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NRC Staff Should Stop Balking, Provide Fire Safety Information, Groups Say

Agency Is Refusing to Adhere to an Order to Release Document That Would Help Determine Safety of New Nuclear Reactors

WASHINGTON, D.C. – The Nuclear Regulatory Commission (NRC) should stop balking and provide a critical document that would reveal how the owners of a Texas nuclear plant expansion project plan to deal with a fire or explosion, three public interest groups told the commission late last week.

Three administrative judges of the Atomic Safety and Licensing Board have ordered the agency to provide at least a redacted version, but NRC staffers have refused. The NRC's lack of transparency could impact the ability to get adequate safety-related information not only about the South Texas Project (STP) but about other proposed reactors around the country as well.

Late Friday, the groups – the Sustainable Energy and Economic Development (SEED) Coalition, Public Citizen and the South Texas Association for Responsible Energy – filed a brief with the NRC. It noted that the NRC staff's refusal to provide the information violated President Barack Obama's new transparency policy. The groups also said the NRC is acting arbitrarily and trying to shut the public out of NRC proceedings.

“After the Sept. 11 attacks, Congress required new fire and safety standards for all new plants and the NRC developed rules to reflect this. Now, the NRC is trying to do its work behind closed doors, and its staffers are literally making up how to handle information as they go along, keeping as much secret as possible,” said Karen Hadden, executive director of the SEED Coalition. “Without disclosure of this information, we can't tell how well the NRC is doing in protecting the public.”

Friday's filing was the latest in a regulatory battle that began in April 2009 when the three groups intervened in the licensing of two new reactors at the STP in Matagorda County in southeast Texas. The groups contend that the application for a license is inadequate.

The NRC has a new rule that requires licensees to develop and implement guidance and strategies to protect nuclear plants from explosions or fires, including those that would result from the crash of a large commercial airliner. By signing non-disclosure affidavits, the groups gained access to STP's plan to comply with this rule and nuclear industry guidance on how to adhere to it.

On Aug. 14, the groups filed new “contentions” that STP was not adhering to the new fire safety rule.

Then, in October, the NRC posted on its Web site the existence of a draft document, referred to as ISG-016, which provides guidance to nuclear plant operators as to how to comply with the new fire safety rule. The NRC maintains that it is not a public document because it contains security-related

information. The agency has created a new classification of document, called “sensitive unclassified non-safeguards information,” or SUNSI, and said that records in this classification, including ISG-016, are exempt from disclosure.

In November, the three public interest groups asked for the document but were turned down.

They appealed to the Atomic Safety and Licensing Board, which on Jan. 29 ordered the NRC staff to provide at least a redacted version of the document. In the order, three administrative judges chastised NRC staff for imposing unwarranted burdens on the groups and for misapplying procedures. Further, they noted that requirements to access the document should not be more stringent than the Freedom of Information Act and told the staff to go through the document, paragraph by paragraph, to identify the sensitive, non-public information, and provide the rest of the information to the groups.

The NRC appealed the order, which prompted Friday’s filing.

“It is crucial for the public to be able to participate in the licensing of new nuclear reactors that may be in its backyard,” said Tom “Smitty” Smith, director of Public Citizen’s Texas office. “We cannot meaningfully participate in the licensing of the STP reactors if we can’t get adequate safety information, and that includes whether these new reactors will be able to withstand a commercial jet crashing into them.”

Hadden noted that “the ability of the public to participate in licensing proceedings is particularly critical as the Obama administration is in the process of granting loan guarantees for new nuclear plants – the first to be built in the U.S. in decades.”

Last week, the administration announced an \$8.3 billion loan guarantee for Southern Company to build two new reactors at its Vogtle plant in Georgia, and the administration has asked Congress to expand the program from \$18.5 billion to \$54 billion. The owners of the planned STP reactors – which include NRG Energy, Toshiba, CPS Energy – are seeking federal loan guarantees as well.

“The NRC wants to barrel along and license these plants with blinders on and without any involvement by the public,” Hadden said. “Well, the public has a right to be involved. People need to know what is being built in their communities and how safe it will be.”

A copy of the groups’ filing is available at http://nukefreetexas.org/downloads/intervenors_response_opposition_brief_lbp_10_02.pdf.

The Atomic Safety and License Board order is at http://nukefreetexas.org/downloads/nrc_public_order_012910.pdf.

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