

Options for Optimizing Hearing Opportunities for Two-Part Applications

NRR/DANU/UARP

Advanced Reactor Stakeholder Meeting

December 7, 2023

Options for Optimizing Hearing Opportunities for Two-Part Applications

Purpose

- The purpose of the presentation is to inform stakeholders of staff initiative to develop regulatory options for Commission consideration for optimizing hearing opportunities associated with two-part applications
- Have a dialogue with stakeholders on the topic

Options for Optimizing Hearing Opportunities for Two-Part Applications - Background

- 10 CFR 2.101(a)(5) allows for a construction permit (CP) or combined license (COL) application to be submitted in two parts, if each part is submitted within six months of the other
- An exemption would be needed to submit an application in two parts where more than six months would elapse between filing each part
 - There is precedent for applications being submitted in two parts with a greater than six-month gap between each part (e.g., Unistar's Calvert Cliffs COL application)

Options for Optimizing Hearing Opportunities for Two-Part Applications - Options

- The staff is considering providing the following two options to the Commission to address hearing opportunities for CP and COL applications submitted in two parts:
 - Option 1: issue one Notice of Hearing after the entirety of the application is submitted with the direction that environmental contentions be submitted on the draft environmental impact statement (DEIS) if it is available instead of the environmental report
 - This would require the Commission to address the requirements in 10 CFR 2.309(f)(2) that contentions be submitted based on the environmental report

Options for Optimizing Hearing Opportunities for Two-Part Applications – Options (continued)

- Option 2: issue two Notices of Hearing:
 - (a) one when the environmental report is docketed and one when the other part is docketed
 - (b) An alternative to this option would be to issue one Notice of Hearing after the environmental report is received that also explains in detail the process for filing contentions on the second part upon its docketing

Options for Optimizing Hearing Opportunities for Two-Part Applications - Background

- Commission Policy Statement on Conduct of New Reactor Licensing Proceedings Issued in April of 2008 ([73 FR 20963](#))
 - With two exceptions the Commission's policy is to issue a Notice of Hearing only when the entire application is submitted
 - Neither of the exceptions involve circumstances that the NRC staff expects to encounter in the near future

Options for Optimizing Hearing Opportunities for Two-Part Applications – Discussion Items

- Stakeholders perspectives on options
- Stakeholders perspectives on proposal that environmental contentions be based on the NRC staff's DEIS if it is available versus the applicant's environmental report.
 - Publishing a Notice of Hearing after issuance of the DEIS and limiting contentions to the DEIS rather than the applicant's ER would involve the Commission addressing the requirement in 10 CFR. § 2.309(f)(2) that environmental contentions must be filed on the ER.

Options for Optimizing Hearing Opportunities for Two-Part Applications – Discussion Items

- Should approaches other than the environmental report being submitted first be considered?
 - Submitting the ER first appears to be the more complicated scenario because the staff's review of the ER could lead to the DEIS being issued prior to the second hearing opportunity
 - Possibility of the need for exemptions if the preliminary safety analysis report submitted with the environmental report does not contain all the information required by 10 CFR 2.101(a)(5)
 - Example of a recently issued exemption for this requirement can be found in a November 21, 2023, letter to Tennessee Valley Authority for the Clinch River Nuclear Site CP application (see: [ML23045A008](#) and [ML23114A098](#))