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UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

ATOMIC SAFETY AND LICENSING BOARD

Before Administrative Judges:

B. Paul Cotter, Jr., Chairman
Glenn O. Bright
Dr. Richard F. Cole

SERVED NOV 16 1987

In the Matter of:	Docket No. 50-335-OLA
FLORIDA POWER AND LIGHT COMPANY	(ASLBP No. 88-560-01-LA)
(St. Lucie Plant, Unit No. 1)	November 13, 1987

MEMORANDUM AND ORDER
(Conference Call)

On November 12, 1987, the Board held a conference call with the parties to better define the status of the captioned proceeding. Participants included Campbell Rich for himself as a potential intervenor in the proceeding, Harold F. Reis, Esquire, on behalf of Applicant, and Stephen H. Lewis, Esquire, on behalf of the Nuclear Regulatory Commission Staff. All three members of the Board were parties to the conference call although Judge Bright was at another location.

On September 30, 1987, Mr. Rich had written to the Secretary to ask that a public hearing be held concerning Florida Power & Light Company's application to amend its license to increase the spent fuel pool storage capacity at its St. Lucie Plant, Unit 1, from 728 to 1706 fuel assemblies. The letter was prompted by a newspaper article concerning

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an August 31, 1987 notice published in the Federal Register describing the proposed amendment, 52 Fed. Reg. 32852 (1987) (copy attached). The letter was accompanied by the signatures of 19 other Florida residents in support of the hearing request. In pleadings dated November 4 and November 9, 1987, Applicant and Staff, respectively, opposed the admission of Mr. Rich as an intervenor for failure to satisfy all the requirements of the governing regulation, 10 C.F.R. § 2.714 (1987) (copy attached). Applicant interpreted Mr. Rich's request as seeking an informal hearing and expressed its willingness to meet with Mr. Rich and the other signatories joining in his letter to explore their concerns. Staff pointed out that if Mr. Rich alleged a specific potential injury from operation of the facility under the proposed amendment and stated an admissible contention, he could be admitted as an intervenor.

During the conference call, the foregoing matters were discussed, and Mr. Reis reported that a representative of Florida Power & Light had contacted Mr. Rich to discuss his concerns. Staff stated its willingness to assist in informally resolving those concerns. It was agreed that 30 days should be allowed to complete those discussions in an effort to resolve the concerns of Mr. Rich and the signatories without need for a formal hearing. Thereafter, in the event a hearing was still desired, Mr. Rich would be allowed 20 days to file an amended petition to intervene pursuant to 10 C.F.R. § 2.714(a)(3). Any amended petition should include a list of the contentions which petitioner would seek to have litigated pursuant to 10 C.F.R. 2.714(b).

ORDER

For all the foregoing reasons, it is this 13th day of November 1987

ORDERED

1. That a representative(s) of Florida Power & Light Company shall meet with Campbell Rich at their mutual convenience to seek informal resolution of the concerns expressed by Mr. Rich and the other signatories to his September 30, 1987 letter; and

2. That if the concerns described in paragraph 1 cannot be so resolved on or before December 16, 1987, then petitioner Rich shall on or before January 15, 1988 file an amended petition to intervene, including a statement of contentions sought to be litigated, that satisfies the requirements of 10 C.F.R. § 2.714 (1987).

FOR THE ATOMIC SAFETY AND LICENSING BOARD

B. Paul Cotter, Jr., Chairman
ADMINISTRATIVE JUDGE

Dated at Bethesda, Maryland,
this 13th day of November 1987.

Attachments: As stated

Section, Land and Natural Resources Division of the Department of Justice.

Roger J. Marzulla,

Acting Assistant Attorney General, Land and Natural Resources Division.

[FR Doc. 87-19861 Filed 8-28-87; 8:45 am]

BILLING CODE 4410-01-M

Drug Enforcement Administration

Manufacturer of Controlled Substances; Application; Ciba-Geigy Corp.

Pursuant to § 1301.43(a) of Title 21 of the Code of Federal Regulations (CFR), this is notice that on August 3, 1987, Pharmaceuticals Division, Ciba-Geigy Corporation, Regulatory Compliance SEF1030C, 556 Morris Avenue, Summit, New Jersey 07901, made application to the Drug Enforcement Administration (DEA) for registration as a bulk manufacturer of the Schedule II controlled substance Methylphenidate (1724).

