



UNITED STATES
NUCLEAR REGULATORY COMMISSION

WASHINGTON, D.C. 20555-0001

September 20, 2000

DOCKETED
USNRC

'00 SEP 27 P3:10

Mr. Eric Joseph Epstein
4100 Hillsdale Road
Harrisburg, PA 17112

DOCKET NUMBER

PETITION RULE PRM 50-70
65FR30550

OFFICE OF
GENERAL COUNSEL
ADJUTANT GENERAL STAFF

Dear Mr. Epstein:

This is in response to your communications styled as "Motions to Separate *Pro Se* Representation" and "Motions to Dismiss Delinquent Filings," dated August 15, 2000, August 22, 2000, and August 23, 2000, concerning comments submitted in response to the notice of receipt of your petition for rulemaking (PRM-50-70). The notice of receipt, published in the Federal Register on May 12, 2000 (65 Fed. Reg. 30,550), requested that comments be submitted by July 26, 2000. This also serves to address your responses to the comments of PPL Susquehanna, LLC, and Florida Power Corporation, dated September 5, 2000, and September 7, 2000, respectively.

The Nuclear Regulatory Commission's (NRC's) rulemaking procedures are governed by Section 553 of the Administrative Procedure Act (APA). NRC implemented Section 553 through 10 CFR Part 2, Subpart H (§§ 2.800-2.810). NRC rulemaking procedures allow "any interested person" to petition the NRC to issue, amend, or rescind any regulation. 10 CFR § 2.802. All interested persons and members of the public may then comment on the petition pursuant to 10 CFR § 2.802(e). NRC rulemaking procedures direct that comments on rulemaking proceedings may be made in the manner stated in the Federal Register notice. 10 CFR §§ 2.804, 2.805. In this case, the notice stated that comments could be submitted by mail, by hand delivery, and electronically, via the NRC's interactive rulemaking website. 65 Fed. Reg. at 30,550.

Your "Motions to Separate *Pro Se* Representation" suggest that seven individuals, who filed comments on behalf of other entities, "separate from their affiliated entities" and "file comments as interested parties." To support this assertion, you refer to Pennsylvania state law, which has no bearing on NRC rulemaking procedures. In any event, neither the provisions of the APA nor the NRC regulations discussed above prevent a commenter from submitting its comments via a representative, which can, but need not be, an attorney or law firm. Moreover, neither the APA nor NRC regulations limit participation by non-attorneys in the public comment process in any way.

In your "Motions to Dismiss Delinquent Filings," you request that six comments submitted in response to PRM-50-70 be stricken because they were received by the agency after July 26, 2000, the date comments were due to the NRC as indicated in the May 12, 2000 notice of receipt. Your submission also appears to question whether two of the comments, submitted by TLG Services, Inc., and New England Power Company and Oglethorpe Power Corporation were properly submitted through electronic submission.

E. Epstein

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As indicated above, the notice specifically allowed submission of comments electronically, via the NRC's rulemaking website. Consequently, the two electronic comments were properly submitted. As to the lateness of the comments, the notice specifically states that comments received after July 26 "will be considered if it is practical to do so, but the Commission is able to assure consideration only for comments received on or before this date." 65 Fed. Reg. at 30,550. Accordingly, these comments will not be removed from the administrative record of PRM-50-70, and, since consideration of the petition is ongoing, will be considered by the NRC staff. It is the Commission's policy to encourage public participation in its processes, including rulemaking.

I trust this response addresses your concerns.

Sincerely,

A handwritten signature in black ink, appearing to read "Annette Vietti-Cook - 6/28". The signature is fluid and cursive.

Annette L. Vietti-Cook
Secretary of the Commission

cc: Commenters

E. Epstein

As indicated above, the notice specifically allowed submission of comments electronically, via the NRC's rulemaking website. Consequently, the two electronic comments were properly submitted. As to the lateness of the comments, the notice specifically states that comments received after July 26 "will be considered if it is practical to do so, but the Commission is able to assure consideration only for comments received on or before this date." 65 Fed. Reg. at 30,550. Accordingly, these comments will not be removed from the administrative record of PRM-50-70, and, since consideration of the petition is ongoing, will be considered by the NRC staff. It is the Commission's policy to encourage public participation in its processes, including rulemaking.

I trust this response addresses your concerns.

Sincerely,

Annette L. Vietti-Cook
Secretary of the Commission

cc: Commenters

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* See previous concurrence

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