

December 15, 1983

Note to Dick Clark

SUBJECT: BROWNS FERRY TRANSMITTAL TRIP UNITS

(840 019 & 351)

There was apparently a change and added information submitted after the notice on November 17 that's mentioned in the SER but there is no description of what was submitted on November 17. The SER must be changed and must be modified to explicitly indicate what was received on November 17 and if there was any material that isn't obviously insignificant, you are going to have to discuss why the material received on November 17 doesn't affect the nature of the amendment for which we gave notice and opportunity for hearing on October 28. In addition to that, the SER discusses a change which apparently the Staff insisted on in connection with the specifications that the Applicant disagrees with and that change was made on November 8. That again, is something that was not a matter contained in the amendment that was noticed by the Staff. It strikes me that we have denied the Applicant's request as it came in as we noticed it and we have changed the application from that which was noticed to something else. We're acting on something other than what was noticed. We can do that but in that case you don't simply issue an amendment different from the one that was noticed. We can do it either through a partial denial, partial grant or you can renotice the package. You can't simply grant something that you found unacceptable by making an after-the-fact change in the application as a result of a phone call with the Licensee that he still disagrees with but is willing to accept.

Joe Scinto
Joe Scinto

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M. GROENHUIS

Note to Sam MacKay

SUBJECT: BRUNSWICK 2 BATTERY TESTING (OELD # 340 306)

This tech spec permits either one of two tests. ~~It does not require~~ the testing you discussed ^{is not} the sole method of testing the battery. Consequently, the first paragraph of the SER is not accurate.

Second, the justification of exigent circumstances also does not discuss why they didn't do test #1 in the tech spec. I think that tends to be important and you may have much difficulty in reaching a no prejudice conclusion ^{alternate} for the applicant not only failed the dummy load test but also failed the actual load test. Did they not do the actual load test because they were concerned they would fail the actual load test as well? ^{Pres. Deemmer, how about?}

After you answer these questions, I still disagree that the applicant has acted in a reasonable fashion to avoid the problem he's in; however, if the Director of Licensing thinks that this applicant has acted reasonably, its his call to make.

cc: G. Lainas