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DOCKET NUMBER PR 50
PROPOSED RULE
(53 FR 47822)

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Alabama Power

the southern electric system

February 27, 1989

Docket Nos. 50-348
50-364

Mr. Samuel J. Chilk
Secretary of the Commission
U. S. Nuclear Regulatory Commission
Washington, D. C. 20555

ATTENTION: Docketing and Service Branch

Dear Mr. Chilk:

Comments on NRC Proposed Rule
Proposed Maintenance Rulemaking
Ensuring the Effectiveness of Maintenance
Programs for Nuclear Power Plants

On November 28, 1988, the NRC published the subject proposed maintenance rulemaking (53 Federal Register 47,822) and invited comments by January 27, 1989. This comment period was later extended to February 27, 1989. On February 27, 1989, NUMARC comments are to be provided to the NRC on this proposed rule. Alabama Power Company has monitored the NUMARC efforts in this area and hereby endorses these comments. In addition, the enclosed comments addressing some of the issues that are of particular significance to Alabama Power Company are also provided.

Alabama Power Company appreciates the opportunity to comment on this proposed rule. If you have any questions, please contact our office.

Sincerely,

W. G. Hairston, III

WGH, III:CRP/db

Enclosure

cc: Mr. M. L. Ernst
Mr. E. A. Reeves
Mr. G. F. Maxwell

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ENCLOSURE

ALABAMA POWER COMPANY COMMENTS ON NRC PROPOSED MAINTENANCE RULEMAKING

Alabama Power Company is committed to the goal of achieving improved reliability and safety through better maintenance. Through the years Farley Nuclear Plant has maintained an impressive reliability and availability record, partly through the establishment of a comprehensive maintenance program. Alabama Power Company is committed to continuing the present efforts at Farley Nuclear Plant and to implementing new efforts that prove to be beneficial.

Poor, ineffective maintenance programs should be of concern. However, as discussed below and in the NUMARC letter to the NRC of February 27, 1989, Alabama Power Company does not believe that the proposed rule will serve to increase the Commission's ability to ensure that all nuclear power plants are reliably maintained. In fact, due to the diversion of resources, the proposed rule may have just the opposite effect and decrease overall plant safety. The NRC's own Advisory Committee on Reactor Safeguards (ACRS), its staff, its consultants, and all the nuclear utilities have advised against such a rule on the same basis. It is difficult to conceive that the Commission would disregard the advice of these groups, since the bulk of the maintenance expertise resides with them.

The Commission has based the preponderance of their conclusions on the data provided in NUREG-1212. This data was collected in the 1984-1985 time frame. Based on their analyses, the NRC concluded that possibly 25 plants had inadequate maintenance programs. Even assuming this data represented the U. S. industry maintenance programs in 1985, the data is now obsolete since significant strides were made in nuclear utility maintenance programs after 1985. Furthermore, it is unreasonable to promulgate a rulemaking for which the NRC has not shown to be required for any plants in the 1989 time frame but for which a significant financial burden would be imposed on the nuclear industry. The NRC already has resources at its disposal to take enforcement action, should they believe that any utility's maintenance program is ineffective to the point where plant safety is impacted. New analyses provided by NUMARC in their February 27 letter to the NRC indicate that there has been significant improvement in maintenance programs since 1985. Also, these analyses indicate that utilities will incur substantial implementation costs with a possible net decrease in plant performance and safety if this proposed rulemaking, in the current form, were to be adopted.

The Commission has applied 10 CFR 50.109(a)(4), more commonly known as the "adequate protection clause" of the backfit rule, as the primary justification for the proposed maintenance rulemaking. The application of "adequate protection" in this case is unjustified since this requires the Commission to find that, in Commissioner Roberts words, "the current operating plants now pose an undue risk to the public which we are presently tolerating...This is

clearly not the case." Nowhere in the proposed rulemaking, nor in the regulatory analysis, does the NRC state or imply that there is not an adequate level of safety for any licensee, groups of licensees, or the entire industry. The Commission should operate within the intent of the backfit rule and demonstrate clear evidence that the current level of safety in the nuclear industry is unacceptable before applying this section.

The proposed rulemaking is very broadly based and defines a number of activities that the NRC believes comprises an "adequate" maintenance program. However, nowhere in the proposed rulemaking is the scope of the activities defined, nor the methodology for measuring the effectiveness of those activities provided. Without an understanding of the scope of these activities, a regulatory analysis cannot be adequately performed. In fact, this rulemaking is so broadly defined that such activities as operator training and configuration design control could be interpreted to fall within its scope. This will lead to varying interpretations of the rulemaking through the years with different utilities and NRC personnel. Furthermore, if the NRC continues with the issue of certifying nuclear plant maintenance programs, the question of recourse for uncertified plants would need to be addressed (e.g., would uncertified plants do no maintenance?). These same conditions led to confusion in past rulemakings and resulted in both the nuclear industry and the NRC expending significant resources uneconomically. In addition, the NRC has proposed that Balance of Plant (BOP) equipment be included as a scope of this rulemaking. The inclusion of BOP equipment in this rulemaking certainly cannot meet the "adequate protection" criteria of the Backfit Rule. Maintenance performed on non-safety related equipment is already dictated by performance, operability requirements, and the overall contribution to risk. Inclusion of this non-safety related equipment into the regulatory area will dilute the attention of the NRC and plant personnel from their primary concern with the nuclear safety portions of the plant. These conditions are clearly unacceptable.

It is Alabama Power Company's conclusion that there is adequate evidence to demonstrate the potentially adverse effects of the currently proposed maintenance rulemaking. With such evidence, the Commission should proceed carefully so as not to undo the tremendous strides made in the U. S. nuclear program within the past few years.