

JOE GRAY

August 11, 1983

Note to: Don Neighbors, Project Manager, Surry
From: Mack Cutchin, Attorney, Surry
SUBJECT: PROPOSED AMENDMENT TO TECH SPECS FOR SURRY UNIT 1

The Staff proposes to issue, following less than 30 days notice, an amendment to the Surry Unit 1 Tech Specs that would revise T.S. 4.17.A to extend the interval for visual inspection of snubbers for 21 days. The extension was requested by Vepco to allow continued operation of Surry Unit 1 until Surry Unit 2 can be returned to service. The amendment is claimed by Vepco to be needed by August 31st.

As we have discussed, Vepco has not yet provided adequate justification for expedited action on its amendment request. Vepco has not shown that without the extension Surry Unit 1 will have to be shutdown or that its request for "emergency" action was timely. (I understand that Vepco is presently preparing a document to show that its request was timely). Moreover, based on my understanding of the facts, since a June 15th inspection revealed no inoperable snubbers and the previous inspection had revealed 5 inoperable snubbers, T.S. 4.17.A would not require shutdown for another inspection until June 15th + 155 days (November 17th). Thus, a T.S. amendment appears to be unnecessary to allow operation until September 21st.

Finally, under the "Sholly" rules as promulgated there are only two types of circumstances that warrant the Staff's taking action on amendment requests involving NSHC without allowing 30 days for public comment on its proposed NSHC determinations--"emergency" circumstances and "exigent" circumstances.

An "emergency" circumstance is one where a failure to take quick action would result in shutdown or derating of the plant. In such circumstances the Staff may issue a license amendment involving NSHC without prior notice and opportunity for hearing or public comment. Such circumstances should be rare. A licensee requesting emergency action must explain why the emergency circumstances occurred and why they could not be avoided. It also must demonstrate to the satisfaction of the Staff that its request for the amendment was timely--i.e., not delayed to create "emergency" circumstances.

An "exigent" circumstance, according to the supplementary information published in the Federal Register with the "Sholly" rules, is one other than an emergency where swift action is necessary. Thus, an "exigent" circumstance requires a different justification than that required for an "emergency." Threat of shutdown or derating is justification only

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for an "emergency" exception under the "Sholly" rules. A Licensee cannot make an untimely request for action and use the threat of shutdown or derating to get relief under the "exigent" circumstances provision of the Sholly rules. In other words, "exigent" circumstances under the rules are those that for some reason other than a threat of shutdown or derating call for swift action. Examples of "exigent" circumstances are provided in the supplementary information published with the rules. They involve actions that "clearly" improve safety and which if not taken immediately while the reactor is already shut down cannot be taken until the reactor is again shutdown. The proposed TS change for Surry Unit 1 plainly does not involve such an action.

Surry 1 is presently operating, and the action to be taken obviously will not improve safety. Clearly, "exigent" circumstances as contemplated by the Sholly rules do not and cannot exist. If a T.S. change is really necessary prior to August 31st, an amendment properly could be granted only under the "emergency" circumstances provision of the rules. If not properly justified by Vepco or not really necessary, swift action is not warranted.

I am unable to recommend OELD concurrence in the presently proposed action--shortened notice and issuance under the "exigent" circumstances provision of the rule.