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DOCKET NUMBER

PETITION RULE PRM-50-25
-50-25a
(45FR 7653)

April 7, 1980



Secretary of the Commission
U. S. Nuclear Regulatory Commission
Washington, D. C. 20555

Attention: Docketing and Service Branch

Re: Docket Nos. PRM-50-25 and PRM 50-25a

Gentlemen:

In response to the Federal Register notice of February 4, 1980 (45 Fed. Reg. 7653), we wish to comment on the rulemaking proposal of the State of Illinois and the Porter County Chapter of the Izaak Walton League of America, et al. concerning the Commission's regulations in extending the completion date for construction permits. On behalf of Georgia Power Company, the holder of operating licenses and construction permits for nuclear power plants, we are pleased to submit the following comments.

The rulemaking petition would modify 10 CFR §50.55(b) to require the consideration of a broad, unspecified range of issues in connection with a request to extend the completion date specified in a construction permit. We oppose the proposed modification.

Section 185 of the Atomic Energy Act requires that construction permits set forth the earliest and latest dates for completion of construction. If construction is not completed by the latest date specified, the construction permit expires "unless upon good cause shown, the Commission extends the completion date." This provision was borrowed by the drafters of the Atomic Energy Act of 1954 from the Communications Act of 1934. See Marks &

Acknowledged by card. *S/P.g.*

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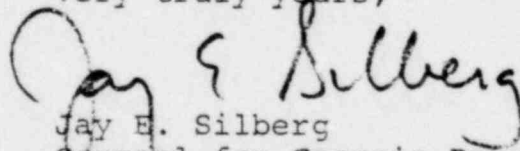
Trowbridge, Framework for Atomic Industry (1955). The purpose of the Communications Act's completion date provision was to assure that the limited number of broadcast provisions not go unused. See Channel 16 of Rhode Island, Inc. v. F.C.C., 440 F.2d 266 (D. C. Cir. 1971). Although the Atomic Energy Act's legislative history gives little clue as to the purpose of the equivalent provision, it is most likely that it was intended to deal with the potential scarcity of fissionable material foreseen in the mid-1950's. While the scarcity situation no longer exists, the completion date provision remains in the Act as an anachronistic throwback.

The petition would turn the Commission regulation implementing this portion of Section 185 into an open-ended opportunity to relitigate the entire construction permit proceeding. There is no basis, either in the underlying rationale for the completion date provision or in common sense, for this wholesale recasting of the completion date regulations.

The expansion of 10 CFR §50.55(b) to consider "whether the permittee has shown good cause for the continued construction of the plan[t] in light of all the circumstances at the time of considering the application" would be totally inconsistent with the two stage licensing process created by Congress, implemented by the Commission and approved by the Courts. In addition to considering issues in connection with applications for construction permits and operating licenses, the proposed regulations would open up the opportunity to raise and relitigate virtually any issues merely because of the fortuitous expiration of a completion date that has no independent significance. There is no foundation for creating a three-stage licensing process. Nor is there any reason why one should be created. The change sought by the petition would open up new possibilities for administrative delay, needless hearings, and wasted resources. By establishing a potential new procedural roadblock not contemplated at the time the utility received its construction permit, the proposed regulation may also raise due process questions.

For all these reasons, we respectfully urge that the Commission reject the proposed regulation.

Very truly yours,



Jay E. Silberg

Jay E. Silberg
Counsel for Georgia Power Company