

DOCKET NUMBER
PROPOSED RULE PR 51

(56FR47016)

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March 16, 1992

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

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Attention: Docketing and Service Branch

Re: 10 C.F.R. Part 51
Proposed Rule, "Environmental Review for
Renewal of Operating Licenses"

Gentlemen:

On September 17, 1991, the Nuclear Regulatory Commission published for comment a proposed rule to amend 10 C.F.R. Part 51. The proposed amendments would establish the environmental review requirements for applications to renew nuclear power plant operating licenses.

The following comments are submitted on behalf of The Cleveland Electric Illuminating Company (CEI), which is authorized by NRC Construction Permit No. CPPR-149 to construct the Perry Nuclear Power Plant, Unit 2. CEI is also the operator of the Perry Nuclear Power Plant, Unit 1.

In general, CEI supports the comments filed with respect to the proposed revision to Part 51 by the Nuclear Management and Resources Council, Inc. (NUMARC). CEI would also like to specifically address one of the questions posed by the Supplemental Information accompanying the proposed rule. That question asks whether Perry Unit 2, and three other nuclear power plants whose construction has also been suspended, should be excluded from scope of the proposed rule. Without attempting to speak on behalf of the other excluded units, we believe that Perry Unit 2 should not be excluded.

The proposed rule (at §51.53(c)(3) and in the introductory paragraph to proposed Appendix B to Subpart A to Part 51) identifies those nuclear power plants to which the proposed rule would

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apply. Included within its scope are all plants holding operating licenses as of June 30, 1992 and five specifically identified units (Bellefonte Units 1 and 2, Comanche Peak, Unit 2 and Watts Bar Units 1 and 2). This definition would exclude Perry Unit 2, as well as WNP Units 1 and 3 and Grand Gulf Unit 2. Thus, the proposed rule would include some plants that currently do not have NRC operating licenses, but exclude other units (including Perry Unit 2) which also do not have operating licenses. There is no principled reason to exclude these units.

Construction of Perry Unit 2 was suspended in 1985. Since that time the unit has been maintained in a deferred state. CEI and its co-owners of Perry Unit 2 are continuing to study the options with respect to that unit. Those options include resumption of its construction, indefinite suspension of construction, and cancellation. On October 28, 1991, CEI submitted to the NRC a request to extend the construction completion date of the Unit 2 Construction Permit.

Notwithstanding its current deferred status, Perry Unit 2 has already had a complete environmental review by the NRC staff in connection with its application for an operating license. NUREG-0884, Final Environment Statement Related to the Operation of Perry Nuclear Plant, Units 1 and 2 (August 1982). The Generic Environmental Impact Statement (GEIS) which supports the proposed rule already considers Perry Unit 1, which is identical to, and shares the same site with Unit 2. See, e.g., NUREG-1437, Table 2.1; App. A, p. A-49.

The only possible justifications for excluding Perry Unit 2 while including other units not currently licensed for operation are (1) the uncertainty of Unit 2's eventual operation and subsequent license renewal, and (2) the extended time until a possible renewal term for Unit 2. Neither of these reasons justify excluding Unit 2. While Unit 2's operation and possible license renewal is wholly speculative at this time, so too is operation and license renewal for the other non-operating license units specifically included by the rule. Indeed, license renewal for any plant, including those operating today, is to a significant degree speculative. No plant has applied for license renewal, and one utility has publicly announced that it is even preparing such an application. However, as long as the NRC staff has gone to the effort to prepare the GEIS, which covers

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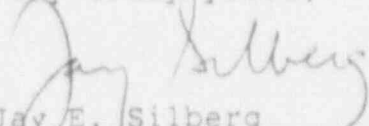
essentially every site and almost all units, it makes little sense to exclude the handful of plants which the Staff would set aside. This exclusion is particularly unsupportable where, as in the case of Perry Unit 2, a facility has had a full environmental review and shares a site (and, therefore, any potential environmental impacts) with an operating unit which is covered by the GEIS and the proposed rule.

The second possible justification for excluding Perry Unit 2, the extended time frame, also fails to survive analysis. The Supplementary Information accompanying the proposed rule states that the Commission plans to periodically review the GEIS findings and will, under its existing regulations, receive and evaluate petitions to amend Part 51 or reopen environmental issues of sufficient new information warrants a reopening. Thus, the issue of how long the GEIS findings remain valid is one which the Commission has already addressed -- not by imposing an arbitrary expiration date to the rule, but by a commitment to periodically revisit the findings to review their validity. As the Commission has done in the Waste Confidence Rule, for example, we would urge that the Commission in promulgating the final rule adopt a specific interval (perhaps five years) for reviewing the adequacy of the GEIS. This process, more than a defined list of plants, would better protect the adequacy of the environmental review process for license renewal applications.

For the reasons set forth above, we would respectfully request that Perry Unit 2 be included within the scope of the proposed Part 51 rulemaking.

We appreciate the opportunity to submit these comments.

Very truly yours,


Jay E. Silberg
Counsel for The Cleveland
Electric Illuminating Company