

April 07, 2004

Mr. J. W. Moyer
Vice President - HBRSEP, Unit No. 2
Progress Energy Carolinas, Inc.
Robinson Nuclear Plant
3581 West Entrance Road
Hartsville, SC 29550-0790

SUBJECT: NOTICE OF DOCKETING OF PROGRESS ENERGY CAROLINAS LICENSE RENEWAL APPLICATION FOR THE H. B. ROBINSON STEAM ELECTRIC PLANT, UNIT 2, INDEPENDENT SPENT FUEL STORAGE INSTALLATION (TAC NO. L23716)

Dear Mr. Moyer:

By letter dated February 27, 2004, you submitted an application, in accordance with 10 CFR Part 72, for renewal of the materials license for the H. B. Robinson, Unit 2, Independent Spent Fuel Storage Installation (ISFSI). By letter dated April 7, 2004, we notified you that we had completed our acceptance review of your application and determined that it contains sufficient information for the staff to begin its technical review.

For your information, I am enclosing a copy of the Notice of Docketing, Notice of Proposed Action, and Notice of Opportunity for a Hearing for the 10 CFR Part 72 Materials License renewal application for the H. B. Robinson, Unit 2, ISFSI. The notice has been forwarded to the Office of the Federal Register for publication.

If you have any questions regarding this matter, please contact me at (301) 415-1179. Please refer to Docket No. 72-3 and TAC No. L23716 in future correspondence related to our review of your renewal application.

Sincerely,

/RA/
Christopher M. Regan, Project Manager
Licensing Section
Spent Fuel Project Office
Office of Nuclear Material Safety
and Safeguards

Docket No. 72-3 (50-280, 50-281)
TAC No. L23716

Enclosure: Federal Register Notice

cc: Mailing List

Mr. J. W. Moyer
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 Progress Energy Carolinas, Inc.
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DATE:	3/ 16 /2004	3 / 17 /2004	04/07 /2004

OFFICIAL RECORD COPY

Mr. J. W. Moyer
Progress Energy Carolinas, Inc.

H. B. Robinson Steam Electric Plant,
Unit No. 2 ISFSI

cc:

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U.S. NUCLEAR REGULATORY COMMISSION

DOCKET NO 72-3

PROGRESS ENERGY CAROLINAS, INCORPORATED

**NOTICE OF DOCKETING, NOTICE OF PROPOSED ACTION, AND NOTICE OF
OPPORTUNITY FOR A HEARING FOR RENEWAL OF MATERIALS LICENSE SNM-2502**

FOR THE

H. B. ROBINSON, UNIT 2, INDEPENDENT SPENT FUEL STORAGE INSTALLATION

ACTION: Notice of license renewal, and opportunity to request a hearing

DATES: A request for hearing and/or petition for leave to intervene must be filed by **[INSERT**

DATE: 60 DAYS FROM DATE OF PUBLICATION].

FOR FURTHER INFORMATION CONTACT: Christopher M. Regan, Project Manager, Spent Fuel Project Office, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. Telephone: (301) 415-1179; fax number: (301) 415-1179; e-mail: cmr1@nrc.gov.

SUPPLEMENTARY INFORMATION:

I. Introduction

The U.S. Nuclear Regulatory Commission (NRC or Commission) is considering an application dated February 27, 2004, from Progress Energy Carolinas, Inc. (applicant or PEC) for the renewal of materials license SNM-2502, under the provisions of 10 CFR Part 72, for the receipt, possession, storage and transfer of spent fuel, reactor-related Greater than Class C (GTCC) waste and other radioactive materials associated with spent fuel storage at the H. B.

Robinson, Unit 2, Independent Spent Fuel Storage Installation (ISFSI), located at the H. B. Robinson Steam Electric Plant, Unit 2, site in Darlington County, South Carolina. If granted, the renewed license will authorize the applicant to continue to store spent fuel in a dry cask storage system at the applicant's H. B. Robinson, Unit 2, ISFSI. Pursuant to the provisions of 10 CFR Part 72, the renewal term of the license for the ISFSI would be twenty (20) years; however, the applicant has submitted a separate exemption request with the license renewal application, which, if granted, would allow the license to be renewed for 40 years. This application was docketed under 10 CFR Part 72; the ISFSI Docket No. is 72-3.

An NRC administrative review, documented in a letter to PEC dated April 7, 2004, found that the application contains sufficient information for the NRC staff to begin its technical review. Prior to issuance of the requested license, the Commission will have made the findings required by the Atomic Energy Act of 1954, as amended (the Act), and the Commission's regulations. These findings will be documented in a Safety Evaluation Report. The issuance of the renewed materials license will not be approved until the NRC has reviewed the application and has concluded that renewal of the license will not be inimical to the common defense and security and will not constitute an unreasonable risk to the health and safety of the public. The NRC will complete an environmental evaluation, in accordance with 10 CFR Part 51, to determine if the preparation of an environmental impact statement is warranted or if an environmental assessment and finding of no significant impact are appropriate. This action will be the subject of a subsequent notice in the *Federal Register*.

