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August 29, 2005

Annette L. Vietti-Cook, Secretary
U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001

ATTN: Rulemakings and Adjudications Staff

Re: Public Citizen Comments on PRM-54-02

Dear Ms. Vietti-Cook:

Public Citizen is a national, non-profit consumer advocacy organization based in Washington, DC. On behalf of our 150,000 members, please accept the following comments on Westchester County Executive Andrew J. Spano's May 10, 2005 Petition for Rulemaking to amend 10 CFR Part 54 (PRM-54-02). Public Citizen is a member of the Indian Point Safe Energy Coalition (IPSEC) and has been working to improve nuclear power plant safety for over thirty years.

Respectfully submitted,

Wenonah Hauter
Director
Critical Mass Energy Program

Public Citizen Comments on PRM-54-02

Public Citizen strongly supports the requests made in Westchester County's petition that 10 CFR §54.29 and other applicable regulations be amended such that a nuclear plant must meet the same requirements to obtain a renewed license as for obtaining an initial operating license. As an agency tasked with protecting public health and safety above all other considerations, the U.S. Nuclear Regulatory Commission (NRC) has an obligation to ensure that the operation of commercial nuclear power plants does not pose an undue risk to the general population and that all rules and regulations governing their safe operation reflect the most up-to-date information and experiences.

License Extension is Not a Right

The mechanics and financials of Indian Point and other nuclear plants were designed with an expected operating life of forty years in mind. As such, plant owners and investors have had ample time to recover their initial investments; allowing a plant to continue operating beyond its expected life, and the resultant increased financial gain for investors, is rightly viewed as a gift, not an entitlement.

Site-Specific Analysis is Necessary

The National Academy of Sciences recently affirmed the value of performing site-specific analyses with regard to security of spent nuclear fuel, and in fact the NRC is performing those analyses now for all 103 reactors nationwide; this principle can also be applied to the safety of nuclear plant operation in general. A plant's individual characteristics and those of its surroundings, rather than generic assumptions, form the best basis for understanding the risks posed by a nuclear plant. Especially for plants like Indian Point, with extremely high populations and population densities within the surrounding 10-mile Emergency Planning Zone and beyond, it is critical that such unique factors be thoroughly reviewed and considered in the context of granting a new 20-year operating license.

Improved Knowledge Must Be Applied

Some problems, such as permanent isolation of spent nuclear fuel and providing adequate security, did not exist in the way they do today when most plants received their initial 40-year operating license. Even the most optimistic assumptions about the proposed nuclear waste repository at Yucca Mountain do not negate the fact that any waste produced by reactors operating past 2011 will not fit in the Yucca site. The question of what to do with this additional waste remains completely unaddressed beyond the interim plan to leave it at the generating site. Regulatory tricks such as the waste confidence rule do not change this, and it must be weighed as an integral part of a license extension application review since that extension that is a primary cause of the need for expanded waste storage.

When most reactors received their initial 40-year operating license, it was assumed the waste would have started shipping to Yucca Mountain at least seven years ago, in 1998. Such optimistic assumptions can no longer be relied upon in the face of real-world experiences with attempts to design and license a permanent geologic repository.

As for security, the attacks of September 11, 2001 forever changed the way we view terrorism in this country, and ought to inform our actions today. The silver lining of most tragedies is the opportunity to learn from them, and we must not waste the chance to do so in this case. To fail to include a comprehensive review of the unique hazards posed by a particular nuclear plant and the impact extending its operating life has on the chances for terrorism is to invite tragedy in the future. Potential consequences of a worst-case scenario terrorist attack must be investigated as they would unfold at a particular location and with a particular plant's design, including whether current emergency plans are capable of fully protecting the public.

Conclusion

There is no reason for NRC to lower the bar for currently operating plants, and they should be required to meet or exceed the very same standards a new operator would. Protecting public health and safety is paramount, and the only way to do so is to apply the most up-to-date experience and information regarding mechanical failures, threats, and other vulnerabilities such as inadequate emergency planning capabilities. To do any less can only be seen as deference to the immediate financial interests of the nuclear industry.

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