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UNITED STATES  
NUCLEAR REGULATORY COMMISSION  
WASHINGTON, D. C. 20555

August 20, 1980

Ms. Virginia B. Dykes  
207 Stone Ridge Road  
Greer, South Carolina 29651

Dear Ms. Dykes

Your letter dated July 29, 1980 to the Nuclear Regulatory Commission, received on August 4, 1980, has been referred to me for response.

Your letter requests that a public hearing be held on whether the McGuire containment building will rupture if a TMI-2 type accident occurs. Your letter also requests that this hearing be held before an operating license is granted to operate the William B. McGuire Nuclear Station, Unit 1.

Notice of opportunity for a hearing on the Duke Power Company application for an operating license for the William B. McGuire Nuclear Station, Units 1 and 2 was published in the Federal Register on June 14, 1974 (39 Fed. Reg. 20833). A copy of that notice is enclosed. Under the terms of the notice, petitions for leave to intervene were to be filed by July 14, 1974. The notice also stated that a petition for leave to intervene which was not timely filed would not be granted unless it was determined that the petitioner had made a substantial showing of good cause for failure to file on time, and after consideration of the factors specified in 10 CFR §2.714(a)(1)-(4) and (d), of the Commission's Rules of Practice.

On October 1, 1974, the Atomic Safety and Licensing Board ("Licensing Board") granted the Carolina Environmental Study Group's (CESG) petition to intervene in the proceeding. Public evidentiary hearings were held in Charlotte, North Carolina, on March 28-31, April 1, and April 19-22, 1977, and on August 22-24, 30-31, 1978. An Initial Decision in the proceeding was issued by the Licensing Board on April 18, 1979. A copy of the Initial Decision is enclosed.

In the Initial Decision, the Licensing Board, on the basis of specific findings of fact and conclusions of law ordered that the Director of Nuclear Reactor Regulation, upon making the requisite findings with respect to uncontested matters not embodied in the Initial Decision, was authorized to issue an operating license for the McGuire facility. However, the Board stayed the effectiveness of the Initial Decision "until further order by the Board following the issuance of a supplement to the NRC Staff's Safety Evaluation Report ("SER") addressing the significance of any unresolved safety issues." In May 1980, the NRC Staff issued its Safety Evaluation Report Supplement No. 3 (SER, Supp. 3) addressing the significance of the unresolved generic safety issues as they relate to the McGuire facilities. Based on issuance of SER, Supp. 3, on May 30, 1980 Duke Power Company filed a motion requesting the Licensing Board to terminate its stay of the Initial Decision. In addition, CESG, the Intervenor in this proceeding, on August 15, 1980 filed a motion to reopen the McGuire proceedings with respect to matters involving hydrogen generation and the potential for breach of containment. These motions are pending before the Licensing Board for resolution.

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Ms. Virginia B. Dykes

-2-

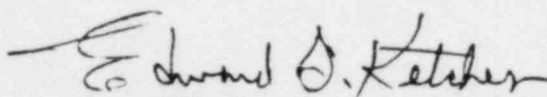
In regard to the matter of containment rupture in the event of a TMI-2 type of accident, I have enclosed a copy of "Further Commission Guidance for Power Reactor Operating Licenses, Statement of Policy", (45 Fed. Reg. 41738; June 20, 1980). ("Policy Statement"). As explained in the Policy Statement with respect to TMI-2 issues:

"[t]he Commission believes that where the time for filing contentions has expired in a given case, no new TMI-related contentions should be accepted absent a showing of good cause and balancing of the factors in 10 CFR 2.714(a)(1). The Commission expects strict adherence to its regulations in this regard."

I am enclosing a copy of the Commission's Rules of Practice contained in 10 CFR Part 2, for your use in the event you desire to formally petition to intervene in the proceeding before the Licensing Board and request a hearing. These procedures also explain the good cause showing requirement and the other criteria that must be met before a late petition to intervene will be granted. I recommend that you also read Appendix A to 10 CFR Part 2 for a general understanding of the practice and procedure governing Commission proceedings.

If you have further questions regarding this matter, you may contact the undersigned at (301) 492-7502.

Sincerely,



Edward G. Ketchen  
Counsel for NRC Staff

Enclosure as stated

cc (w/o encl.):  
Robert M. Lazo, Esq.  
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