

ATTACHMENT 2
LETTER TO PETITIONER

Robert Willis Bishop, Esq.
Nuclear Energy Institute
Suite 400
1776 I Street, NW
Washington, DC 20006-3708

SUBJECT: PETITION FOR RULEMAKING (PRM 52-2) REGARDING REVIEW OF
ALTERNATIVE SITES, NEED FOR POWER, AND ALTERNATIVE ENERGY
SOURCES IN NUCLEAR POWER REACTOR SITING AND LICENSING
REVIEWS

Dear Mr. Bishop:

I am responding to the July 18, 2001, petition for rulemaking you filed on behalf of the Nuclear Energy Institute. You requested that the NRC regulations be amended to eliminate the requirement that an early site permit (ESP) applicant include, and the Nuclear Regulatory Commission (NRC) review, alternatives to the site proposed in an ESP application. You further requested that the NRC initiate a rulemaking to remove requirements in Parts 2, 50, and 51 that applicants and licensees analyze and the NRC evaluate alternative sites, alternative sources of energy, and need for power with respect to the siting, construction, and operation of nuclear power plants.

The NRC published a notice of receipt of the petition and request for comment in the September 24, 2001, issue of the *Federal Register* (66 FRN 48828). Subsequently, the NRC heard from 12 commenters.

In the petition, you stated that the need for these changes is a direct outgrowth of the dramatic changes that have occurred in the electric power industry, most notably the passage of the Energy Policy Act of 1992 and the resultant actions by the Federal Energy Regulatory Commission to impose open access transmission requirements on electricity transmission providers. You stated that these changes have fundamentally altered both the marketplace for electricity and the makeup of electricity generating companies, and that the regulatory framework that the NRC uses to implement its responsibilities under the National Environmental Policy Act of 1969, as amended, (NEPA) should be revised accordingly. You provided several arguments to support this position.

The NRC has carefully considered your arguments and concludes that it must continue to consider alternative sites, alternative energy sources, and need for power to meet its responsibilities under NEPA for reactor siting and licensing decisions, notwithstanding the legal arguments presented in the petition. Therefore, the NRC will continue to require these reviews in support of plant siting and licensing. Although the NRC does not agree that it can eliminate alternative site reviews, it has begun work to develop the technical bases for rulemaking to specifically define the requirements for consideration of alternative sites. The NRC expects that such a rulemaking would address some of your concerns in this area by reducing unnecessary

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regulatory burden and by introducing more certainty in the alternative site review process. Within about a year, the NRC expects to develop the technical bases for the rulemaking and submit a rulemaking plan to the Commission. The NRC's reasoning in this matter is further discussed in the enclosed Notice of Denial of Petition for Rulemaking that will be published in the *Federal Register*.

Sincerely,

Annette L. Vietti-Cook
Secretary of the Commission

Enclosure:
Notice of Denial of Petition for Rulemaking

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Sincerely,

Annette L. Vietti-Cook
Secretary of the Commission

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