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L-95-225

Mr. John Hoyle, Secretary
Office of the Secretary
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

Attn: Docketing and Servicing Branch

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Subject: Proposed Rules: Standard Design Certification for General Electric Advanced Boiling Water Reactor (60 Fed. Reg. 17902) and ABB/Combustion Engineering System 80+ Advanced Pressurized Water Reactor (60 Fed. Reg. 17924)

On April 7, 1995, the Nuclear Regulatory Commission published for public comment two proposed rules, "Standard Design Certification for the U.S. Advanced Boiling Water Reactor (ABWR) Design," and "Standard Design Certification for the System 80+ Design." These comments are submitted on behalf of Florida Power & Light (FPL), a licensed operator of two nuclear power plant units in Dade County, Florida and two units in St. Lucie County, Florida.

Florida Power and Light Company has been an active participant in the Nuclear Power Oversight Committee's (NPOC) Strategic Plan for building new nuclear power plants. As such, we have participated with ABB-CE and General Electric in various detailed reviews of the System 80+ and ABWR designs, as well as in various industry-wide and NRC Staff reviews. Additionally, FPL is a member of the Advanced Reactor Corporation (ARC) and a contributing participant in the First-Of-A-Kind-Engineering (FOAKE) effort presently underway for the ABWR and Westinghouse AP600.

The industry and the NRC can be extremely proud of the GE ABWR and ABB-CE System 80+ standard plant designs and we commend the NRC for achieving a very significant milestone. The future of nuclear energy as a viable supplier of this nation's energy needs in the next century is heavily dependent on the successful culmination of this pioneering certification rulemaking. The resulting design certification rules will be cornerstones of the NRC's new nuclear plant licensing process, 10 CFR Part 52. The Notices of Proposed Rulemakings (NOPRs) for these design certifications, including the referenced design control documents and other docketed materials, represent the culmination of enormous efforts and resources invested by the NRC and DOE, the design certification applicants and the broader nuclear industry to achieve integrated resolution of literally thousands of individual safety issues. It is extremely important that the design certification rule fulfill the mandates of the Energy Policy Act of 1992, the NRC's own goals when it issued 10 CFR Part 52 in 1989, and the industry goals which have been espoused in the NPOC Strategic Plan.

We are writing to express our strong affirmation for the comments on the NOPRs that were submitted to NRC by GE, ABB-CE, and the Nuclear Energy Institute (NEI). These NOPRs

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contain several significant process deficiencies which, if not corrected with issuance of the final design certification rules, will threaten the economic viability of these outstanding designs and the realization of the goals of Part 52. As observed by the Commission in their Staff Requirements Memorandum on SECY-95-023, "it is important that the potential COL applicants perceive the [Part 52] process to be workable from this point forward." At this point, based on the NOPRs, our perception is that the process would not be workable, would not achieve the goals of Part 52, and, in short, would not be used. It is imperative that the Commission correct the significant process deficiencies described below so that the goals of Part 52 can be achieved. The process deficiencies of the NOPRs do not involve issues of public health and safety. Accordingly, and because the industry's recommendations embodied in NEI's comments to the NOPRs for correcting these deficiencies are fully consistent with the language and goals of Part 52, we strongly urge the NRC to adopt these recommendations to ensure the workability and viability of the Part 52 licensing process.

The process deficiencies of the NOPRs are as follows:

1. The proposed rules do not provide sufficient finality for resolved issues and permitted changes.

2. New "applicable regulations" are unnecessary and will create the potential for destabilizing backfits.

3. The design certification rules should contain a provision to ensure that NRC will have a stable and predictable process for making its finding that the Inspections, Tests, Analyses and Acceptance Criteria (ITAACs) have been met.

4. The NRC Staff proposal for consideration of severe accident and probabilistic analyses in Section 50.59 safety evaluations is unduly burdensome and more restrictive than needed to preserve severe accident insights.

5. The design certification rules should allow the design certification applicant to make 50.59-like changes after design certification.

6. The substantive provisions in the Design Control Document (DCD) introduction should be incorporated into the design certification rules.

These process deficiencies are discussed explicitly in the NEI comments which we endorse. FPL wishes to provide specific comments on two of these areas.

FPL is particularly concerned with the loss of finality that will occur in the designs if the proposed rules are not changed. In contrast with the intent of Part 52, the proposed rules provide that only those nuclear safety issues associated with information in the Final Safety Evaluation Report (FSER) or DCD have finality. These two documents contain an extensive

amount of design information. Nevertheless, there is significant additional design information (i.e., proprietary and safeguards information, codes, standards, topical reports and other documents referenced in the DCD's) that was resolved during the NRC Staff's extensive safety reviews not encompassed by these documents. We strongly believe that this additional design information, and all matters within the scope of the standard designs, must also be accorded finality by design certification rulemaking, consistent with the Part 52 goals of early issue resolution and licensing predictability and stability. In the extreme, the NOPRs limited view of finality would leave open the door to later challenge the adequacy of the standard designs, an untenable situation that Part 52 is intended to correct.

Several years are likely to pass between rulemaking and the first combined license application for a "Design Certified" standard plant. As detailed design development proceeds, incorporating operating experience and technology improvements, design changes will inevitably be identified. The FOAKE projects involving GE, Westinghouse, and ARC are examples of this. The design certification rules must include a process to allow the design certification applicant to make generic 50.59-like changes to Tier 2 of the DCD before the first license application referencing the rule is filed. In FPL's view, this feature is essential to achieve standardization, economy, and regulatory efficiency and effectiveness for advanced reactor designs.

We share each of the other concerns expressed by GE, ABB-CE, and NEI in their comments. In our view, whether the certified designs are ever referenced by U.S. utilities will depend in no small measure on how the NRC resolves these comments on the NOPRs. Accordingly, we encourage NRC to carefully review those comments, as well as the comments provided by FPL. We request the NRC to take measures necessary to rectify the proposed design certification rule to ensure the goals of the Congress, the NRC and the nuclear industry will be achievable. The future of the nuclear option is at stake.

We appreciate the opportunity to comment on these proposed rules.

Very truly yours,

J.H. Goldberg

J.H. Goldberg
President
Nuclear Division

WHB/STH