Any other such applicant and any person who is presently registered with DEA to manufacture such substance may file comments or objections to the issuance of the above application and may also file a written request for a hearing thereon in accordance with 21 CFR 1301.54 and in the form prescribed by 21 CFR 1316.47.

Any such comments, objections or requests for a hearing may be addressed to the Deputy Assistant Administrator, Drug Enforcement Administration, United States Department of Justice, 1405 I Street, NW., Washington, DC 20537, Attention: DEA Federal Register Representative (Room 1112), and must be filed no later than September 30, 1987.

Gene R. Haislip,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

Dated: August 24, 1987.

[FR Doc. 87-19944 Filed 8-28-87; 8:45 am]

BILLING CODE 4410-09-M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Music Advisory Panel; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), as amended, notice is hereby given that a meeting of the Music Advisory Panel (Jazz Presenters Section) to the National Council on the Arts will be held on September 16-18, 1987 from 9:00 a.m.-5:00 p.m. in room 730 of the Nancy Hanks Center, 1100 Pennsylvania Avenue NW., Washington, DC 20506.

A portion of this meeting will be open to the public on September 18, 1987 from 1:00 p.m.-3:00 p.m. The topics for discussion will include guidelines and policy issues.

The remaining sessions of this meeting on September 16-17, 1987 from 9:00 a.m.-5:00 p.m. and September 18, 1987 from 9:00 a.m.-1:00 p.m. and 3:00 p.m.-5:00 p.m. are for the purpose of application review. In accordance with the determination of the Chairman published in the Federal Register of February 13, 1980, these sessions will be closed to the public pursuant to subsection (c)(4), (6) and (9)(B) of section 552b of Title 5, United States Code.

If you need special accomodations due to a disability, please contact the Office for Special Constituencies, National Endowment for the Arts, 1100 Pennsylvania Avenue NW., Washington DC 20506, 202/682-5532, TTY 282/682-5496 at least seven (7) days prior to the meeting.

Further information with reference to this meeting can be obtained from Ms. Yvonne M. Sabine, Advisory Committee Management Officer, National Endowment for the Arts, Washington, DC 20506, or call 202/682-5433.

Yvonne M. Sabine,

Acting Director, Council and Panel Operations, National Endowment for the Arts.

August 25, 1987.

[FR Doc. 87-19910 Filed 8-28-87; 8:45 am]

BILLING CODE 7537-01-M

Visual Arts Advisory Panel; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub L. 92-463), as amended, notice is hereby given that a meeting of the Visual Arts Advisory Panel (Overview Section) to the National Council on the Arts will be held on September 17-18, 1987 from 9:00 a.m. - 5:30 p.m. in room M-14 of the Nancy Hanks Center, 1100 Pennsylvania Avenue NW., Washington, DC 20506.

This meeting will be open to the public on a space available basis. The topics of discussion will include guidelines and other policy issues.

If you need special accommodations due to a disability, please contact the Office of Special Constituencies, National Endowment for the Arts, 1100 Pennsylvania Avenue NW., Washington DC 20506, 202/682/5532, TTY 282/682-5496 at least seven (7) days prior to the meeting.

Further information with reference to this meeting can be obtained from Ms. Yvonne M. Sabine, Advisory Committee Management Officer, National Endowment for the Arts, Washington, DC 20506, or call (202) 682-5433.

Yvonne M. Sabine,

Acting Director, Council and Panel Operations, National Endowment for the Arts.

August 25, 1987.

[FR Doc. 87-19911 Filed 8-28-87; 8:45 am]

BILLING CODE 7537-01-M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50-335]

Consideration of Issuance of Amendment to Facility Operating License and Proposed No Significant Hazards; Consideration Determination and Opportunity for Hearing; Florida Power and Light Co.

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. DRP-67, issued to Florida Power and Light Company (the licensee), for operation of the St. Lucie Plant, Unit No 1, located in St. Lucie County, Florida.

The amendment would authorize the licensee to increase the spent fuel pool storage capacity from 728 to 1706 fuel assemblies. The proposed expansion is to be achieved by reracking the spent fuel pool into two discrete regions. New, high-density storage racks will be used. The existing storage racks will be removed, cleaned of loose contamination, packaged and shipped off-site.

