

058

April 30, 1986

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

DOCKETED
USNRC

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD MAY -2 P2:47

In the Matter of)	
)	Docket No. 50-289 CLA-1
CPU NUCLEAR CORPORATION,)	50-289 OLA-2
ET AL.)	(Steam Generator Plugging
)	Criteria)
(Three Mile Island Nuclear Station,)	
Unit No. 1))	

NEC STAFF RESPONSE TO TMIA'S MOTION
FOR EXTENSION OF TIME OR, IN THE
ALTERNATIVE, NOTICE OF WITHDRAWAL

By motion dated April 11, 1986 (Motion) 1/ TMIA, the intervenor in the two captioned proceedings, moved for a six month extension of time to complete discovery, and provided notice of its intent to withdraw as a party to the proceedings in the event its motion for extension of time is not granted. For the reasons set forth below, the Staff a) opposes the full six-month deferral of the OLA-1 proceeding, but does not oppose a lesser extension of discovery and deferral of the OIA-1 proceeding, and b) does not oppose TMIA's Motion for an extension regarding OLA-2.

1/ Motion for Extension or Time or, in the Alternative, Notice of Withdraw (sic), April 11, 1986.

8605070149 260430
PDR ADOCK 05000289
G PDR

DS07

I. INTRODUCTION

The CLA-1 and CLA-2 proceedings concern two separate proposed amendments to the steam generator tube plugging criteria for TMI-1. The CLA-1 proceeding involves Technical Specification Change Request (TSCP) 148 for which the Licensee submitted an amendment application on November 6, 1985, and the Commission published a Notice of Opportunity for Fric Hearing on January 6, 1986 (51 Fed. Reg. 459). CLA-2 involves TSCR 153 for which the Licensee submitted an amendment application on February 4, 1986, and the Commission published a Notice of Opportunity for Hearing on February 28, 1986 (51 Fed. Reg. 7157). The two proceedings have been consolidated for discovery purposes. Order (Memorializing Special Prehearing Conference), April 2, 1986, at 7. ^{2/} At the prehearing conference held March 27, 1986, the Licensing Board established a discovery schedule concluding May 12, 1986. Tr. 128. At the time the schedule was established, there was yet no schedule for completion of Staff review of the application.

On April 18, 1986, the Commission made a final determination that TSCR 153 involves no significant hazards considerations, and granted Licensee's amendment request for TSCR 153. That amendment is effec-

^{2/} At issue in the CLA-1 proceeding (TSCP 148) is the Licensee's application to amend the steam generator tube technical specifications to replace the 40% throughwall degradation limit on the primary side with a sliding scale of 40% to 70% throughwall degradation depending upon the size of the defect. The CLA-2 proceeding (TSCP 153) concerns the amendment to the tube plugging criteria for a limited period of time allowing defects of up to 50% throughwall and specific defect size.

tive only until the next refueling outage, currently scheduled for November, 1986.

II. DISCUSSION

A. A Six Month Extension For Completion Of Discovery In OIA-1 Would Delay The Final Disposition Of That Proceeding

In OIA-1, an opportunity for prior hearing has been afforded and requested, thus, a final agency determination on the proposed license amendment must await any required hearing. In that circumstance, the Staff would oppose any unnecessary extension of time or deferral of the progress of the OIA-1 proceeding which would effect significant delay in the completion of any required hearing on TSCR 148. The requested six month extension could result in unnecessary delay in this proceeding; a shorter extension would not.

