

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

Before Administrative Judges:

Alex S. Karlin, Chairman
Dr. Anthony J. Baratta
Nicholas G. Trikouros

In the Matter of

SOUTHERN CALIFORNIA EDISON
COMPANY

(San Onofre Nuclear Generating Station Units 2
and 3)

Docket Nos. 50-361-LA, 50-362-LA

ASLBP No. 12-923-01-LA-BD01

November 20, 2012

ORDER
(Setting Oral Argument)

This case involves an October 17, 2012, challenge by Citizens Oversight, Inc. (Citizens Oversight) to a license amendment request filed by Southern California Edison Company (SCE). SCE is asking the U.S. Nuclear Regulatory Commission (NRC) to amend the technical specifications contained in the licenses that authorize SCE to operate two nuclear power reactors located near San Clemente, California. These reactors are known as San Onofre Nuclear Generating Station (SONGS) Units 2 and 3. On October 25, 2012, this Board was appointed and established to preside over this challenge. 77 Fed. Reg. 65,909 (Oct. 31, 2012).¹

¹ In a separate adjudication, on June 18, 2012, Friends of the Earth (FOE) filed an intervention petition challenging certain aspects of a Confirmatory Action Letter (CAL) that NRC issued to SCE concerning SONGS Units 2 and 3. On November 8, 2012, the Commission referred a portion of the FOE petition to the Chief Administrative Law Judge of the Atomic Safety and Licensing Board Panel. CLI-12-20. On November 19, 2012, the Chief Judge established a separate Atomic Safety and Licensing Board to adjudicate the FOE petition. See Establishment of Atomic Safety and Licensing Board, Southern California Edison Company (San Onofre Nuclear Generating Station Units 2 and 3). In short, this Board (SONGS-1) is handling the Citizens Oversight challenge to the proposed license amendment at SONGS (ASLBP No. 12-

The purpose of this order is to announce that, commencing at 1:00 p.m. Eastern Standard Time (EST) on Wednesday, December 5, 2012, the Board will hear oral argument on the challenge filed by Citizens Oversight. The oral argument is expected to take no more than three (3) hours. The oral argument will be held in the Atomic Safety and Licensing Board Panel's Rockville Hearing Room, located on the third floor of Two White Flint North, 11555 Rockville Pike, Rockville, Maryland. For the benefit of the public, the proceeding will be webcast.

The representatives of SCE and the NRC Staff have, respectively, advised the Board that they will attend the oral argument in person in the Rockville Hearing Room. The representative of Citizens Oversight, Mr. Raymond Lutz, appearing pro se, has chosen to participate via video conference. The Board is arranging for a video-link for him.

Because this is an adjudicatory proceeding, only the designated representatives of Citizens Oversight, SCE, and the NRC Staff will be entitled to participate in the oral argument. Statements and/or questions from members of the public will not be entertained at this time.

The oral argument will proceed as follows. First, the Board will briefly introduce the proceeding and its purpose. Second, a representative of each of the participants will be entitled to make an opening statement, not to exceed ten (10) minutes. Third, the Board will hear arguments on timeliness, standing, and the admissibility of the proposed contentions, particularly proposed contention 1. Fourth, each participant will be entitled to make a closing statement, not to exceed five (5) minutes.

In formulating their arguments, representatives of the participants should keep in mind that the Board has read their pleadings. Participants should focus on the critical points in controversy, as those issues have emerged in the pleadings. The main purpose of the oral

923-LA-BD01), whereas the newer Board (SONGS-2) is handling the FOE challenge to the CAL (ASLBP No. 13-924-01-CAL-BD01).

argument is to allow the Board to clarify its understanding of legal and factual points to assist it in deciding the issues presented by the pleadings. Thus, the participants should expect that their oral argument will focus mainly on answering questions from the Board.