Region 1 of the spent fuel pool includes 4 modules having a total of 342 storage cells. The cell pitch is 10.12 inches. All cells can be utilized for storage and each cell can accept new fuel assemblies with enrichments up to 4.5 weight percent U-235 or spent fuel assemblies that have not achieved adequate burnup for Region 2. Region 2 includes 13 modules having a total of 1364 storage cells. The cell pitch is 8.86 inches. All cells can be utilized for storage and each cell can accept spent fuel assemblies with various initial enrichments which have accumulated minimum burnups. Each cell in each region can accommodate a single Combustion Engineering or Advanced Nuclear Fuel Corporation (formerly Exxon) PWR fuel assembly or equivalent, from either St. Lucie Unit 1, or Unit 2.

The new racks are not double-tiered and all racks will sit on the spent fuel pool floor. The amendment application does not involve rod consolidation. The k_{eff} of the pool will be maintained at less than or equal to 0.95. Neutron absorbers in the form of Boraflex will also be used

for criticality control. The rack vendor has licensed at least 10 other racks of the same design. The construction process and analytical techniques remain substantially the same as the previous 10 racks. Thus, no new or improved technology is utilized in the construction or analysis of the proposed racks.

This amendment was requested in the licensee's application dated June 12, 1987.

The Commission has provided standards for determining whether a significant hazards consideration exists as stated in 10 CFR 50.92(c). A proposed amendment to an operating license for a facility involves a significant hazards consideration if operation of the facility in accordance with the proposed amendment would not: (1) Involve a significant increase in the probability of consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

The licensee addressed the above three standards in the amendment application, as restated below.

(1) Involve a significant increase in the probability or consequences of an accident previously evaluated.

In the course of the analysis, FPL has considered the following potential accident scenarios:

1. A spent fuel assembly drop in the spent fuel pool.
2. Loss of spent fuel pool cooling system flow.
3. A seismic event.
4. A spent fuel cask drop.
5. A construction accident.

The probability of any of the first four accidents is not affected by the racks themselves; thus the modification cannot increase the probability of these accidents. As for the construction accident, FPL does not intend to carry any rack directly over the stored spent fuel assemblies. All work in the spent fuel pool area will be controlled and performed in strick accordance with specific written procedures. The crane which will be used to bring the racks into the Fuel Handling Building has been evaluated and meets the requirements of Section 5.1.1 of NUREG–0612, "Control of Heavy Loads at Nuclear Power Plants." In addition, the temporary construction crane which will be used to move racks within the spent fuel pool area will meet the design, inspection, testing, and operation requirements of Section 5.1.1 of NUREG–0612. This program provides for the safe handling of heavy loads in the vicinity of the spent fuel pool.

Accordingly, the proposed modification does not involve a significant increase in the probability of an accident previously evaluated.

FPL evaluated the consequences of a spent fuel assembly drop in the spent fuel pool (scenario 1) and found that the criticality acceptance criterion, K_{eff} less than or equal to 0.95, is not violated. In addition FPL found that the radiological consequences of a fuel assembly drop are not changed from the previous analysis. The NRC also conducted an evaluation of the potential consequences of a fuel handling accident. Both FPL and NRC analyses found that the calculated doses are less than 10 CFR Part 100 guidelines. The results of an analysis show that a dropped spent fuel assembly on the racks will not distort the racks such that they would not perform their safety function. Thus, the consequences of this type accident are not changed from the previously evaluated spent fuel assembly drops which have been found acceptable by the NRC.

The consequences of a loss of spent fuel pool cooling system flow (scenario 2) have been evaluated and it was found that sufficient time is availabe to provide an alternate means for cooling (i.e., the fire hose stations) in the event of a failure in the cooling system. Thus, the consequences of this type accident are not significantly increased from previously evaluated loss of cooling system flow accidents.

The consequences of a seismic event (scenario 3) have been evaluated and are acceptable. The new racks will be designed and fabricated to meet the requirements of applicable portions of the NRC Regulatory Guides and published standards. The new free-standing racks are designed, as are the existing free-standing racks, so that the floor loading from racks completely filled with spent fuel assemblies, partially filled, or empty at the time of the incident, do not exceed the structural capability of the spent fuel pool. The Fuel Handling Building and spent fuel pool structure have been evaluated for the increased loading from the spent fuel racks in accordance with the criteria previously evaluated by the NRC and found acceptable. Thus, the consequences of a seismic event are not significantly increased from previously evaluated events.

