

APR 23 2015

UNITED STATES COURT OF APPEALS
FOR DISTRICT OF COLUMBIA CIRCUIT
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IN THE UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT

MISSOURI COALITION FOR
THE ENVIRONMENT,

Petitioner,

v.

UNITED STATES NUCLEAR
REGULATORY COMMISSION
COMMISSION and the UNITED
STATES OF AMERICA,

Respondents,

Case No. 15-1114

**PETITIONER'S MOTION TO HOLD PETITON
FOR REVIEW IN ABEYANCE**

Pursuant to Fed. R. App. P. 27, Petitioner, Missouri Coalition for the Environment ("Missouri Coalition"), hereby moves to hold in abeyance the attached petition for review of the Callaway Unit 1 nuclear reactor license renewal decision by the Nuclear Regulatory Commission ("NRC"), pending the Court's decision in a related rulemaking appeal now before the Court. This case should be held in abeyance because the outcome of the rulemaking appeal will be dispositive of this appeal.

BACKGROUND

This petition for review relates to actions taken by the NRC on remand from this Court's decision in *State of New York v. NRC*, 681 F.3d 471 (D.C. Cir. 2012) ("*New York I*"). In response to the Court's decision in *New York I*, the NRC issued the Continued Storage of Spent Nuclear Fuel Rule, 70 Fed. Reg. 56,238 (Sept. 19, 2014) ("Rule") and the Generic Environmental Impact Statement for the Continued Storage of Spent Nuclear Fuel, 70 Fed. Reg. 56,263 (Sept. 19, 2014) ("GEIS").

In *Beyond Nuclear v. NRC*, No. 14-1216, Missouri Coalition and other organizations challenged the Rule and GEIS on the grounds that they violate the Atomic Energy Act ("AEA"), the National Environmental Policy Act ("NEPA"), and the Administrative Procedure Act ("APA"). Missouri Coalition's appeal was consolidated with other appeals of the Rule and GEIS in *State of New York v. NRC*, Nos. 14-1210, 14-1212, 14-1216, and 14-1217 (Consolidated) ("*New York II*"). The parties are awaiting a briefing schedule.

In this petition for review, Missouri Coalition challenges the NRC's March 16, 2015, decision to renew the operating license of the Callaway Nuclear Plant (the "Callaway License Renewal Decision"). Petitioner contends that the Callaway License Renewal Decision is unlawful because it relies on the Rule and GEIS for compliance with the AEA, NEPA, and APA.

ARGUMENT

Petitioner requests that this challenge to the Callaway License Renewal Decision be held in abeyance, pending this Court's decision in *New York II*. Briefing in that case will resolve, in their entirety, all of the AEA, NEPA, and APA claims that apply to this petition for review. Once this Court decides *New York II*, Petitioner will seek application of that decision to this petition for review.

Petitioner has consulted with the NRC and the United States on this motion. Federal Respondents do not oppose the relief that Petitioner has requested but take no position at this time on the effect of a decision in *New York II* on this or any other petition for review.

Accordingly, Petitioner respectfully requests that this Court hold its appeal of the Callaway License Renewal Decision in abeyance pending the resolution of *New York II*.

Respectfully submitted,



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