II Opportunity to Request a Hearing

In accordance with the general requirements in Subpart C of 10 CFR Part 2, "Rules of General Applicability; Hearing Requests, Petitions to Intervene, Availability of Documents, Selection of Specific Hearing Procedures, Presiding Officer Powers, and General Hearing

Management for NRC Adjudicatory Hearings,”¹ any person whose interest may be affected by a proceeding and who desires to participate as a party must file a written request for hearing or petition for leave to intervene (“request for hearing”) and a specification of the contentions which the person seeks to have litigated in the hearing.

In accordance with 10 CFR 2.302(a), a request for hearing must be filed with the Commission either by:

1. First class mail addressed to: Office of the Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, Attention: Rulemakings and Adjudications Staff;
2. Courier, express mail, and expedited delivery services: Office of the Secretary, Sixteenth Floor, One White Flint North, 11555 Rockville Pike, Rockville, MD 20852, Attention: Rulemakings and Adjudications Staff, between 7:45 a.m. and 4:15 p.m., Federal workdays;
3. E-mail addressed to the Office of the Secretary, U.S. Nuclear Regulatory Commission, HEARINGDOCKET@NRC.GOV; or
4. By facsimile transmission addressed to the Office of the Secretary, U.S. Nuclear Regulatory Commission, Washington, DC, Attention: Rulemakings and Adjudications Staff, at (301) 415-1101; verification number is (301) 415-1966.

In accordance with 10 CFR 2.302(b), all documents offered for filing must be accompanied by proof of service on all parties to the proceeding or their attorneys of record as required by law or by rule or order of the Commission, including:

1. Mr. J. W. Moyer, Vice-President - HBRSEP, Unit 2, Progress Energy Carolinas, Inc.,
H. B. Robinson Nuclear Plant, 3851 West Entrance Road, Hartsville, SC 29550.

¹The references to 10 CFR Part 2 in this notice refer to the amendments to the NRC Rules of Practice, 69 FR 2182 (January 14, 2004).

2. The NRC staff, by delivery to the Office of the General Counsel, One White Flint North, 11555 Rockville Pike, Rockville, MD 20852, or by mail addressed to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington DC 20555-0001. Hearing requests should also be transmitted to the Office of the General Counsel, either by means of facsimile transmission to (301) 415-3725, or by e-mail to ogcmailcenter@nrc.gov.

The formal requirements for documents are contained in 10 CFR 2.304(b), (c), (d), and (e). In accordance with 10 CFR 2.304(f), a document filed by electronic mail or facsimile transmission need not comply with the formal requirements of 10 CFR 2.304(b), (c), and (d), as long as an original and two (2) copies otherwise complying with all of the requirements of 10 CFR 2.304(b), (c), and (d) are mailed within two (2) days thereafter to the Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, Attention: Rulemakings and Adjudications Staff.

In accordance with 10 CFR 2.309(b), a request for a hearing must be filed by **[INSERT DATE: 60 DAYS FROM THE DATE OF PUBLICATION]**.

In addition to meeting other applicable requirements of 10 CFR 2.309, a request for hearing must state:

1. The name, address, and telephone number of the requestor;
2. The nature of the requestor's right under the Act to be made a party to the proceeding;
3. The nature and extent of the requestor's property, financial or other interest in the proceeding;
4. The possible effect of any decision or order that may be issued in the proceeding on the requestor's interest; and
5. The circumstances establishing that the request for a hearing is timely in accordance

with 10 CFR 2.309(b). Nontimely requests will not be entertained absent a determination by the Commission, the presiding officer or the Atomic Safety and Licensing Board designated to rule on the request and contentions that the request should be granted and the contentions should be admitted based upon a balancing of the factors specified in 10 CFR 2.309(c).

In accordance with 10 CFR 2.309(f)(1), a request for hearing must set forth with particularity the contentions sought to be raised. For each contention, the request must:

1. Provide a specific statement of the issue of law or fact to be raised or controverted;
2. Provide a brief explanation of the basis for the contention;
3. Demonstrate that the issue raised in the contention is within the scope of the proceeding;
4. Demonstrate that the issue raised in the contention is material to the findings that the NRC must make to support the action that is involved in the proceeding;
5. Provide a concise statement of the alleged facts or expert opinions which support the requestor's position on the issue and on which the requestor intends to rely at hearing, together with references to the specific sources and documents on which the requestor intends to rely to support its position on the issue; and
6. Provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. This information must include references to specific portions of the application (including the applicant's environmental report and safety report) that the requestor disputes and the supporting reasons for each dispute, or, if the requestor believes the application fails to contain information on a relevant matter as required by law, the identification of each failure and the supporting reasons for the requestor's belief.

In addition, in accordance with 10 CFR 2.309(f)(2), contentions must be based on documents or other information available at the time the petition is to be filed, such as the application, supporting safety analysis report, environmental report or other supporting

document filed by the applicant, or otherwise available to the petitioner. On issues arising under the National Environmental Policy Act, the requestor shall file contentions based on the applicant's environmental report. The requestor may amend those contentions or file new contentions if there are data or conclusions in the NRC draft, or final environmental impact statement, environmental assessment, or any supplements relating thereto, that differ significantly from the data or conclusions in the applicant's documents. Contentions may be amended or new contentions filed after the initial filing only with leave of the presiding officer upon making the showings specified in 10 CFR 2.309(f)(2).

