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SEP 27 1947

MEMORANDUM FOR THE COMMISSIONER
OF THE PUBLIC SERVICE
RE: APPLICATION FOR
LICENSE TO OPERATE
A POWER GENERATING STATION

SUBJECT: "APPLICATION" OF PIEDMONT STATES POWER SUPPLY, INC.

On September 11, 1947, Piedmont States Power Supply, Inc., a corporation organized and existing under the laws of North Carolina by virtue of North Carolina statute and laws which can and operate electric power generating systems, submitted to the Commission the filing of an "application" for license under section 103 of the Atomic Energy Act of 1946, as amended, "Title Atomic, Civil, and War & 6% Subordinated Investment, as Trust in Common, Without Right of Distribution in These Nuclear Sponsored Water Type Reactors, To Be Located at The States Nuclear Station, Units 1, 2, and 3, States County, North Carolina, And To Be Designed, Constructed and Operated by State Power Company, Contingent Upon The Issuance Of Partial License Therefor by The Atomic Energy Commission Upon The Filing Of A Partial Application Therefor by State", dated September 11, 1947.

In support of the "application", Piedmont alleges that under sections 101, 102, 103 and 104 of the Act it has a right to file the application and the Commission must accept it if the Commission has made a finding in writing that pressurized water type reactors have been found to be of practical value pursuant to section 101 of the Act. It further alleges that such a finding has been made and evidenced by the Commission's licensing of nine pressurized water type reactors generating stations.

A review of the substantive portion of the Piedmont "application" reflects that it is substantially deficient with respect to complying with the Commission's requirements for applications for

Memorandum for utilization facilities as set forth in 15 C.F.R. Part 15. The "application" provides only summary and general information relating to Duke's financial qualifications. It provides no information as to Duke's technical qualifications nor does it furnish any particular data regarding the facilities for which it seeks license. The General Counsel's office believes on that it does not even constitute a submission for such application.

The Office of the General Counsel has reviewed the Duke's "application" for legal sufficiency and has concluded that:

1. The Commission has no authority under the Atomic Energy Act to issue license to Duke; to require, own or use an individual interest in Duke's property without its consent, and
2. The Commission cannot issue license to Duke until the Commission takes a finding of potential value pursuant to section 155 of the Act.

In view of these defects in the Duke's "application", I propose to reject it. The Office of the General Counsel has informed us that such a rejection will not require the holding of a hearing pursuant to section 155 a. of the Act because the "application" requests action which is beyond the authority of the Commission to grant and because it does not meet the requirements of the Commission's regulations for an application.

On September 12, 1957, the Duke Power Company addressed a notice to the Commission the Duke's "application" or to reject it for filing.

Attached is a draft of a letter which I propose to transmit to Duke's rejecting the "application".

I would like the opportunity to discuss this matter with the Commission at an early information meeting.

J. F. Kennedy
 E. H. Felt
 E. L. Price
 E. L. Felt
 T. F. Engelhardt
 H. L.
 Mr. Control File
 Mr. Files
 Mr. G. Felt
 Mr. Felt, H. L.

Very truly yours,

Harold L. Price
 Director of Regulation

Attachment:
 Draft letter

Mr. General Counsel
 Mr. General Counsel
 Mr. General Counsel

Mr. Engelhardt
 Mr. Engelhardt

Mr. Files
 Mr. Files

9-12-57

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