As set forth in a letter dated February 19, 1986, Licensee has agreed to the Staff's request that at the next refueling outage (currently scheduled for November 1986), Licensee will remove a number of steam generator tubes and conduct certain tests to verify that the defect morphology related to corrosion is the same as that identified in tubes which were previously removed and eddy current testing techniques are accurate. These tests, which are intended to provide confirmatory data, are in the Staff's view, a necessary prerequisite to a final Staff position on Licensee's amendment request TSCR 148 because the test results should be definitive on whether the corrosion has been arrested and the eddy current measurements are accurate. The Staff estimates that such tests would be completed by approximately the end of December 1986. The

Staff will evaluate the results of these tests before it makes a final determination on the acceptability of Licensee's proposed amendment. An assessment of the test results will be included in a Staff evaluation of TSCP 148. Based upon the current schedule for the tests, the Staff estimates that the Staff's evaluation of the test data would not be available before the end of January 1987. The results of the tests will provide data concerning the accuracy of eddy current measurements regarding intergranular attack (IGA) and intergranular stress assisted corrosion, data confirming the postulated mechanism (grain dropout) and data analyses confirming that the initial corrosion has been arrested. Such data will also bear directly on TMIA's Contentions 1, 2 and 5, which allege that there is continued or new corrosion and that eddy current testing is inaccurate with respect to such corrosion.

Notwithstanding the above, the Staff plans to issue (in three months -- by July 31, 1986) an SER concerning TSCP-148 which would indicate the Staff's position on the proposed amendment, subject to certain confirmatory analysis of the test data. Thus by mid-August, the Staff, for its part, could proceed to hearing before the test results have been analyzed, if the Board should desire. Staff testimony on Contentions 1, 2 and 5, based on an SER containing certain assumptions as to what the test results will show, could be presented prior to analysis of the test results. 3/ The Staff's evaluation of the test data, which

3/ The Staff's position on those contentions and on TSCP 148 would, of course, be subject to change because of the test results and analysis thereof.

could be presented in a SER supplement in late January 1987, would then support the Staff's final position on the amendment request.

The Licensee seeks to have some agency action on TSCR 148 before the start of the refueling outage scheduled for November 1986 so that it may plan the steam generator inspections to be conducted during the outage. ^{4/} Although it may not be possible to have final agency action on TSCP 148 (after a hearing and Licensing Board decision) in advance of the November 1986 outage, proceeding to hearing in advance of the outage (even if the hearing were not completed because of open issues) could put Licensee on notice as to the apparent acceptability of its proposal and its outage could be planned accordingly. TMIA's requested six-month delay, however, would result in the hearing commencing during or after the planned outage and a timely decision on TSCR 148 would likely not occur.

In light of the Staff's ability and schedule to issue its SER on the amendment by August 1986, the Licensee's and Staff's ability to proceed to hearing in advance of the November 1986 outage, and Licensee's apparent need for a timely indication on the acceptability of its proposed criteria, Staff opposes a six-month deferral of the CLA-1 proceeding. On the other hand, in view of the current schedule for the staff SER, the Staff would not oppose a deferral of discovery on the order of three months since, in the opinion of the Staff, such a shorter deferral would

^{4/} The repair criteria to be applied will affect the number of tubes to be inspected and repaired by plugging.

allow a hearing in September and a subsequent Board decision sometime in November 1986. 5/

F. A Six-Month Delay In The OLA-2 Proceeding Would Likely Result In That Hearing Occurring After The Expiration Of The Amendment But Would Not Delay Licensing Action On TSCR 153

The amendment granting TSCR 153, by its terms, is effective only until the next refueling outage, currently scheduled to start in November 1986. If the discovery period in OLA-2 were extended six months to mid-November, it is highly unlikely that any hearing on TSCR 153 could commence, much less be concluded, before the expiration of the effectiveness of the amendment. The Staff has already issued its SER on OLA-2 and could be prepared to file testimony on contentions on OLA-2 and proceed to a hearing within the next 2 to 3 months. 6/ On the other hand, a deferral of the OLA-2 proceeding consistent

5/ The Staff notes that TMIA's assertion that it needs a six-month extension is based on its "estimate" that TMIA representative Louise Bradford expects her responsibilities in another NRC proceeding to end in six months. Motion at 1. Licensee argues correctly that such an estimate is "speculative and uncertain." Licensee's Response to TMIA's Motion for Extension of Time, April 17, 1986, at 3. However, in view of the fact that the Staff will not be in a position to present its provisional position on TSCR 148 and on the contentions for three months due to the completion schedule for the SER and testimony, a three month extension of the discovery schedule should not impact the date on which hearings in this proceeding can be completed. Thus, a three month extension, even if based on TMIA's speculation, is not inconsistent with the additional time which the Staff believes is necessary to formulate its position (a position subject to confirmation by analyses of the testing) and to complete this proceeding.

