



DOCKET NUMBER
~~PETITION RULE PRM 52-1~~
(66FR 48832)

Duke Power Company
A Duke Energy Company
Energy Center
P.O. Box 1006
Charlotte, NC 28201-1006

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November 7, 2001

DOCKETED
USNRC

November 8, 2001 (10:56AM)

Ms. Annette Vietti-Cook
Secretary of the Commission
U.S. Nuclear Regulatory Commission
Washington, D.C.
20555-0001

OFFICE OF SECRETARY
RULEMAKINGS AND
ADJUDICATIONS STAFF

ATTN: Rulemakings and Adjudications Staff

Subject: Comments on Petitions For Rulemaking

- (1.) *Addition of Sections 52.16 and 52.80 to 10CFR52, (PRM-52-1), 66FR48832, dated September 24, 2001;*
- (2.) *Elimination of Review of Alternate Sites, Alternate Generating Sources and Need For Power, (PRM-52-2), 66FR48828, dated September 24, 2001*

Dear Madam:

NEI recently submitted petitions regarding the early site permit (ESP) and combined license (COL) processes. The rulemaking petitions were published in the *Federal Register* on September 24 along with request for public comment¹.

Duke Energy supports both petitions for reasons stated herein.

Petition PRM-52-1: NEI petition to add new Sections 52.16 and 52.80 to Part 52

The first applications for early site permits and combined licenses under Part 52 are likely to involve existing nuclear plant sites with adequate space for additional nuclear units. Under the NEI proposal, the ESP and COL would be required to

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meet all current NRC regulations while considering new information that could materially affect the NRC's previous conclusions. Existing information concerning site characterization or operational programs which is unaffected should be incorporated by reference into the ESP or COL applications. This existing information should not be subject to new and unnecessary NRC staff review.

Proposed Sections 52.16 and 52.80 should make preparation and review of ESP and COL applications more efficient by (1) reducing the number and scope of issues requiring consideration, and (2) focusing any public hearing on matters that have not been previously adjudicated in other proceedings. This should result in reduced licensing costs and shorter time to market for new plants.

Petition PRM-52-2: NEI petition to eliminate review of alternative sites, alternative generating sources and need for power

NRC review of alternatives under National Environmental Protection Act (NEPA) need not and should not consider need for power, alternate sources or alternate sites, as these matters are best determined by state and local governments, the applicant and the marketplace.

Eliminating these NRC reviews will make the preparation and review of ESP and COL applications more efficient by relieving the need for applicants to submit, and for NRC to review, information on need for power and alternatives to the proposed action (e.g., alternative sites and sources). Moreover, doing so will focus attention of the applicant, NRC and public on the safety and environmental impact of the specific activity proposed by the applicant – not on matters determined by other processes or outside the NRC's mandate and expertise.

In light of the importance of these petitions, Duke Energy recommends that the NRC ensure that consideration of the petitions be integrated with the proposed amendment of 10CFR52, Early Site Permits; Standard Design Certifications; and Combined Licenses for Nuclear Power Plants, as noticed on September 27, 2001 (66FR49324)..

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If there are any questions regarding this matter, please contact Jim Effinger at (704) 382-8688.

Sincerely,

A handwritten signature in cursive script that reads "James J. Fisicaro".

J. J. Fisicaro

Manager, Nuclear Assessment & Issues Division
Nuclear Generation Department

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bxc: M. T. Cash
C. J. Thomas
J. A. Effinger
D. M. Smith
L. E. Nicholson
G. D. Gilbert
ELL