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UNITED STATES OF AMERICA
before the
NUCLEAR REGULATORY COMMISSION

OFFICE OF SECRETARY
RULEMAKINGS AND
ADJUDICATIONS STAFF

In the Matter of

YANKEE ATOMIC ELECTRIC COMPANY

Docket No. 50-029-LA

(Yankee Nuclear Power Station)

FRANKLIN REGIONAL PLANNING BOARD'S REPLY TO YANKEE ATOMIC
ELECTRIC COMPANY'S AND NRC STAFF'S ANSWERS TO FRANKLIN
REGIONAL PLANNING BOARD'S AMENDMENT

BACKGROUND

On January 28, 1998, the Commission published a notice of opportunity for hearing under 10 C.F.R. S. 2.105 in respect to the approval of the License Termination Plan ("LTP") for Yankee Nuclear Power Station ("YNPS") submitted by Yankee Atomic Electric Company ("YAEC"). 63 Fed. Reg. 4300, 4327. Under date of February 27, 1998, Franklin Regional Planning Board ("FRPB") mailed a letter addressed to the Secretary of the Commission and the office of the General Counsel, with a copy to counsel for YAEC. This letter (the "Planning Board Letter") requested the granting of a hearing on the LTP, which is presently before the Staff for approval under 10 CFR S.

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OF THE COMMISSION

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50.82 (a)(10). On March 11, 1998, YAEC answered through its counsel to the FRPB's request for hearing. On March 16, 1998, NRC's staff answered through its counsel. FRPB responded to YAEC's Answer on March 25, 1998. On the same date, NRC's Atomic Safety and Licensing Board (ASLB) issued a Memorandum and order allowing FRPB and the three other petitioners a right to amend their original filings within seven days of the receipt of the order. The time for filing was extended until April 6, 1998 by the allowance of a motion by FRPB by the ASLB on March 31, 1998. A subsequent motion by the other three petitioners was allowed to extend the time to file as well. FRPB, Citizens Awareness Network, Inc. ("CAN") and New England Coalition on Nuclear Pollution, Inc. ("NECNP") all served Amendments, but Nuclear Information and Resource Service ("NIRS") filed to notify the parties to this proceeding that they were withdrawing from further involvement. YAEC filed an Answer to the Amendments on April 13, 1998 and the NRC Staff filed their Answer on April 14, 1998. FRPB's Reply to both Answers follows.

TIMELINESS

YAEC's counsel argues that the deadline to file a petition to intervene is limited to the filing made relative to the original notice published in the Federal Register for an opportunity for a hearing under 10 CFR S. 2.105. On the contrary, the notice clearly allows an interested party to request a hearing and/or to petition for leave to intervene. The notice can be interpreted to allow an interested party to request a hearing and at a later date, once a hearing has been granted, petition to intervene to gain party status. In

this instance, the ASLB itself issued an Order dated March 25, 1998 allowing Amendments to the original filings made by the FRPB, CAN, NECNP and NIRS. This was perceived as an attempt to clarify the role each filer intended to play in the proceeding and to overcome any confusion caused by these original filings. The ASLB has the right to use its discretion to solicit Amendments as exercised here. Further, it cannot be seen how YAEC could be prejudiced by the inclusion of a petition to intervene at this early stage of the proceeding.

STANDING

Both YAEC and the NRC staff have expended an enormous amount of time and energy and paperwork on this particular issue. Their most recent filings concentrate on the wording and the interpretation of the enabling legislation that allowed the twenty-six towns of Franklin County to form their own regional government on July 1, 1997 to replace the Franklin County Commission. However, it is the Franklin Regional Council of Governments (“COG”) Charter that all twenty-six towns passed at their respective town meetings or equivalent process last spring that dictates the final structure of the COG. It supersedes the enabling statute and reflects exactly what each town approved as the structure for the new form of government. Future amendments to the legislation will eventually reflect the Charter language and provisions, but this has not transpired due to the slowness of the legislative process and the formalization of details that the COG is addressing in its first year of its existence. The FRPB has drawn on the Charter in

presenting all its arguments in its previous filings. A copy of the Charter is attached as an appendix to this filing. YAEC and NRC's staff have relied on the wrong document as a basis for all their arguments¹. The ASLB should rely on FRPB's representations and discussion of this topic as we are intimately involved with the role and function we play in our county and region. Rather than revisit this area again, we incorporate by reference the sections of our previous filings that reflect our role in the County as a functioning governmental body within the COG.

