

September 16, 2004

Mr. Kenneth A. Westlake, Chief
Environmental Planning and Evaluation Branch
Office of Strategic Environmental Analysis
U.S. Environmental Protection Agency
Region 5
77 West Jackson Boulevard
Chicago, IL 60604

SUBJECT: GENERIC ENVIRONMENTAL IMPACT STATEMENT FOR LICENSE
 RENEWAL OF NUCLEAR PLANTS (GEIS), SUPPLEMENTS 16 AND 17,
 QUAD CITIES AND DRESDEN NUCLEAR POWER STATIONS,
 RESPECTIVELY

Dear Mr. Westlake:

This letter is in response to your two letters dated August 5, 2004, regarding the aforementioned projects. In July 2004, the U.S. Nuclear Regulatory Commission (NRC) issued the Final Supplements 16 and 17, Quad Cities and Dresden Nuclear Power Stations, to the "Final Generic Environmental Impact Statement for License Renewal of Nuclear Plants (GEIS)," NUREG-1437. We appreciate your timely review of the final supplements; we considered your comments to the degree permitted under our license renewal and environmental regulations. In the discussion provided below, we outline the background for the environmental review of license renewal applications and additional insight on the structure of the NRC regulations that govern the review. The regulations are found in Title 10 of the *Code of Federal Regulations* (10 CFR Parts 54 and 51) for license renewal and environmental protection, respectively.

As you are aware, the NRC established a unique framework for the conduct of review of license renewal applications. While the supplements are environmental impact statements (EISs) in their own right, they are, in fact, supplements to the GEIS, NUREG-1437, which reflects the NRC's hard look at those environmental issues that are common to all nuclear power plants. The GEIS also identifies those license renewal environmental issues that can only be resolved on a site-specific basis.

The NRC issued the Final GEIS for license renewal in 1996 after an exhaustive development effort that involved Federal, State, Tribal and local governmental entities, public interest groups and the public. The NRC worked closely with the U.S. Environmental Protection Agency (EPA), the Department of Interior, and the President's Council on Environmental Quality to ensure that the framework is sound and can ensure that our obligations under the National Environmental Policy Act are met. In conjunction with the issuance of the GEIS, the NRC amended the environmental protection rules of 10 CFR Part 51, which codify the findings of the GEIS and dictate the requirements (1) for prospective applicants seeking license renewal and (2) for the staff review. We will continue to follow the regulatory requirements established for license renewal environmental reviews.

The development of the GEIS led to the identification of about 100 technical issues that were related to the environmental effects of continued operation or the environmental effects of major refurbishment activities necessary for the plant to operate for the renewal period. All of these issues were analyzed to determine whether an issue could be resolved generically. Other than the two issues resolved by the Commission associated with the collective offsite radiological impacts from the fuel cycle and from high-level waste and with spent fuel disposal, in order for an issue to be resolved generically the Commission determined that it had to meet all of the following criteria:

- (1) the environmental impact has been determined to apply to either all plants or, for some issues, to plants having a specific type of cooling system or other specified plant or site characteristic;
- (2) a single significance level (i.e., small, moderate or large) has been assigned to the impact; and
- (3) mitigation of adverse impacts has been considered in the analysis, and it has been determined that additional plant-specific mitigation measures are not likely to be sufficiently beneficial to warrant implementation.

Such generically resolved issues have been termed "Category 1" issues. For Category 1 issues, no additional plant-specific analysis is required for a license renewal application unless information is revealed that is both new and significant and that such information can bring into question the Commission's conclusion. Category 1 issues were thoroughly analyzed in the GEIS, NUREG-1437; therefore, the Supplements rely on the GEIS's findings codified in the rule (10 CFR Part 51) and amplify the discussion with the description of the staff effort to identify and assess new information to determine its significance.

The Commission clearly recognized that conditions may change over time or that new information may come to light that could bring into question the conclusions drawn for a generic issue. For those reasons, the applicant has the added burden to identify any new and significant information of which it is aware and the public, including government, is invited to provide that information to the NRC as we conduct our independent review. Any new information provided is carefully considered by the staff.

The concerns raised in your correspondence on the Draft SEISs, in part, focused on Category 1 issues with the expectation that additional information should be included in the SEIS (e.g., waste storage and radiological impacts). The staff considered your comments on Category 1 issues on the Drafts, reflected on whether they presented significant new information, and documented its disposition of the comment in the Final SEISs (Appendix A). The additional information provided to us by your office on all Category 1 issues is already addressed in NUREG-1437. Consequently, the NRC's regulations require that a comment on a Category 1 issue that does not meet the threshold of new and significant information not result in a change to the text of the SEIS.

Some of your other concerns raised issues that have already been addressed generically by an NRC rule (e.g., waste confidence), or are precluded from consideration as part of the Staff's review of a license renewal request (e.g., need for power). Therefore, to the extent that you

raised issues that the Commission has already addressed through rulemaking, your comments did not result in a change to the text of the SEIS.

Finally, the NRC will not assess the environmental impacts of actions that are not yet proposals before the agency. Therefore, speculative undertakings such as future, inchoate strategies to deal with waste management or future operational changes (e.g., uprates) were not addressed as a result of your comments. In accordance with *Kleppe v. Sierra Club*, 427 U.S. 390 (1976), the Commission, in a recent adjudicatory decision, outlined its position that a possible future action must at least constitute a "proposal" pending before the agency (*i.e.*, ripeness), and must be in some way interrelated with the action which the agency is actively considering (*i.e.*, nexus) to be considered. See *Duke Energy Corp.* (McGuire Nuclear Station, Units 1 & 2; Catawba Nuclear Station, Units 1 & 2), 55 NRC 278, 294-97 (2002). Where license renewal and other licensing actions (e.g., power uprates) are not connected actions, the actions' environmental impacts are addressed separately.

We have found it useful to have direct interactions with the EPA regional offices regarding license renewal applications. We have invited your staff and the staff in other EPA regions to accompany us as we conduct our site environmental audits; a number have accepted our invitation and their participation has been mutually beneficial. We look forward to your continued input in this important program.

Sincerely,

/RA/

Pao-Tsin Kuo, Program Director
License Renewal and Environmental Impacts
Division of Regulatory Improvement Programs
Office of Nuclear Reactor Regulation

Docket Nos. 50-237, 50-249, 50-254, and 50-265

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