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December 22, 1978

*NOT ADMITTED IN D.C.



Mr. Samuel Chilk
Secretary
Nuclear Regulatory Commission
Attn: Docketing and Service Section
Washington, D.C. 20555

Dear Mr. Chilk:

This responds to Santee-Cooper's letter of December 21, 1978 which marshals several criticisms of Central's Petition and seeks additional time to file a second response. The letter did serve to alert us to a notice of application for issuance of operating license of which I was previously unaware. While the notice was not, as stated in Santee-Cooper's letter, published on April 17, 1977, we have no reason to believe it was not published shortly after it was issued by the Commission on March 31, 1977. We obtained a copy of that notice today.

Existence of such a notice triggers the requirements of 10 CFR §2.714 which we had not intended to invoke until after the Commission had ruled on our Petition for a Finding of Significant Change. Accordingly, we wish to withdraw at this time our request for hearing, leaving standing only the request for determination of significant change. Central has no desire to request hearing or to intervene except on antitrust grounds, and will be unable to do so unless the Commission first determines a significant change has occurred.

So far as the petition for determination of significant change is concerned, the petition is verified under 10 CFR §2.708 (c) which provides in pertinent part:

"The signature of a person signing in a representative capacity is a representation . . . that he has read it [the document] and knows the contents, [and] that to the best of his knowledge, information, and belief the statements made in it are true..." (bracketed material added).

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There is no specific additional requirement for verification except in a request for intervention and/or request for hearing in a proceeding noticed pursuant to 10 CFR §2.105. However, should the Commission desire any additional verification, it will be filed promptly.

Secondly, Santee-Cooper asserts that the dates of the Attorney General's antitrust advice and the issuance of the construction permit are irrelevant. It argues that the date of December 3, 1974 is "crucial". Just why it is crucial is not discussed in the letter, but we hope that it may be addressed in Santee-Cooper's second response. Section 105(c)(2) of the Act provides as the dates pertinent to a determination of significant change "the previous review by the Attorney General and the Commission under this subsection in connection with the construction permit for the facility". The review referred to is indicated earlier in subsection 105c.(1) to be the antitrust review called for in Section 105c.(5). Santee-Cooper does not state or even suggest that there was an antitrust review on December 3, 1974 or at any time following the dates referred to in Central's petition.

Central is also criticized for not detailing the relief that it requests. Under existing practice and procedure such specification is inappropriate until the time for filing a petition to intervene and/or request for hearing after notice. Should the Commission desire a different procedure, Central would be pleased to suggest license conditions that may be appropriate to correct a situation inconsistent with the antitrust laws under the changed circumstances to which it has referred and indeed to make the entire showing required by the Commission under 10 CFR §2.714. It would appear that the more orderly procedure would be to defer the contents of §2.714 petition until after the Commission has made its determination that a significant change has occurred and antitrust review is warranted. As stated above, Central has no desire to intervene or to request hearing except on antitrust grounds and may not do so until the Commission has made such a determination.

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Central does not object to Santee's request to extend its time for a second response until early next year so long as there is no extension beyond January 15th, 1979 as is now requested.

Very truly yours,

Wallace E. Brand
Attorney for Central Electric
Power Cooperative, Inc.