Even if the ASLB does find any merit to the arguments against the role of the FRPB and determines that the FRPB is an advisory board, an advisory function dictates that the FRPB seek information, work as an investigatory body, gather facts, conduct studies and based on its findings, give a recommendation to the COG. In many instances, the FRPB reviews, votes and takes measures totally independent of any other COG body. The FRPB, in conjunction with the Franklin Regional Planning Department, is constantly reviewing projects, grants and programs with a regional impact, without permission or being overseen by the COG. In this particular situation, the FRPB must function within the parameters and avenues available to it to meet its objectives in assuring that the health, safety, welfare and lives of its citizens are protected as this nuclear facility is decommissioned and its components and waste byproducts are presumably stored safely within the region. Following a public meeting held on January 13, 1998 that fell well

¹ FRPB is also confused and perplexed as to YAEC's and NRC staff's focus on a letter dated March 26, 1998 to James P. Gleason, Chairman of the ASLB from Brad C. Councilman, Chairman of the COG. This letter is relied on by both parties despite not being served to the entire service list. How did YAEC and

short of addressing all the questions posed by the FRPB and others and with a licensee who has resisted to provide the FRPB with a free flow of information and answers to further questions generated from FRPB's involvement², the FRPB had no other choice than to ask for a public hearing and intervention status to be able to carry out its function, whether it be given full party status or to be purely advisory in nature. Participation in this process is crucial and critical for the FRPB to meet its Charter mandates.

Minimally, the FRPB qualifies to take part in the proceeding under section 2.715 (c). It qualifies as a governmental body charged with review of projects, issues and similar matters that fall within the realm of protection of the health, safety and welfare of its citizenry and its cultural and natural resources. The Councilman letter referred to in footnote 1, in itself is an admission by the Chairman of the COG that the FRPB is an agency of the current form of county government, and acts to advise the COG on issues it is charged with scrutinizing. (No invitation was extended to the FRPB's Executive Committee to bring the LTP issue before the COG as stated in the letter at the date of the correspondence. Notwithstanding there was nothing to report as the matter had just commenced formal proceedings).

NRC staff acquire their copy? How did Mr. Councilman acquire this copy of the ASLB notice? A copy of this letter is attached as an appendix to this filing.

ASPECTS

At this juncture in the proceeding, a petitioner need not file more than aspects to satisfy issues that the party will address in the hearing. Contentions can be filed up to fifteen days prior to the first pretrial conference. FRPB maintains that the aspects listed in its previous filings are admissible and adequate to satisfy this filing requirement. YAEC's counsel is incorrect to label the aspects provided as contentions.

FUNDING

FRPB reiterates its request that the NRC initially provide funding in the amount of one hundred thousand dollars to pay for experts and legal representation. If the NRC is precluded by law to make available such funding, the FRPB requests that the licensee be ordered to provide such funding as a condition of its LTP or as an independent order by the ASLB or NRC. Such funding requirements are commonplace requisites of proponents and applicants in various proceedings on local, state and regional levels. Such provisions underwrite the costs and assures complete representation and informed involvement by the public in these processes. Since this is the first commercial nuclear facility in the United States having its LTP reviewed, it is important to set a precedent to allow the public to have the financial means to take part in the process. That can only be

² Curiously enough, YAEC's twenty page response to a number of questions posed by the FRPB in a letter dated December 4, 1997 was entitled "YAEC Responses to Franklin Regional Council of Governments Questions on YNPS License Termination Plan".

assured by such funding. Granting of this request falls within the discretion of this body.

We ask that you provide this opportunity to the public.

NO SIGNIFICANT HAZARDS

FRPB reiterates its arguments for the ASLB within its discretionary powers to review the “no significant hazards” finding as stated in FRPB’s filing of April 6, 1998.

WHEREFORE, the Franklin Regional Planning Board asks that the request for a public hearing and its petition to intervene in this proceeding be allowed.