The consequences of a spent fuel cask drop (scenario 4) have been evaluated. The radiological consequences of the cask drop are well within the guidelines of 10 CFR 100 and the doses are not increased as compared to the doses analyzed for the presently installed racks. The cask drop analysis is based on administrative and Technical Specification controls which ensure that minimum requirements for decay of irradiated fuel assemblies in the entire spent fuel pool are met prior to movement of the cask into the cask area of the spent fuel pool. Analyses also demonstrate that k_{eff} will always be less than the NRC acceptance criterion. In addition[,] leakage from a cask drop will not exceed the makeup capabilities of the spent fuel pool. Thus, the consequences of a cask drop accident will not increase from previously evaluated accident [analyses].

The consequences of a construction accident (scenario 5) are enveloped by the spent fuel cask drop analysis previously performed by FPL. In addition, all movement of heavy loads handled during the rerack operation will comply with the NRC guidelines presented in NUREG–0612, "Control of Heavy Loads at Nuclear Power Plants." The consequences of a construction accident are not increased from previously evaluated accident [analyses].

Therefore, it is concluded that the proposed amendment to replace the spent fuel racks in the spent fuel pool will not involve a significant increase in the probability or consequences of an accident previously evaluated.

(2) Create the possibility of a new or different kind of accident from any accident previously evaluated.

FPL has evaluated the proposed modification in accordance with the guidance of the NRC position paper entitled, "OT Position for Review and Acceptance of Spent Fuel Storage and Handling Applications," appropriate NRC Regulatory Guides, appropriate NRC Standard Review Plans, and appropriate industry codes and standards. In addition, FPL has reviewed several previous NRC Safety Evaluation Reports for rerack applications similar to [its] proposal. As a result of this evaluation and these reviews, FPL finds that the proposed modification does not, in any way, create the possibility of a new or different kind of accident from any accident previously evaluated for the St. Lucie spent fuel storage facility.

(3) Involve a significant reduction in a margin of safety[.]

The NRC Staff Safety Evaluation review process has established that the issue of margin of safety, when applied to a reracking modification, should address the following areas:

1. Nuclear criticality considerations.
2. Thermal-hydraulic considerations.
3. Mechanical, material and structural considerations.

The established acceptance criterion for criticality is that the neutron multiplication factor in spent fuel pools shall be less than or equal to 0.95, including all uncertainties, under all conditions. This margin of safety has been adhered to in the criticality analysis methods for the new rack design.

The methods used in the criticality analysis conform with the applicable portions of the appropriate NRC guidance and industry codes, standards, and specifications. In meeting the acceptance criteria for criticality in the spent fuel pool, such that k_{eff} is always less than 0.95, including uncertainties at a 95%/95% probability confidence level, the proposed amendment to rerack the spent fuel pool does not involve a significant reduction in a margin of safety for nuclear criticality.

Conservative methods are used to calculate the maximum fuel temperature and the increase in temperature of the water in the spent fuel pool. The thermal-hydraulic evaluation uses the methods used for evaluations of the present spent fuel racks in demonstrating that temperature margins of safety are maintained. The proposed modification will increase the heat load in the spent fuel pool. The evaluation shows that the existing spent fuel cooling system will maintain the bulk pool water temperature at or below 150.8° F. Thus a margin of safety exists such that the maximum allowable temperature of 217° F is not exceeded for the calculated increase in pool heat load. The evaluation also shows that maximum local water temperatures along the hottest fuel assembly are well below the nucleate boiling condition values. Thus, there is no significant reduction in the margin of safety for thermal-hydraulic or spent fuel cooling concerns.

The main safety function of the spent fuel pool and the racks is to maintain the spent fuel assemblies in a safe configuration through all normal or abnormal loadings, such as an earthquake, impact due to a spent fuel cask drop, drop of a spent fuel assembly, or drop of any other heavy object. The mechanical, material, and structural design of the new spent fuel racks is in accordance with applicable portions of the "NRC Position for Review and Acceptance of Spent Fuel Storage and Handling Applications," dated April 14, 1978, as modified January 18, 1979; Standard Review Plan 3.8.4; and other applicable NRC guidance and industry codes. The rack materials used are compatible with the spent fuel pool and the spent fuel assemblies. The structural considerations of the new racks address margins of safety against tilting and deflection or movement, such that the racks are not damaged during impact. In addition the spent fuel assemblies remain intact and no criticality concerns exists. Thus, the margins of safety are not significantly reduced by the proposed rerack.

