ARIZONA PUBLIC SERVICE COMPANY
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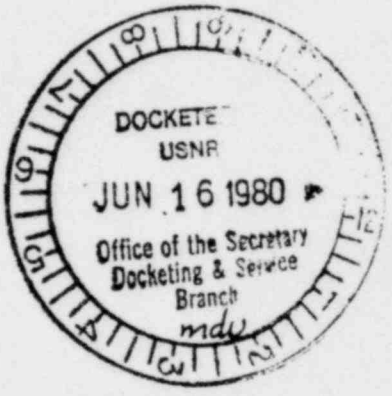
(45 FR 24168)



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

Attention: Docketing and Service Branch

Re: Amendment of 10 CFR Part 51
(45 Federal Register 24168)

Dear Sir:

The purpose of this letter is to provide the comments of the Arizona Public Service Company on the Nuclear Regulatory Commission's proposal to amend its regulation in 10 CFR Part 51 to provide procedures and performance criteria for the review of alternative sites for nuclear power plants under the National Environmental Policy Act of 1969. Our comments are given on the enclosure entitled "Comments on Proposed Amendment of 10 CFR Part 51."

Very truly yours,

E. E. Van Brunt

E. E. Van Brunt, Jr.
APS Vice President,
Nuclear Projects
ANPP Project Director

EEVBJr/CAB/av
Attachment

Acknowledged by card. 6/16/80 mdv

L-4-1, Pt. 51

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ARIZONA PUBLIC SERVICE COMPANY

COMMENTS ON PROPOSED AMENDMENT OF 10 C.F.R. PART 51

45 FEDERAL REGISTER 24168 (APRIL 9, 1980)

1. Sections III.1.a. and III.1.b. require an applicant to provide the NRC Staff with a notice of intent where the applicant plans on requesting an early review under Subpart F of 10 C.F.R. Part 2 or Appendix Q of 10 C.F.R. Part 50. If the applicant wishes to proceed under Subpart F, he must have submitted the notice of intent at least three months before tendering of the construction permit application or at least three months before beginning detailed environmental and safety studies of the proposed site, whichever occurs earlier. Similar requirements apply to a procedure under Appendix Q.

If an applicant fails to provide a notice of intent within the time specified, the NRC will not initiate its review for three months where no detailed studies of the proposed site have been performed or for twelve months where such studies have been performed. In considering the delays in NRC review associated with a failure by an applicant to file a notice of intent, it appears that the period of three months (where no detailed studies have been performed) is to compensate for the failure of the applicant to give the required three months notice. The twelve month period of delay (where detailed studies have been performed) bears no similar logic. Conceivably, the twelve month delay could be imposed where any detailed studies have been performed or even initiated. A nine month difference between such cases is simply unwarranted. Even if it is assumed that the twelve month delay would only be imposed where detailed studies have been completed, the period specified still appears to be quite arbitrary. The purpose of the proposed notice of intent is to assure that potential public participants have sufficient time prior to NRC review to prepare meaningful information to be considered early in the licensing process. Such information could include the proposal by a public participant of a candidate site not included in the applicant's slate of candidate sites. However, the proposal of a candidate site generally would not require the conduct of detailed studies. (See proposed rule at section III.2.). Furthermore, the fact that an applicant may have performed detailed studies would not increase the public participant's burden with respect to proposing a candidate site. Therefore, it is recommended that a single delay period of three months be applied, regardless of whether detailed studies have been performed.

2. Section V.1. establishes the initial geographic area for determining the region of interest to be (a) the State in which the proposed site is located or (b) the service areas of the applicant. It further provides that the initial geographic area must be expanded if the criteria in section V.3. apply. Section V.3. requires the region of interest to be expanded if "environmental diversity would likely be substantially increased and if

(a) candidate sites within the initial geographic area meet the threshold criteria in section VI.2.b. of this appendix, and the development of sites in the added geographic areas would likely not substantially increase costs."

If the applicant chooses the State in which the proposed site is located as the initial geographic area for determining the region of interest, and if, within this initial geographic area, candidate sites meeting the threshold criteria in section VI.2.b. are met, section V.3. would require the region of interest to be expanded beyond the State's boundaries if environmental diversity would likely be substantially increased and there is no substantial increase in costs. This requirement is unnecessary and ignores the inherent problem an applicant in one state would face in trying to site a nuclear power plant in another state which is not part of the applicant's service area. It is submitted that there is no need to be faced with such a problem in a situation where candidate sites have been identified. If environmentally acceptable candidate sites have been identified, the candidate site inquiry should be at an end. Accordingly, it is suggested that the phrase "(a) candidate sites . . . would likely not substantially increase costs, or (b)" be deleted from section V.3.

3. Section VI.4. provides that any intervening party in the NRC Staff may propose one or more additional sites for consideration as candidate sites provided certain conditions are met. The first condition is that the additional sites must be proposed for review within thirty days after the first special pre-hearing conference. Under the NRC's rules on intervention, 10 C.F.R. §2.714, a petitioner to intervene must file a list of the contentions which he seeks to have litigated in the matter, and the bases for each contention must be set forth with reasonable specificity, not later than fifteen days prior to the holding of the special pre-hearing conference. It is submitted that section VI.4.a. should be modified to be consistent with 10 C.F.R. §2.714 and require any intervening party or the NRC Staff to propose any additional sites not later than fifteen days prior to the first special pre-hearing conference.

4. Section VIII.1. provides that "a reopening and reconsideration of the alternative site decision after a final limited work authorization or construction permit decision will be permitted only upon a reasonable showing that there exists significant new information that could substantially affect the earlier decision." Section 2.606(b)(2) of the Commission's Rules of Practice provides that a partial initial decision on site suitability issues may not be reopened unless a finding is made that "there exists significant new information that substantially affects the earlier conclusions." Unlike the proposed rule, section 2.606(b)(2) imposes on a party moving for a reopening the burden of showing that, had the

new information been available initially, a different result would have (not could have) been reached. The proposed rule should be modified by adopting the language quoted from section 2.606(b)(2).

5. Relative to the reopening of the alternative site decision, section VIII.2. states that if the proposed and alternative sites were not submitted for NRC evaluation as part of a full construction permit review at least 2-1/2 years prior to filing the portion of the construction permit application containing the plant design, costs of delay and of moving to another site would not be considered in any decision to reconsider the alternative site decision. No discussion is presented concerning the basis for the 2-1/2 year advance filing requirement. In the absence of any such basis, it is urged that no period be specified for filing an application for early site review in advance of filing the portion of the construction permit application containing facility design information. In other words, costs of delay and of moving to another site should always be considered in any decision to reconsider the alternative site decision. Section VIII.2. should be deleted.