Respectfully submitted,



Adam B. Laipson
Chair, Franklin Regional Planning
Board
April 28, 1998

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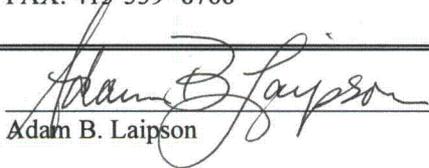
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CERTIFICATE OF SERVICE

I hereby certify that copies of FRANKLIN REGIONAL PLANNING BOARD'S REPLY TO YANKEE ATOMIC ELECTRIC COMPANY'S AND NRC STAFF'S ANSWERS TO FRANKLIN REGIONAL PLANNING BOARD'S AMENDMENT have been served on the following by deposit in the United States mail, first class, or by fax, if indicated by asterisks, or both, on this day, April 28, 1998:

OFFICE OF SECRETARY
AND STAFF
ADJUDICATIONS

| | |
|---|--|
| James P. Gleason, Chairman Administrative Judge Atomic Safety and Licensing Board Mail Stop T 3-F-23 US Nuclear Regulatory Commission Washington, DC 20555 | Thomas D. Murphy Atomic Safety and Licensing Board Mail Stop T 3-F-23 US Nuclear Regulatory Commission Washington, DC 20555 |
| Adjudicatory File (2) Atomic Safety and Licensing Board Mail Stop T 3-F-23 US Nuclear Regulatory Commission Washington, DC 20555 FAX: 301-415-5599 | Dr. Thomas Elleman Atomic Safety and Licensing Board Mail Stop T 3-F-23 US Nuclear Regulatory Commission Washington, DC 20555 |
| Office of the Commission Appellate Adjudication US Nuclear Regulatory Commission Washington, DC 20555 | Jonathan M. Block, Esquire Main Street Post Office Box 566 Putney, VT 05346 FAX: 802-387-2667 |
| Mr. R.K. Gad, III, Esquire Ropes & Gray One International Place Boston, MA 02110-2624 FAX: 617-951-7050 | Mr. James L. Perkins President of the Board New England Coalition on Nuclear Pollution, Inc. Post Office Box 545 Brattleboro, VT 05302 FAX: 207-685-9604 |
| Mr. Paul Gunter Nuclear Information and Resource Service 1424 16th St., NW Suite 404 Washington, DC 20555 FAX: 202-462-2183 | Marian Zabler, Esquire Office of the General Counsel US Nuclear Regulatory Commission Washington, DC 20555 FAX: 301-415-3725 |
| Debra Katz, President Citizens' Awareness Network PO Box 3023 Charlemont, MA 01339-3023 FAX: 413-339-8768 | Office of the Secretary ATTN: Rulemaking and Adjudications Staff Mail Stop O 16-C-1 US Nuclear Regulatory Commission Washington, DC 20555 FAX: 301-415-1672 |


Adam B. Laipson

April 28, 1998

FRANKLIN REGIONAL COUNCIL OF GOVERNMENTS CHARTER

Preamble. We, the people of Franklin County, in order to serve the interests of the citizens of our region, do hereby affirm that the 26 municipalities which presently comprise Franklin County have vital common concerns that transcend the borders of individual municipalities and that the ability of our municipalities to address important public issues often depends on our local governments acting together. We therefore establish for ourselves and for our communities the means to effectively serve our towns and to deal with regional issues which transcend the existing boundaries of town governments, and do hereby adopt this home rule Charter for the Franklin Regional Council of Governments pursuant to section 567 of Chapter 151 of the 1996 Acts of the General Court of Massachusetts.

ARTICLE 1 DEFINITIONS

SECTION 1.1 *Definitions*

The following words as used in this Charter shall have the following meanings:

- (a) *Charter* - The word "Charter" shall mean this Charter and any amendments to it which may hereafter be adopted.
- (b) *County* - The word "County" shall mean the geographic boundary of the County of Franklin.
- (c) *Council* - The representative body of the Franklin Regional Council of Governments
- (d) *Council Agency* - The words "Council agency" shall mean any board, commission, executive or representative body, committee or any department, division, or office of the Franklin Regional Council of Governments.
- (e) *Days* - The word "days" shall refer to business days, not including Saturdays, Sundays and legal holidays when the time set is less than seven days; when the time set is seven days or more, every day shall be counted, unless the last day is a Sunday or a holiday.
- (f) *FRCOG* - The acronym "FRCOG" shall mean the Franklin Regional Council of Governments.
- (g) *Laws of the Commonwealth/MGL* - The official Laws of the Commonwealth of Massachusetts and the Constitution of the Commonwealth of Massachusetts, including all amendments adopted with respect thereto.
- (h) *Majority Vote* - The words "majority vote" shall mean a majority of the members present and voting, provided a quorum is present when the vote is taken, unless a higher number is required by law or bylaw.
- (i) *Voters* - The word "voters" shall mean persons who are registered to vote in any Massachusetts municipality.
- (j) *FRPB* - The acronym "FRPB" shall mean the Franklin Regional Planning Board.
- (k) *Enabling Act* - Section 567 of Chapter 151 of the 1996 Acts of the General Court of Massachusetts, as may be amended.