The staff has reviewed the licensee's no significant hazards consideration determination analysis and agrees with their conclusions. However, the staff believes that the licensee's no significant hazards consideration (NSHC) analysis could have been more explicit in a number of areas. These areas are (1) pool water temperature under normal and abnormal conditions, (2) recent boraflex problems, and (3) construction accidents.

The licensee states in the NSHC analysis that the safety evaluation shows that the existing spent fuel cooling system will maintain the bulk pool water temperature at or below 150.8° F, and that a margin of safety exists such that the maximum allowable temperature of 217° is not exceeded. This statement addresses the abnormal maximum heat load (full core unload) case; the staff's Standard Review Plan (SRP) for full core unload calls for the pool water temperature to be kept below boiling. Thus, the licensee's analysis and results for this case meet the SRP. The licensee did not address the maximum normal heat load case in the NSHC analysis. The staff's review of the licensee's associated safety evaluation concludes that the maximum normal heat load case was also evaluated. The licensee calculated a maximum pool water temperature of 133.3° F. The SRP states that the pool should be kept at or below 140° F in this case. Thus, the licensee's analysis and results for this case meet the SRP.

The licensee's NSHC analysis did not address the recent operational problems associated with boraflex, a neutron absorbing material that is utilized in many racks to maintain the k_{eff} of the pool less than or equal to 0.95. Although some shrinkage of the boraflex is assumed and accounted for, cracking of the boraflex and the forming of significant axial gaps has not been postulated to occur. It is believed that cracking occurred in some applications because of the rack design and fabrication process which did not allow the boraflex to shrink without cracking. The staff has reviewed the licensee's associated safety evaluation with particular focus on the method that the boraflex will be installed. In Region I, full-length strips of boraflex will be placed between the cell walls and a stainless steel coverplate. In Region 2, full-length boraflex strips will be placed between the adjacent cell walls.

The licensee's specification for the handling and installation of the boraflex requires that it will not be installed in a stretched condition. The specification precludes the use of adhesives in the attachment of the boraflex to the rack cell walls. FP&L will require that the manufacturing process avoid techniques which could punch the boraflex. The design of the racks requires that additional lengths of boraflex, i.e., greater than the active length of a fuel assembly, be installed to account for anticipated shrinkage of the boraflex. Based upon the above, the staff does not envision that the proposed racks will experience the boraflex cracking problems experienced elsewhere. Thus, the k_{eff} of the pool will be maintained less than or equal to 0.95.

The most limiting construction accident postulated for the spent fuel pool by the licensee is a 25 ton cask drop accident. This is the most limiting accident postulated at this time and it will remain the most limited as a result of the proposed rerack. This appears reasonable because no existing rack or proposed rack weighs more than 25 tons. In practice, the technical specifications prohibit any load in excess of 2 tons to be carried over irradiated fuel in the storage pool and also prohibit the cask crane from picking up any load over 25 tons. Nevertheless, the licensee's updated safety analysis report for Unit No. 1 analyzed this postulated accident in section 9.1.4, entitled "Fuel Handling System." The licensee evaluated the radiological consequences of the postulated accident. The licensee determined that the radiological consequences were within 10 CFR Part 100 guidelines. The licensee reevaluated the postulated 25 ton cask drop accident in the safety evaluation supporting the amendment request. This was necessary because the proposed amendment allows more spent fuel to be placed in the spent fuel pool; the results are contained in Section 5.3.1.2. The results indicate that the radiological consequences remain within 10 CFR Part 100 guidelines. The licensee also states that the proposed spent fuel pool modifications do not increase the radiological consequences of the cask drop accident previously evaluated.