For example, the participants should be prepared to address the significance of 10 C.F.R. § 50.36 and of the Commission's decision in Dominion Nuclear Connecticut, Inc. (Millstone Nuclear Power Station, Units 2 and 3), CLI-01-24, 54 NRC 349 (2001). Among other things, that decision states:

In short, in seeking to maintain low-level effluent monitoring procedures in the Millstone technical specifications, the Petitioners may not simply complain generally of lost hearing opportunities causing future safety risks. An admissible contention must explain, with specificity, particular safety or legal reasons requiring rejection of the contested license amendments. As the Board majority emphasized, "there is no general right to a hearing for a hearing's sake." The Petitioners do not have a "right" to intervene in possible future changes to effluent monitoring details if no safety or legal reason compels their retention in the Millstone license.

The Petitioners have not provided the necessary minimal factual or legal basis to suggest that either (a) the effluent monitoring procedures at issue are of such safety significance that technical specifications must continue to include them, or (b) that this Licensee in particular—because, for example, of particular license conditions or deficiencies in its effluent monitoring program—should be required to retain the effluent procedures in its license. We address these points in detail below.

Millstone Nuclear Power Station, CLI-10-24, 54 NRC at 359–60 (citation omitted).

Members of the public and representatives of the media are welcome to attend and observe this proceeding, either in person in the Rockville Hearing Room or via the webcast. Please note that signs, banners, posters, and displays are prohibited in the hearing room in accordance with NRC policy. See Procedures for Providing Security Support for NRC Public Meetings/Hearings, 66 Fed. Reg. 31,719 (June 12, 2001). Interested persons should arrive at the Rockville Hearing Room at least fifteen (15) minutes early so as to allow sufficient time to pass through security screening.

For the benefit of the public and media, the oral argument may be viewed live via an Internet webstreaming feed available at <http://www.visualwebcaster.com/event.asp?id=91000>. The webstream will be available for viewing for up to 90 days after the argument.

Note also that the public may access copies of the pleadings filed herein and the transcript of the December 5, 2012, oral argument through the ADAMS system on the NRC website, in the folder entitled "San Onofre 50-361&50-362-LA" on the electronic hearing docket, which is located at <http://ehd1.nrc.gov/ehd/>.

Oral limited appearance statements from members of the public, in accord with 10 C.F.R. § 2.315(a), will not be heard at this time. If the request for hearing is granted, then the Board may hear oral limited appearance statements at a later date. In the interim, interested individuals may submit written limited appearance statements related to the issues in this proceeding. Such written statements may be submitted at any time and should be sent either by (1) mail to the Office of the Secretary, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555-0001, Attention: Rulemakings and Adjudications Staff, with a copy to the Chairman of this Licensing Board at Mail Stop T-3F23, Atomic Safety and Licensing Board Panel, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555-0001; (2) e-mail to the Office of the Secretary at hearingdocket@nrc.gov, with a copy to the Board (c/o Nicole Picard, Nicole.Picard@nrc.gov); or (3) fax to the Office of the Secretary at (301) 415-1101 (facsimile

verification number: (301) 415-1966), with a copy to the Board (c/o Nicole Picard) at (301) 415-5599 (facsimile verification number: (301) 415-7550).

It is so ORDERED.

FOR THE ATOMIC SAFETY
AND LICENSING BOARD

/RA/

Alex S. Karlin
ADMINISTRATIVE JUDGE

Rockville, Maryland
November 20, 2012

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

In the Matter of)
)
SOUTHERN CALIFORNIA EDISON, CO.)
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(San Onofre Nuclear Generating Station -) Docket Nos. 50-361-LA and 50-362-LA
Units 2 and 3))

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing **ORDER (SETTING ORAL ARGUMENT)** have been served upon the following persons by the Electronic Information Exchange.

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San Onofre Nuclear Generating Station, Units 2 and 3, Docket Nos. 50-361-LA and 50-362-LA
ORDER (SETTING ORAL ARGUMENT)

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[Original signed by Brian Newell]
Office of the Secretary of the Commission

Dated at Rockville, Maryland
this 20th day of November, 2012