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Samuel J. Chilk, Secretary
U.S. Nuclear Regulatory Commission
1717 H Street, N.W.
Washington, D.C. 20555

Dear Mr. Chilk:

Pursuant to the Federal Register notice published April 9 (45 Fed. Reg. 24,168), the following comments on NRC's proposed rule regarding alternative site reviews are provided on behalf of Boston Edison Company, Florida Power & Light Co., Houston Lighting & Power Co. and Puget Sound Power & Light Co.

1. Neither the proposed regulation nor accompanying explanatory material specifies when the Appendix would become effective or whether (and how) it would apply to cases pending before the NRC. We urge that any rule adopted be quite clear on these points. Specifically, we believe the rule should not apply to construction permit applications docketed before its effective date or to related operating license applications.

Consideration must also be given to cases where detailed siting studies and investigations are underway on the effective date of any new regulation. Appendix A, Footnote 1 (45 Fed. Reg. 24,175), specifies that, in such an instance, the prospective applicant is to file a notice of intent within three months of the rule's effective date (rather than three months before beginning the detailed studies). In our opinion, this relief for prospective applicants is not sufficient. The requirements which would be imposed by the proposed regulation are obviously not the only requirements which could satisfy the requirements of NEPA. (For example, the four-site minimum established in Appendix A is not mandated by statute.) Therefore, retrospective application of these requirements when a site selection process has already been designed and is being implemented would be unfair and wasteful. We suggest revision of Footnote 1 along the following lines:

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1/ This rule will not apply to cases where, on its effective date, detailed, long-term investigations had already begun on a site proposed or likely to be proposed to the NRC as a site for a nuclear power plant. However, where no formal proposal has been filed with the NRC, a notice of intent must be given with respect to such a site within the three months following the effective date of this rule.

2. The standard for reconsideration of alternative site decisions set forth in Section VIII of proposed Appendix A appears to be less rigorous than the explanation of it which is given in the Notice. In view of the history of the impact on NRC's licensing proceedings caused by reopening of proceedings to consider alternative sites, e.g., in the Pilgrim, Seabrook, St. Lucie, and Perkins cases, the NRC should clearly indicate that the alternative site issue is not a continuing target. We suggest that the reopening of an alternative site analysis be prohibited unless the person seeking to reopen presents a prima facie case, based upon new information, that the previously approved site is unsuitable.

The proposed regulation would permit reconsideration to "take into account preliminary estimates of the reasonable costs of delay and of moving to another site. . . ." We note that those costs would include sunk costs at the approved site as well as forward costs at the new site. The explanatory material appears to carry a different implication and should be corrected. We endorse the principle of considering theses costs but, in our opinion, such consideration should not depend upon whether the licensee had sought an early decision on alternative sites. The Commission wishes to encourage applicants to seek early review of alternative sites; however, regardless of whether that goal is satisfied, the costs incurred in good faith by a licensee or to be incurred in a move to another site are very real and must be paid by some segment of society. We suggest that the Commission search for other means to encourage early alternative site reviews.

3. As we understand Section V.1, the initial geographic area for determining a "region of interest" may be either (i) an entire state or (ii) "the service areas of the applicant." If (ii) is intended to require inclusion of the service area of each and every co-owner no matter how small its share, we believe that the requirement is unnecessarily and unproductively onerous.

4. Section VI.2.b, sets out criteria which must be met by candidate sites in order to avoid further review of the selection

process. Under Subparagraph 8, a site cannot be in an area where additional safety considerations (e.g., geology, seismology) or environmental considerations, as compared to other reasonable sites in the region of interest, would result in "the reasonable likelihood" of having to expend an additional 5% of total project capital costs to make the site licensable or to mitigate "unduly adverse" environmental impacts. Especially given the inherent uncertainties of estimating costs many years before they are incurred, the 5% figure appears low and we request that the Staff furnish an explanation of its basis for selecting that value.

5. Comments were also invited on the question of "whether safety issues, including emergency response capability, should be admitted in the review and decisionmaking on alternative sites; and if so, how." In our opinion, safety issues should not be considered in the alternative site analysis. That analysis should assume that the candidate sites meet applicable safety requirements (if they do not, they will not be licensed) and decline to examine any alleged differences in residual risk or impacts among sites. However, it would appear to us that this question should be addressed as part of the development of siting criteria and not as a separate, almost hypothetical matter.

Sincerely,

Frederic S. Gray

FSG/gmh