Since the licensee's request to expand the St. Lucie 1 spent fuel storage pool capacity satisfies the following conditions: (1) The storage expansion method consists of replacing existing

racks with a design that allows closer spacing between stored spent fuel assemblies; (2) the storage expansion method does not involve rod consolidation or double-tiering; (3) the k_{eff} of the pool is maintained less than or equal to 0.95; and (4) no new technology or unproven technology is utilized in either the construction process or the analytical techniques necessary to justify the expansion, the Commission concludes that the request does not involve a significant hazards consideration in that it: (1) does not involve a significant increase in the probability or consequences of an accident previously evaluated, or (2) does not create the possibility of a new or different kind of accident from any accident previously evaluated, or (3) does not involve a significant reduction in a margin of safety.

Because the submittal and the above discussion by the licensee appear to demonstrate that the standards specified in 10 CFR 50.92 are met, and because reracking technology has been well-developed and demonstrated, the Commission proposes to determine that operation of the facility in accordance with the proposed amendment does not involve a significant hazards consideration.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination. The Commission will not normally make a final determination unless it receives a request for a hearing.

Written comments may be submitted by mail to the Rules and Procedures Branch, Division of Rules and Records, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and should cite the publication date and page number of this **Federal Register** notice. Written comments may also be delivered to Room 4000, Maryland National Bank Building, 7735 Old Georgetown Road, Bethesda, Maryland from 8:15 a.m. to 5:00 p.m. Copies of written comments received may be examined at the NRC Public Document Room, 1717 H Street, NW., Washington, DC. The filing of requests for hearing and petitions for leave to intervene is discussed below.

By September 30, 1987 the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written petition for leave to intervene.

Request for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to 15 days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than 15 days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter, and the bases for each contention set forth with reasonable specificity. Contentions shall be limited to matters within the scope of the amendments under consideration. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

The Commission hereby provides notice that this is a proceeding on an application for a license amendment falling within the scope of section 134 of the Nuclear Waste Policy Act of 1982 (NWPA), 42 U.S.C. 10154. Under section 134 of the NWPA, the Commission, at the request of any party to the proceeding, is authorized to use hybrid hearing procedures with respect to "any matter which the Commission determines to be in controversy among the parties." The hybrid procedures in section 134 provide for oral argument on matters in controversy, preceded by discovery under the Commission's rules, and the designation, following argument, of only those factual issues that involve a genuine and substantial dispute, together with any remaining questions of law, to be resolved in an adjudicatory hearing. Actual adjudicatory hearings are to be held on only those issues found to meet the criteria of section 134 and set for hearing after oral argument.

The Commission's rules implementing section 134 of the NWPA are found in 10 CFR Part 2, subpart K, "Hybrid Hearing Procedures for Expansion of Spent Nuclear Fuel Storage Capacity at Civilian Nuclear Power Reactors" (published at 50 FR 41662, October 15, 1985) 10 CFR 2.1101 *et seq*. Under those rules, any party to the proceeding may invoke the hybrid hearing procedures by filing with the presiding officer a written request for oral argument under 10 CFR 2.1109. To be timely, the request must be filed within ten (10) days of an order granting a request for hearing or petition to intervene. (As outlined above, the Commission's rules in 10 CFR Part 2, subpart G, and § 2.714 in particular, continue to govern the filing of requests for a hearing or petitions to intervene, as well as the admission of contentions). The presiding officer shall grant a timely request for oral argument. The presiding officer may grant an untimely request for oral argument only upon a showing of good cause by the requesting party for the failure to file on time and after providing the other parties an opportunity to respond to the untimely request. If the presiding officer grants a request for oral argument, any hearing held on the application shall be conducted in accordance with the hybrid hearing procedures. In essence, those procedures limit the time available for discovery and require that an oral argument be held to determine whether any contentions must be resolved in an adjudicatory hearing. If no party to the proceeding requests oral argument, or if all untimely requests for oral argument are denied, then the usual procedures in 10 CFR Part 2, subpart G apply.

Subject to the above requirements and any limitations in the order granting leave to intervene, those permitted to intervene become parties to the

proceeding and have the opportunity to participate fully in the conduct of any hearing which is held, including the opportunity to present evidence and cross-examine witnesses at such hearing.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

Normally, the Commission will not issue the amendment until the expiration of the 30-day notice period. However, should circumstances change during the notice period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 30-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received. Should the Commission take this action, it will publish a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Service Branch, or may be delivered to the Commission's Public Document Room, 1717 H Street, NW., Washington, DC, by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at (800) 325-6000 (in Missouri (800) 342-6700). The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to Herbert Berkow: Petitioner's name and telephone number; date petition was mailed; plant name; and publication date and page number of this **Federal Register** notice. A copy of the petition should also be sent to the Office of the General Counsel-Bethesda, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and to Harold F. Reis, Esq., Newman & Holtzinger, 1615 L Street, NW., Washington, DC 20036, attorney for the licensee.

