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AUTHOR: REP Nita Lowey
AFFILIATION: CONG
ADDRESSEE: Gregory Jaczko
SUBJECT: Regulation Identification Number (RULE) provides more flexibility on relicensing terms

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SUBCOMMITTEES:
RANKING MEMBER,
STATE, FOREIGN OPERATIONS, AND
RELATED PROGRAMS

LABOR, HEALTH AND HUMAN SERVICES,
AND EDUCATION

HOMELAND SECURITY

Nita M. Lowey
Congress of the United States
18th District, New York

August 15, 2011

Chairman Gregory B. Jaczko
U.S. Nuclear Regulatory Commission
Mail Stop O-16G4
Washington, DC 20555-0001

Dear Chairman Jaczko:

Regulation Identification Number (RIN) 3150-AD04 (Rule) provides the Nuclear Regulatory Commission (NRC) with the power to relicense nuclear facilities. This Rule provides much more flexibility on relicensing terms than the NRC has been willing to utilize.

Specifically, the Rule states that a main concern in determining renewal terms was the ability to find replacement power. What the NRC believed to be a "10-to-15" year endeavor decades ago could be completed within a few years today. In fact, New York is on course to have enough power to replace Indian Point by the time Indian Point Reactor 3 would be relicensed. I urge you to exercise the flexibility offered to the NRC, given the special circumstances facing Indian Point in Buchanan, New York, to consider a shorter license renewal term before an orderly decommissioning of the facility.

Replacement Power

Regulations controlling the NRC's actions on relicensing are outdated. The Rule states that "Utilities contend that they will require 10 to 15 years to plan and build replacement power plants if the operating licenses for existing nuclear power plants are not renewed"¹ This statement, issued in 1991, does not reflect modern standards. Replacement power can be zoned, permitted, and built in a fraction of that time.

The Governor of New York has made clear his plan to close Indian Point. The New York State Department of Environmental Conservation has rejected a required water permit for the facility to utilize water from the Hudson River to cool reactors. Rather than support relicensing, the State has enacted a new siting law to assist in the construction of power plants, and is already in the process of approving multiple projects that should be on-line and in production before Indian Point's licenses expire in 2013 and 2015.

New York has approved a Hudson Transmission Project to provide 660 MW, projected to be in service in 2013; an NRG Repowering Station in Astoria to provide 440 MW, projected to be in service in 2013; and a U.S. PowerGen South Pier Improvement Project in Brooklyn to provide 100 MW, projected to be

¹ 56 FR 64943; December 13, 1991

in service in 2012. Additional projects in the permitting process, including the Champlain Hudson Power Express project, which will provide over 1000 additional megawatts of power. These projects alone would meet the peak-demand provided by Indian Point within the next few years.

In the coming months, we will receive additional information from New York State on replacement power and expect New York to meet expected demand without Indian Point. Therefore, a full 20-year relicensing term is not needed.

Special Circumstances

You have stated that the NRC is obligated to determine relicensing based on a list of factors which do not include population density, risk of terror threat, evacuation difficulties, or seismic risk. Yet the Rule governing NRC relicensing is not exclusive. Rather, the Rule states that relicensing must take into account age degradation “but provides leeway for the Commission to consider, on a case-by-case basis, other issues unique to extended operation.”²

The location and risks posed by Indian Point clearly warrant a careful, case-by-case relicensing review. Indian Point, located 35-miles of Times Square, is surrounded by 17 million people within a 50-mile radius. There is yet to be a credible evacuation plan for a ten-mile radius, let alone one that would evacuate the entire population of New York City, Westchester and Rockland Counties, and portions of Long Island, New Jersey and Connecticut. If ever issues of evacuation and population density should be addressed in relicensing, it is with the Indian Point facility.

In the wake of the Fukushima disaster, we have been forced to think about the unexpected and unimaginable potential dangers to nuclear facilities. Since that time, U.S. plants have also faced flood dangers, such as the Fort Calhoun Nuclear Power Station in Nebraska.

I am deeply concerned that there is no workable plan to evacuate the population surrounding Indian Point safely in the event of a man-made or natural disaster and that Entergy officials continue to utilize antiquated seismic data that we know underestimates potential seismic events. Without basic evacuation procedures, it is nearly impossible to give first responders and the public confidence in plans for unexpected emergencies or for the Federal Emergency Management Administration (FEMA) to plan for threats. I do not see how they can best plan for the unexpected when basic evacuation procedures are not adequate.

Five-Year License

The Rule states that “there is no minimum term for a renewed license” and that “the Commission may revisit this issue in the future as experience with licensee performance...is gained.”³ I believe that this Rule, along with the special circumstances surrounding Indian Point’s location, security threat, and replacement power options, should encourage the NRC to support a short-term license renewal such as a five-year renewal.

² 56 FR 64946; December 13, 1991

³ 56 FR 64964; December 13, 1991

There is precedent for the NRC to work with states and utilities to permit operations of an aging nuclear facility for a shorter time than the term of the license. The Oyster Creek Nuclear Generating Station in New Jersey recently announced that it will close in 2019, ten years before its renewal license is scheduled to expire. At Oyster Creek, the State Department of Environmental Protection required cooling towers and additional protections not required by the NRC. Rather than adhere to the State's requirements, Exelon agreed to decommission the plant in 2019, making way for adequate replacement power options and the safe closure of a plant that had become an environmental threat with a history of leaking tritium.

New York may be more willing to work with Entergy to sustain operations aimed at an orderly decommissioning of the plant. The NRC should take a realistic approach to relicensing that involves State concerns, work with New York and, if Indian Point is qualified, approve a short-term extension while simultaneously begin the decommissioning process as New York approves replacement power. A short-term relicensing, along with an orderly decommissioning, would ensure that replacement power is available and affordable and would reduce the environmental and national security threat posed to the region by the plant's continued operation.

Sincerely,

A handwritten signature in black ink, appearing to read "Nita M. Lowey". The signature is fluid and cursive, with a large loop at the end of the last name.

Nita M. Lowey
Member of Congress