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September 30, 2015

Mr. Glenn Tracy  
Director, Office of New Reactors  
U.S. Nuclear Regulatory Commission  
Washington, DC 20555-0001

**Subject:** Combined License Application Management of Design Changes

**Project Number: 689**

Dear Mr. Tracy:

I am writing to follow up on the September 10 public meeting with members of your staff to discuss a resolution of a generic issue that is delaying completion of safety reviews for Combined License (COL) applications that reference the AP1000 certified design.

A number of AP1000 design changes have been identified in connection with the lead AP1000 projects, and these changes are being implemented at Vogtle 3/4 and Summer 2/3 in accordance with applicable Part 52 change processes. The need for such changes is not unexpected in complex first-of-a-kind projects such as the AP1000, and the commission established change processes in Part 52 to permit applicants and licensees to address these issues.

An April 15 NRC letter to Duke Energy stated that COLs cannot be issued until required changes in a referenced design certification are adequately addressed such that final safety findings can be made. The situation has significantly delayed issuance of pending COLs that reference the AP1000 design. As detailed design and testing continues, identification of additional required design changes may result in further indeterminate delays in COL issuance. This is a generic issue that could result in similar delays for any COL application that is based on a certified design for which detailed design and initial testing has not been completed.

As discussed on September 10, we believe that the NRC can make the safety findings required for issuance of COLs because required findings have been made for the AP1000 certified design, and existing processes established in the NRC rules assure that errors identified in a referenced design certification will be corrected prior to construction of affected systems, structures and components (SSCs). This approach is

consistent with the finality provisions of Part 52, which provide that matters resolved in connection with a referenced design certification are outside the scope of a COL proceeding. Thus, we believe that addressing design certification errors prior to COL issuance is neither necessary to assure the safety and compliance of the constructed facility nor required by Part 52.

The NRC staff's position appears to prevent, possibly until after startup of the lead AP1000 units, the issuance of additional COLs that reference the AP1000 design certification. This outcome, if not resolved, would constitute a significant and unnecessary breakdown in the NRC's Part 52 licensing process, negating a COL applicant's ability to rely on certified information as well as the change processes established in the NRC rules. While a change to Part 52 and amendment (or renewal) of the AP1000 design certification may be the appropriate long-term solution, a near-term solution is also needed given the direct impact of this issue on pending license applications that have already been under NRC review for more than seven years.

In addition to delaying COL applications under review, the current staff position is contrary to standardization and the principle of "one issue, one review, one decision," both hallmarks of the design center approach. Under the staff's current practice, a significant issue that requires change to design certification information has an immediate impact on a COL application review. In contrast, COL holders are not required to resolve such issues until needed to support construction, and frequently other issues have higher priority for construction. As is the case with the current AP1000 issues, these disparate impacts can result in COL applicants and COL holders having differing priorities and timelines for resolving these issues, potentially undermining standardization and the efficiencies achieved under "one issue, one review, one decision." Furthermore, this outcome is unnecessary because existing NRC processes ensure that errors identified in a referenced design certification will be corrected prior to construction of the affected SSCs.

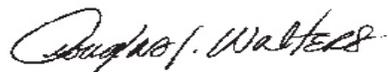
As discussed with the staff on September 10, we are prepared to work with the staff to consider additional steps that avoid further COL delays and encourage standardization to be maintained. While it is not clear that such steps are necessary, applicants are prepared to accept one or more license conditions to provide additional visibility to changes required in the referenced design certification and to facilitate the NRC staff safety findings required for COL issuance. The license conditions would state that required design changes will be addressed after COL issuance in license amendment requests that provide the opportunity for public participation. In addition, as discussed with the staff, the envisioned license conditions could contain criteria for determining compliance with NRC requirements that facilitate the required NRC staff safety findings. As an example, a proposed license condition concerning main control room dose is attached.

The NRC is appropriately judicious in the use of license conditions; however, we believe that the use of license conditions is an apt solution to the current situation. We understand that the staff may need to identify this issue to the commission and seek approval to use this new type of license condition in the near term pending a more permanent solution. Given the continuing impact of this issue on pending COL applications, we request the earliest possible action.

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If you have any questions, please contact me or Russ Bell (202-739-8087 or [rjb@nei.org](mailto:rjb@nei.org)).

Sincerely,

A handwritten signature in black ink that reads "Douglas J. Walters". The signature is written in a cursive style with a large initial 'D'.

Douglas J. Walters

Attachment

c: Mr. Frank M. Akstulewicz, Jr., NRO/DNRL, NRC  
Mr. Michael E. Mayfield, NRO/DARR, NRC  
Mr. Lawrence J. Burkhart, NRO/DNRL, NRC  
NRC Document Control Desk