Nontimely filing of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the Atomic Safety and Licensing Board designated to rule on the petition and/or request, that the petitioner has made a substantial showing of good cause for the granting of a late petition and/or request. That determination will be based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)-(v) and 2.74(d).

For further details with respect to this action, see the application for amendment dated June 12, 1987, which is available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, DC, and at the Indian River Junior College Library, 3209 Virginia Avenue, Fort Pierce, Florida 33450.

Dated at Bethesda, Maryland, this 25th day of August, 1987.

For the Nuclear Regulatory Commission.

Herbert N. Berkow,

Director, Project Directorate II-2, Division of Reactor Projects-I/II.

[FR Doc. 87-19951 Filed 8-28-87; 8:45 a.m.]

BILLING CODE 7590-01-M

[Docket Nos. 50-321 and 50-366]

Denial of Amendments to Facility Operating Licenses and Opportunity for Hearing; Georgia Power Co. et al.

The U.S. Nuclear Regulatory Commission (the Commission) has denied in part a request by the licensee for amendments to Facility Operating Licenses Nos. DPR-57 and NPF-5, issued to the Georgia Power Company, Oglethorpe Power Corporation, Municipal Electric Authority of Georgia and City of Dalton, Georgia (the license) for operation of the Edwin I. Hatch Nuclear Plant, Units 1 and 2 (the facility) located in Appling County, Georgia.

The denied amendments, as proposed by the licensee, would modify the Unit 1 and Unit 2 Technical Specifications (TS) to extend from 2 to 24 hours, the time allowed to restore operability of one of two inoperable diesel generators; and would modify the Unit 2 TS to allow the diesel generator two hour overload test to be performed following the 22 hour continuous rating load test instead of before 22 hour test as currently required.

The licensee's application for the amendments was dated March 31, 1986. Notice of consideration of issuance of these amendments was published in the **Federal Register** on June 18, 1986 (51 FR 22237). Other changes requested in that letter were approved in license amendments 147 and 83 dated August 25, 1987, to Facility Operating Licenses DPR-57 and NPF-5.

The proposed change to extend from 2 hours to 24 hours the time within which one diesel generator must be returned to operable status when two diesel generators are inoperable was found to be unacceptable because it would leave the nuclear unit inadequately protected against a loss of offsite power for a 24-hour period, and it is not in accordance with the guidelines of Generic Letter 84-15 or the staff position on Generic Issue B-56.

The proposed change to perform the overload test prior to the 22 hour continuous rating load test was found to be unacceptable because it does not conform with Regulatory Position C.14 of Regulatory Guide 1.9 "Selection of Diesel Generator Set Capacity for Standby Power Supplies" and because it does not accomplish the purpose of the test which is to demonstrate the capability to immediately assume the full LOCA load and then carry the long-term load for the remainder of the 24-hour period.

Accordingly the requests were denied. The licensee was notified of the Commission's denial of this request by letter dated.

By September 30, 1987, the licensee may demand a hearing with respect to the denial described above and any person whose interest may be affected by the proceeding may file a written petition for leave to intervene.

A request for a hearing or petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Service Branch, or may be delivered to the Commission's Public Document Room, 1717 H Street, NW., Washington, DC, by the above date.

A copy of any petitions should also be sent to the Office of General Counsel-Bethesda, U.S. Nuclear Regulatory Commission, Washington, DC 20555 and to Bruce W. Churchill, Esquire, Shaw, Pittman, Potts and Trowbridge, 2300 N Street, NW., Washington, DC 20037, attorney for the licensee.

terest may be affected may also request a hearing. The petition and/or request shall be filed not later than the time specified in the notice of hearing, or as provided by the Commission, the presiding officer or the atomic safety and licensing board designated to rule on the petition and/or request, or as provided in § 2.102(d)(3). Nontimely filings will not be entertained absent a determination by the Commission, the presiding officer or the atomic safety and licensing board designated to rule on the petition and/or request, that the petition and/or request should be granted based upon a balancing of the following factors in addition to those set out in paragraph (d) of this section:

(i) Good cause, if any, for failure to file on time.