Each contention shall be given a separate numeric or alpha designation within one of the following groups:

1. Technical - primarily concerns issues relating to matters discussed or referenced in the Safety Analysis Report for the proposed action.
2. Environmental - primarily concerns issues relating to matters discussed or referenced in the Environmental Report for the proposed action.
3. Emergency Planning - primarily concerns issues relating to matters discussed or referenced in the Emergency Plan as it relates to the proposed action.
4. Physical Security - primarily concerns issues relating to matters discussed or referenced in the Physical Security Plan as it relates to the proposed action.
5. Miscellaneous - does not fall into one of the categories outlined above.

If the requestor believes a contention raises issues that cannot be classified as primarily falling into one of these categories, the requestor must set forth the contention and supporting bases, in full, separately for each category into which the requestor asserts the contention belongs with a separate designation for that category.

Requestors should, when possible, consult with each other in preparing contentions and combine similar subject matter concerns into a joint contention, for which one of the co-

sponsoring requestors is designated the lead representative. Further, in accordance with 10 CFR 2.309(f)(3), any requestor that wishes to adopt a contention proposed by another requestor must do so in writing within ten days of the date the contention is filed, and designate a representative who shall have the authority to act for the requestor.

In accordance with 10 CFR 2.309(g), a request for hearing may also address the selection of hearing procedures, taking into account the provisions of 10 CFR 2.310. The Commission hereby provides notice that this is a proceeding on an application for a license amendment falling within the scope of section 134 of the Nuclear Waste Policy Act of 1982 (NWPA), 42 U.S.C. 10154. Under section 134 of NWPA, the Commission, at the request of any party to the proceeding, shall use hybrid hearing procedures with respect to any matter which the Commission determines to be in controversy among the parties. The hybrid procedures in section 134 provide for oral argument on matters in controversy, preceded by discovery under the Commission's rules. Following oral argument, those factual issues that involve a genuine and substantial dispute, together with any remaining questions of law, shall be designated for resolution in an adjudicatory hearing. Adjudicatory hearings are to be held on only those issues found to meet the criteria of section 134 and set for hearing after oral argument.

The Commission's rules implementing section 134 of NWPA are found in 10 CFR Part 2, Subpart K, "Hybrid Hearing Procedures for Expansion of Spent Fuel Storage Capacity at Civilian Nuclear Power Reactors," (as revised at 69 FR 2182, 2266-2267; January 14, 2004). Under those rules, any party may invoke the hybrid hearing procedures by requesting an oral argument in a request for hearing filed in accordance with 10 CFR 2.309, or in the applicant's or the NRC staff's response to a request for hearing. If it is determined that a hearing will be held, the presiding officer shall grant a timely request for oral argument. The presiding officer may grant an untimely request for oral argument only upon a showing of good cause by the

requesting party for the failure to file on time and after providing the other parties an opportunity to respond to the untimely request. If the presiding officer grants a request for oral argument, any hearing held on the application must be conducted in accordance with the hybrid hearing procedures. If no party to the proceeding requests oral argument, or if all untimely requests for oral argument are denied, the presiding officer shall conduct the proceeding in accordance with the subpart under which the proceeding was initially conducted as determined in accordance with 10 CFR 2.310.

II Further information

In accordance with 10 CFR 2.390 of NRC's "Rules of Practice," final NRC records and documents regarding this proposed action, including the application for license renewal dated February 27, 2004 and supporting documentation, are publically available in the records component of NRC's Agencywide Documents Access and Management System (ADAMS). These documents may be inspected at NRC's Public Electronic Reading Room at <http://www.nrc.gov/reading-rm/adams.html> under Accession No. ML040690774. These documents may also be viewed electronically on the public computers located at the NRC's Public Document Room (PDR), O1F21, One White Flint North, 11555 Rockville Pike, Rockville, MD 20852. The PDR reproduction contractor will copy documents for a fee. Persons who do not have access to ADAMS or who encounter problems in accessing the documents located in ADAMS, should contact the NRC PDR Reference staff by telephone at 1-800-397-4209 or

(301) 415-4737, or by e-mail to pdr@nrc.gov.

Dated at Rockville, Maryland, this ___ day of April 2004.

FOR THE NUCLEAR REGULATORY COMMISSION

Christopher M. Regan, Project Manager
Spent Fuel Project Office
Office of Nuclear Material Safety and Safeguards

(301) 415-4737, or by e-mail to pdr@nrc.gov.

Dated at Rockville, Maryland, this 7th day of April 2004.

FOR THE NUCLEAR REGULATORY COMMISSION

/RA/

Christopher M. Regan, Project Manager
Spent Fuel Project Office
Office of Nuclear Material Safety and Safeguards

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*See previous Concurrence

OFC:	SFPO		SFPO		OGC		SFPO	
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DATE:	3/ 17 /04		3/ 18 /04		4/ 2 /04		04/ 07 /04	

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