



NUCLEAR ENERGY INSTITUTE

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Robert Willis Bishop
VICE PRESIDENT &
GENERAL COUNSEL

January 3, 2000

Ms. Annette Vietti-Cook
Secretary
U.S. Nuclear Regulatory Commission
Mail Stop 16H1
One White Flint North
11555 Rockville Pike
Rockville, MD 20852-2738

DOCKET NUMBER
PROPOSED RULE **PR 2 & 50**
(64FR59671)

SUBJECT: Proposed Rule, *Antitrust Review Authority: Clarification*
(64 Fed. Reg. 59671; November 3, 1999)

Dear Ms. Vietti-Cook,

On behalf of the nuclear energy industry, the Nuclear Energy Institute (NEI)¹ submits the following comments on the proposed rule *Antitrust Review Authority: Clarification* published for comment on November 3, 1999.

The nuclear energy industry, through NEI, participated as an *amicus curiae* in the Wolf Creek Generating Station, Unit 1, license transfer proceeding. As described in our *amicus* brief in that proceeding, the nuclear energy industry believes that the Commission appropriately reconsidered its past practice of reviewing antitrust issues in license transfer proceedings. We also believe that the structure, language and history of the Atomic Energy Act support the Commission's conclusion that antitrust reviews should not be conducted in license transfer proceedings. As a result, it is sound policy for the Commission to conduct this rulemaking to eliminate any ambiguities in its regulations concerning antitrust reviews.

With respect to the specific revisions to Part 2 and Part 50 that are proposed, there are a variety of ways in which the NRC could revise its regulations regarding antitrust reviews in the license transfer context to eliminate any ambiguity. We believe that the approach taken by the Commission in the proposed rule is sound and should be adopted.

¹ NEI is the organization responsible for establishing unified nuclear industry policy on matters affecting the nuclear energy industry, including regulatory aspects of generic operational and technical issues. NEI's members include all utilities licensed to operate commercial nuclear power plants in the United States, nuclear plant designers, major architect/engineering firms, fuel fabrication facilities, materials licensees, and other organizations and individuals involved in the nuclear energy industry.

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As a follow-on matter, NEI believes that the Commission should initiate a separate effort to establish generic guidelines for the review and disposition of existing antitrust conditions in connection with license transfers. Examples of guidelines for evaluating existing antitrust conditions were provided in NEI's comments dated July 6, 1999 in the Wolf Creek license transfer proceeding.

If you or any members of the NRC staff have questions about our comments or would like to discuss the further, please do not hesitate to contact me.

Sincerely,

A handwritten signature in black ink, appearing to read "R. W. Bishop", enclosed within a large, loopy, circular flourish.

Robert W. Bishop

c: Karen D. Cyr, Esq.
General Counsel