(ii) The availability of other means whereby the petitioner's interest will be protected.

(iii) The extent to which the petitioner's participation may reasonably be expected to assist in developing a sound record.

(iv) The extent to which the petitioner's interest will be represented by existing parties.

(v) The extent to which the petitioner's participation will broaden the issues or delay the proceeding.

(2) The petition shall set forth with particularity the interest of the petitioner in the proceeding, how that interest may be affected by the results of the proceeding, including the reasons why petitioner should be permitted to intervene, with particular reference to the factors in paragraph (d) of this section, and the specific aspect or aspects of the subject matter of the proceeding as to which petitioner wishes to intervene.

(3) Any person who has filed a petition for leave to intervene or who has been admitted as a party pursuant to this section may amend his petition for leave to intervene. A petition may be amended without prior approval of the presiding officer at any time up to fifteen (15) days prior to the holding of the special prehearing conference pursuant to § 2.751a, or where no special prehearing conference is held, fifteen (15) days prior to the holding of the first prehearing conference. After

§ 2.714 Intervention.

(a)(1) Any person whose interest may be affected by a proceeding and who desires to participate as a party shall file a written petition for leave to intervene. In a proceeding noticed pursuant to § 2.105, any person whose in-

this time a petition may be amended only with approval of the presiding officer, based on a balancing of the factors specified in paragraph (a)(1) of this section. Such an amended petition for leave to intervene must satisfy the requirements of this paragraph (a) of this section pertaining to specificity.

(b) Not later than fifteen (15) days prior to the holding of the special prehearing conference pursuant to § 2.751a, or where no special prehearing conference is held, fifteen (15) days prior to the holding of the first prehearing conference, the petitioner shall file a supplement to his petition to intervene which must include a list of the contentions which petitioner seeks to have litigated in the matter, and the bases for each contention set forth with reasonable specificity. A petitioner who fails to file such a supplement which satisfies the requirements of this paragraph with respect to at least one contention will not be permitted to participate as a party. Additional time for filing the supplement may be granted based upon a balancing of the factors in paragraph (a)(1) of this section.

(c) Any party to a proceeding may file an answer to a petition for leave to intervene within ten (10) days after service of the petition, with particular reference to the factors set forth in paragraph (d) of this section. However, the staff may file such an answer within fifteen (15) days after service of the petition.

(d) The Commission, the presiding officer, or the atomic safety and licensing board designated to rule on petitons to intervene and/or requests for hearing shall permit intervention, in any hearing on an application for a license to receive and possess high-level radioactive waste at a geologic repository operations area, by the State in which such area is located and by any affected Indian Tribe as defined in Part 60 of this chapter. In all other circumstances, such ruling body or officer shall, in ruling on a petition for leave to intervene, consider the following factors, among other things:

(1) The nature of the petitioner's right under the Act to be made a party to the proceeding.

(2) The nature and extent of the petitioner's property, financial, or other interest in the proceeding.

(3) The possible effect of any order which may be entered in the proceeding on the petitioner's interest.

(e) An order permitting intervention and/or directing a hearing may be conditioned on such terms as the Commission, presiding officer or the designated atomic safety and licensing board may direct in the interests of:

(1) Restricting irrelevant, duplicative, or repetitive evidence and argument,

(2) Having common interests represented by a spokesman, and

(3) Retaining authority to determine priorities and control the compass of the hearing.

(f) In any case in which, after consideration of the factors set forth in paragraph (d) of this section, the Commission or the presiding officer finds that the petitioner's interest is limited to one or more of the issues involved in the proceeding, any order allowing intervention shall limit his participation accordingly.

(g) A person permitted to intervene becomes a party to the proceeding, subject to any limitations imposed pursuant to paragraph (f) of this section.

(h) Unless otherwise expressly provided in the order allowing intervention, the granting of a petition for leave to intervene does not change or enlarge the issues specified in the notice of hearing.

[37 FR 15132, July 28, 1972, as amended at 37 FR 28711, Dec. 29, 1972; 39 FR 17972, May 22, 1974; 43 FR 17801, Apr. 26, 1978; 44 FR 4459, Jan. 22, 1979; 51 FR 27162, July 30, 1986]