because the foregoing license amendment is fully dispositive of the single issue presented by the Oregon appeal as briefed, that appeal is now moot. It is hereby dismissed on that ground.

It is so ORDERED.

FOR THE APPEAL BOARD


C. Jean Bishop
Secretary to the
Appeal Board