



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

June 26, 1984

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STATE OF ALABAMA
DOCKETING & SERVICE
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MEMORANDUM FOR: Files
FROM: Nunzio J. Palladino *NJP*
SUBJECT: MEETING WITH REPRESENTATIVES
OF ALABAMA POWER COMPANY

1. On June 26, 1984, I met with representatives of the Alabama Power Company at their request. The meeting occurred at approximately 11:15 a.m., on June 26, 1984. Attendees included myself and C. W. Reamer. Representatives of Alabama Power who attended were: R. P. McDonald, Jesse S. Vogtle, S. Eason Balsch, J.S. Bouleigh, Harold F. Reis, and Robert A. Brettner.
2. At the meeting, Alabama Power representatives told me the following information:
 - They met previously in separate meetings with Commissioners Asselstine and Bernthal and with Mr. Dircks to discuss the points presented to me.
 - Alabama Power has been negotiating with Alabama Electric Cooperative (AEC) to implement a license condition imposed by the NRC Appeal Board in an antitrust case. (A copy of the license conditions that Alabama Power representatives gave to me at the meeting is attached.) The parties are at loggerheads. AEC informed Alabama Power that AEC is contemplating an enforcement petition and may file a paper with the NRC this week.
 - Alabama Power believes enforcement action could entail 5-10 years of fighting, and Alabama Power is looking for a procedure to bring the issue to resolution faster. Alabama Power is thinking about filing a declaratory judgment petition with the NRC. Alabama Power is concerned that AEC may have an interest in delay, but does not know exactly why AEC would want to drag the matter out.
 - It is Alabama Power's position that there are differences of interpretation of the license condition between Alabama Power and AEC. For example, AEC wants

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a 24-hour representative whereas Alabama Power has offered visitation. Alabama Power believes they have negotiated in good faith and that the parties are entitled to a definition of what the license condition means.

- Alabama Power's lawyers have prepared an option for a shorter procedure (i.e., the declaratory judgment petition procedure). Alabama Power would file the declaratory judgment petition which would seek a Commission determination either that Alabama Power has complied with the license condition or that Alabama Power needs to do something more to comply. The Commission could either follow this declaratory judgment procedure or not, depending on what the Commission wanted to do. If it followed the procedure, the Commission would appoint a special master, who could examine affidavits, possibly hold hearings, and issue a report to the Commission. The Commission would then determine what the license condition means. There is precedent for a special procedure in the Indian Point special proceeding. The procedure could lead to a resolution of the issues at an early date and would not tie up resources needlessly. It would not be an adversarial process.

- Alabama Power recognizes that the license condition is a final order and intends to live with it. They also recognize that they are proposing a novel procedure which NRC lawyers will have to review to determine whether or not it is legal.

3. I informed the Alabama Power representatives that I declined to give comments on Alabama Power's approach. I further informed them that it was up to them to make the move they thought was appropriate and that the Commission would review and react to what they filed. I said the Commission, as a general matter, did not favor stretching matters out unnecessarily, but that I could not comment on whether or not Alabama Power's proposed procedure was the right procedure. I indicated that I would alert our General Counsel that a petition may be forthcoming to be dealt with when it is received. (By copy of this memo, I am so informing OGC.)
4. I stated that I intended to prepare this memorandum for possible distribution to interested persons, and the Alabama Power representatives stated that they

would not object to this procedure.

Attachment: License Conditions

cc: Commissioner Gilinsky
Commissioner Roberts
Commissioner Asselstine
Commissioner Bernthal
Herzel H. E. Plaine
SECY Docketing & Service (Docket No.'s 50-348A,
50-364A)

APPENDIX

License Conditions Approved by the Appeal Board

The following license conditions are made a part of any licenses issued to the applicant for the Joseph M. Farley Nuclear Plant, Units 1 and 2:

1. Licensee shall recognize and accord to Alabama Electric Cooperative the status of a competing electric utility in central and southern Alabama.

2. Licensee shall offer to sell to AEC an undivided ownership interest in Units 1 and 2 of the Farley Nuclear Plant. The percentage of ownership interest to be so offered shall be an amount based on the relative sizes of the respective peak loads of AEC and the Licensee (excluding from the Licensee's peak load that amount imposed by members of AEC upon the electric system of the Licensee) occurring in 1976. The price to be paid by AEC for its proportionate share of Units 1 and 2, determined in accordance with the foregoing formula, will be established by the parties through good faith negotiations. The price shall be sufficient to fairly reimburse Licensee for the proportionate share of its total costs related to the Units 1 and 2 including, but not limited to, all costs of construction, installation, ownership and licensing, as of a date, to be agreed to by the two parties, which fairly accommodates both their respective interests. The offer by Licensee to sell an undivided ownership interest in Units 1 and 2 may be conditioned, at Licensee's option, on the agreement by AEC to waive any right of partition of the Farley plant and to avoid interference in the day-to-day operation of the plant.

3. Licensee will provide, under contractual arrangements between Licensee and AEC, transmission services via its electric system (a) from AEC's electric system to AEC'S off-system members; and (b) to AEC'S electric system from electric systems other than Licensee's, and from AEC'S electric system to electric systems other than Licensee's. The contractual arrangements covering such transmission services shall embrace rates and charges reflecting conventional accounting and ratemaking concepts followed by the Federal Energy Regulatory Commission (or its successor in function) in testing the reasonableness of rates and charges for transmission services. Such contractual arrangements shall contain provisions protecting Licensee against economic detriment resulting from transmission line or transmission losses associated therewith.

4. Licensee shall furnish such other bulk power supply services as are reasonably available from its system.

5. Licensee shall enter into appropriate contractual arrangements amending the 1972 Interconnection Agreement as last amended to provide for a reserve sharing arrangement between Licensee and AEC under which