June 16, 1997

Mr. James Knubel
Chief Nuclear Officer
Power Authority of the State
of New York
123 Main Street
White Plains, NY 10601

SUBJECT: NOTICE OF CONSIDERATION OF ISSUANCE OF AMENDMENT TO FACILITY OPERATING LICENSE, PROPOSED NO SIGNIFICANT HAZARDS CONSIDERATION DETERMINATION, AND OPPORTUNITY FOR A HEARING, INDIAN POINT NUCLEAR GENERATING UNIT NO. 3 (TAC NO. M98004)

Dear Mr. Knubel:

The Commission has requested the Office of the Federal Register to publish the enclosed "Notice of Consideration of Issuance of Amendment to Facility Operating License, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing." This notice relates to your application for amendment dated January 27, 1997, as supplemented May 16, 1997, which would revise the Technical Specifications to permit control rod misalignment of ±18 steps when the core power is less than or equal to 85% of rated thermal power (RTP) and ±12 steps above 85% of RTP.

Sincerely,
/S/
George F. Wunder, Project Manager
Project Directorate I-1
Division of Reactor Projects - I/II
Office of Nuclear Reactor Regulation

Docket No. 50-286

Enclosure: As stated

cc w/encl: See next page

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UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D.C. 20555-0001

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Power Authority of the State
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123 Main Street
White Plains, NY 10601

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James Knubel
Power Authority of the State
of New York

Indian Point Nuclear Generating
Station Unit No. 3

cc:

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Mayor, Village of Buchanan
236 Tate Avenue
Buchanan, NY 10511

Mr. Richard L. Patch, Director
Quality Assurance
Power Authority of the State
of New York
123 Main Street
White Plains, NY 10601

Union of Concerned Scientists
Attn: Mr. David Lochbaum
1616 P Street, NW, Suite 310
Washington, DC 20036

Mr. Paul Eddy
New York State Dept. of
Public Service
3 Empire State Plaza, 10th Floor
Albany, NY 12223

UNITED STATES NUCLEAR REGULATORY COMMISSION

POWER AUTHORITY OF THE STATE OF NEW YORK

DOCKET NO. 50-286

NOTICE OF CONSIDERATION OF ISSUANCE OF AMENDMENT TO FACILITY OPERATING LICENSE, PROPOSED NO SIGNIFICANT HAZARDS CONSIDERATION DETERMINATION, AND OPPORTUNITY FOR A HEARING

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. DPR-64 issued to the Power Authority of the State of New York for operation of the Indian Point Nuclear Generating Unit No. 3 (IP3) located in Westchester County, New York.

The proposed amendment would permit changing the indicated control rod misalignment from the current limit of ±12 steps to an indicated misalignment of ±18 steps when the core power is less than or equal to 85% of rated thermal power (RTP) and ±12 steps when above 85% of RTP.

Before issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

The Commission has made a proposed determination that the amendment request involves no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or 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. As required by 10 CFR 50.91(a), the licensee

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has provided its analysis of the issue of no significant hazards consideration, which is presented below:

(1) Does the proposed license amendment involve a significant increase in the probability or consequences of an accident previously evaluated?

Response:

No. Based on the Westinghouse evaluation in WCAP-14668, the Authority has determined that all pertinent licensing basis acceptance criteria have been met, and the margin of safety as defined in the TS [Technical Specifications] Bases is not reduced in any of the IP3 licensing basis accident analysis. Increasing the magnitude of allowed control rod indicated misalignment is not a contributor to the mechanistic cause of an accident evaluated in the FSAR [final safety analysis report]. Neither the rod control system nor the rod position indicator function is being altered. Therefore, the probability of an accident previously evaluated has not significantly increased. Because design limitations continue to be met, and the integrity of the reactor coolant system pressure boundary is not challenged, the assumptions employed in the calculation of the offsite radiological doses remain valid. Therefore, the consequences of an accident previously evaluated will not be significantly increased.

(2) Does the proposed license amendment create the possibility of a new or different kind of accident from any accident previously evaluated?

Response:

No. Based on the Westinghouse evaluation in WCAP-14668, the Authority has determined that all pertinent licensing basis acceptance criteria have been met, and the margin of safety as defined in the TS is not reduced in any of the IP3 licensing basis accident analysis. Increasing the magnitude of allowed control rod indicated misalignment is not a contributor to the mechanistic cause of any accident. Neither the rod control system nor the rod position indicator function is being altered. Therefore, an accident which is new or different than any previously evaluated will not be created.

(3) Does the proposed amendment involve a significant reduction in a margin of safety?

Response:

No. Based on the Westinghouse evaluation in WCAP-14668, the Authority has determined that all pertinent licensing basis acceptance criteria have been met, and the margin of safety as defined in the TS Bases is not reduced in any of the IP3 licensing basis accident analysis based on the changes to safety analyses input parameter values as discussed in WCAP-14668. Since the evaluations in Section 3.0 of WCAP-14668 demonstrate that all applicable acceptance criteria continue to be met, the proposed change will not involve a significant reduction in margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no 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.

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 in the FEDERAL REGISTER 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.

Written comments may be submitted by mail to the Chief, Rules Review and Directives Branch, Division of Freedom of Information and Publications Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, and should cite the publication date and page number of this FEDERAL REGISTER notice. Written comments may also be delivered to Room 6D22, Two White Flint North, 11545 Rockville Pike, Rockville, Maryland, from 7:30 a.m. to 4:15 p.m. Federal workdays. Copies of written comments received may be examined at the NRC Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC.

The filing of requests for hearing and petitions for leave to intervene is discussed below.

By July 21, 1997 , 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 request for a hearing and a petition for leave to intervene. Requests for a hearing and a petition 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. Interested persons should consult a current copy of 10 CFR 2.714 which is available at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room located at the White Plains Public Library, 100 Martine Avenue, White Plains, New York 10610. 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 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. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of the contention and a concise statement of the alleged facts or expert opinion

which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. Petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. 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.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

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 immediately 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 request involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

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 20555-0001, Attention: Docketing and Services Branch, or may be delivered to the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, by the above date. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, and to Mr. Charles M. Pratt, 10 Columbus Circle, New York, New York 10019, attorney for the licensee.

Nontimely filings 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 presiding Atomic Safety and Licensing Board that the petition and/or request should be granted based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)-(v) and 2.714(d).

For further details with respect to this action, see the application for amendment dated January 27, 1997, as supplemented May 16, 1997, which is available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room located at the White Plains Public Library, 100 Martine Avenue, White Plains, New York 10610.

Dated at Rockville, Maryland, this 16th day of June 1997.

FOR THE NUCLEAR REGULATORY COMMISSION

George F. Wunder, Project Manager
Project Directorate 1-1
Division of Reactor Projects - I/II
Office of Nuclear Reactor Regulation