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

CHAIRMAN

April 10, 1981

The Honorable Floyd Spence
United States House of Representatives
Washington, D.C. 20515

Dear Congressman Spence:

I am pleased to have this opportunity to respond to your letter of February 19, 1981 concerning the licensing schedule for the Virgil C. Summer Nuclear Plant. The Commission shares your concerns about licensing delays, not only for the Summer Plant, but for all plants that are being affected by delays in the licensing process. During the past month, the Commission and its staff have spent considerable time in reviewing the licensing schedules for these plants and have undertaken various approaches to shorten them wherever possible.

For those plants nearest completion, the primary problem is the projected length of the hearing process and subsequent Commission review. At present, an operating license is not issued until the Appeals Board and the Commission review the Licensing Board decision. This review process takes about three months. We are publishing proposed changes to our rules which will shorten this time by two or three months. This savings would be applicable to all impacted plants.

We also believe we can compress the licensing schedule from an average of 18 months to approximately 10 months by tightening the time allowed for each part of the process and by providing firmer time management. In March, the Commission published for comment proposed rule changes which would help to accomplish this. In addition, we intend to issue a policy statement providing guidance to the Licensing Boards on conducting proceedings so as to expedite the process.

For plants due to be completed in 1983 and beyond, the major action which would eliminate potential delay is early completion of staff reviews. Staff proposals to expedite staff reviews include resumed hiring, mandatory overtime, reallocation of existing resources and transfer of some scheduled projects from the licensing office, Nuclear Reactor Regulation, to other NRC offices. These changes will also help to reduce licensing delays in 1981 and 1982, although the exact time savings depend upon how quickly hiring, internal personnel transfers and shifts in ongoing projects can be accomplished.

On March 18, 1981, the Commission submitted proposed legislation to Congress, which would allow it to authorize interim reactor operation for fuel loading and low-power operating and testing before the completion of a hearing. Such interim operation would save at least two months and, where the low power testing revealed a need for repairs or modifications, could save substantially more time. This proposed authority would expire at the end of 1983 thereby assuring that this adjustment to our licensing requirements would be temporary and confined to those plants which have been most directly affected by the Commission's post-TMI action. Any assistance that the delegation may be able to provide to assure early passage of the proposed legislation would be greatly appreciated.

In our January 30, 1981 report to the House Appropriations Subcommittee on Energy and Water Development, the projected schedule for the Summer Plant indicated that the plant would be completed in October 1981 and that the licensing process could take until June 1982 to complete. We continue to believe that the plant will not be completed earlier than October 1981. Since issuing the January report, we have issued the Summer Safety Evaluation Report (SER) on February 6, met with the ACRS subcommittee on February 26-27 and again on March 11, and with the full ACRS Committee on March 13. As a result of intensified efforts by our legal staff and cooperative discussions with the participants, the hearing schedule may be shortened to reflect a final NRC decision as early as March 1982. There may still be some items in the hearing schedule that can be adjusted, possibly resulting in an even shorter schedule.

One matter not considered above, which could have an impact on the operating date for this facility, is an antitrust petition now pending before the Commission. In early 1979 the Central Electric Power Cooperative petitioned the Commission to find that "significant changes" have occurred since the last antitrust review of the application by the NRC and the Department of Justice. Such a finding is a statutory requirement to initiate an antitrust review at the operating license stage. In June 1980 the Commission issued an intermediate decision which established criteria, discussed the ultimate issues, and asked for comments by the parties and the Department of Justice and for the assistance of that Department with respect to our decision on one of the criteria. The Commission has since also solicited comments on the effect of certain agreements between petitioner and one of the applicants on the requested finding. A decision is expected soon.

An affirmative decision would require a statutory 180-day review by the Department of Justice culminating in a published opinion. Subsequent to such an opinion, any party with an interest could request a hearing on antitrust contentions. While current law requires that an antitrust hearing be completed prior to issuance of an operating license, an exception exists where all parties agree to a post licensing review. In this case the petitioner for the significant changes finding has indicated agreement to post licensing review; therefore, we would not expect any delay from an affirmative finding, although in other circumstances such a hearing could delay by well over one year the issuance of an operating license.

There remains a great deal of work to do prior to issuance of the operating license for Summer. The Commission will continue to make every effort to improve the current and projected schedules and to minimize the delays.

Sincerely,

Joseph M. Hendrie