6/ Although the precise wording of the contentions in each proceeding is identical, the contentions in OLA-1 refer to plugging criteria different from the plugging criteria in the OLA-2 proceeding, criteria which the Staff approved when it issued its April 1986 SER on TSCR 153.

with a deferral in the OLA-1 proceeding, or longer, will have no effect on the issuance of the TSCR 153 amendment since that amendment has already been issued. Although the purpose and value of a hearing on an amendment which has expired might be questioned, 7/ the Staff does not oppose the requested deferral of discovery in the CIA-2 proceeding 8/ since such a deferral will not unnecessarily delay licensing action on TSCR 153.

III. CONCLUSION

For the reasons set forth above, the Staff does not oppose a limited deferral of the OLA-1 proceeding and does not oppose a six-month deferral of the OLA-2 proceeding.

Respectfully submitted,

Mitzi A. Young
for *Mary E. Wagner*
Counsel for NRC Staff

Mitzi A. Young
Mitzi A. Young
Counsel for NRC Staff

Dated at Bethesda, Maryland
this 30th day of April, 1986

7/ A licensing board has held that expiration of an amendment's effectiveness does not foreclose an intervenor's hearing rights concerning the amendment. Mississippi Power & Light Co. (Grand Gulf Nuclear Station, Unit 1), LPP-84-19, 19 NRC 1076, 1083-84 (1984).

8/ OLA-2 is not the controlling proceeding in terms of time constraints.

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matter of)
)
GPU NUCLEAR CORPORATION,) Docket No. 50-289 OLA-1
) 50-289 OLA-2
ET AL.) (Steam Generator Plugging
(Three Mile Island Nuclear) Criteria)
Station, Unit No. 1))

CERTIFICATE OF SERVICE

I hereby certify that copies of "NRC STAFF RESPONSE TO TMA'S MOTION FOR EXTENSION OF TIME OR, IN THE ALTERNATIVE, NOTICE OF WITHDRAWAL" in the above-captioned proceeding have been served on the following by deposit in in the Nuclear Regulatory Commission's internal mail system, or, as indicated by an asterisk, by hand delivery, or, as indicated by a double asterisk, by express mail, this 30th day of April, 1986:

*Sheldon J. Wolfe, Chairman
Administrative Judge
Atomic Safety & Licensing Board Panel
U.S. Nuclear Regulatory Commission
Washington, DC 20555

Bruce W. Churchill, Esq.
Shaw, Pittman, Potts & Trowbridge
1800 M Street, NW
Washington, DC 20036

*Dr. Oscar H. Paris
Administrative Judge
Atomic Safety and Licensing Board Panel
U.S. Nuclear Regulatory Commission
Washington, DC 20555

*Atomic Safety & Licensing Board
Panel
U.S. Nuclear Regulatory Commission
Washington, DC 20555

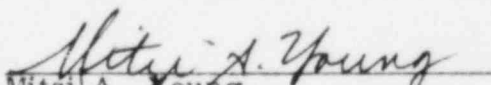
*Frederick J. Shen
Administrative Judge
Atomic Safety and Licensing Board Panel
U.S. Nuclear Regulatory Commission
Washington, DC 20555

*Atomic Safety & Licensing Appeal
Board Panel
U.S. Nuclear Regulatory Commission
Washington, DC 20555

Joanne Doroshow
The Christic Institute
1324 North Capitol Street
Washington, DC 20002

*Docketing & Service Section
Office of the Secretary
U.S. Nuclear Regulatory Commission
Washington, DC 20555

Louise Bradford
1011 Green Street
Harrisburg, PA 17102


Mitzi A. Young
Counsel for NRC Staff