ARTICLE 2 POWERS OF THE REGIONAL COUNCIL OF GOVERNMENTS

SECTION 2.1 *Incorporation*

The Franklin Regional Council of Governments, within the corporate limits established by law, shall be a body politic and corporate for the purposes of suits; of buying and holding, for FRCOG uses, personal property and real property; and of contracting and doing other necessary acts relative to its property and affairs.

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SECTION 2.2 Powers of the FRCOG

2.2.1 The intent of this Charter is to obtain for the FRCOG all of the powers that it is now possible or that it may hereafter be possible for a council of governments to have, and to hold and to exercise such powers and such policies under the Constitution and Laws of the Commonwealth, as they may be amended, as fully and as completely as if each such power were specifically and individually enumerated in this Charter.

2.2.2 It also is the intent of this Charter to encourage a continuing review of the functions performed by the Franklin Regional Council of Governments and to enable it to perform any duty mandated to it in the most efficient manner possible, and without regard to the organizational, structural, or personnel provisions contained in any prior laws.

2.2.3 Nothing in this Charter shall be construed to impair, diminish, or infringe upon the powers or duties of cities and towns under the Laws of the Commonwealth. The member municipalities of the Franklin Regional Council of Governments are and shall remain the broad repository of local police power in terms of their ability to legislate for the general health, safety, and welfare of their residents.

2.2.4 Notwithstanding any other special or general law to the contrary, the FRCOG shall exercise all prerogatives and responsibilities granted to it by the Enabling Act, including but not limited to, those powers which are enumerated below:

- (a) The power to adopt, amend and repeal bylaws related to operations of the FRCOG.
- (b) The power to organize and regulate the internal affairs of the Council of Governments: to create, alter, and abolish departments, offices, positions, and employment and to define the functions, powers and duties thereof; to establish qualifications for persons holding offices, positions and employment, subject to the requirements of state law and this Charter, and provide for the manner of their appointment and removal and for their term and compensation.
- (c) The power of eminent domain with respect to any powers of the former County under MGL Chaps. 79-88, 97, 114, 159, 160 and 252.
- (d) The power to construct, acquire, operate and maintain public improvements, capital projects, personal property and real property or other enterprises for any public purpose, subject to Laws of the Commonwealth.
- (e) The power to have a corporate seal; to sue and be sued; to contract and be contracted with; to buy, sell, lease, hold and dispose of real and personal property; to appropriate and expend funds for Council of Governments purposes, to retain, administer and release trust funds of the former County of Franklin.
- (f) The power to contract with or enter into agreements with any other entity or governmental unit and to provide jointly or for the other, or in cooperation with other entities, any service, activity, or undertaking which such entity or governmental unit is authorized by law to perform. Notwithstanding any other provision of law, municipalities entering into joint service agreements with FRCOG may do so upon authorization of town meeting or, if further authorized by general law, the chief elected official or executive officer of the municipality.
- (g) The power to establish membership assessments and service charges.
- (h) The power to assess the Franklin County Retirement System or its successor for the services of the director of finance in administering the retirement system.
- (i) The powers of municipalities with respect to creating special fund accounts for the purpose of providing any service authorized by this charter. Such funds may include, but are not limited to, those authorized by MGL chapter 44, sections 53A (grant and gifts for municipal purposes), 53C (off-duty work details), 53D (recreation and park self-supporting service revolving funds), 53E (offset receipts), 53E ½ (departmental revolving), 53F (compensating balance agreements), 53F ½ (enterprise funds), 53G (special consultants), or any other special funds powers now or later enacted for municipalities.

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Adoption of such instruments by the Council shall require the same procedures of the executive and representative bodies of the FRCOG as may be required of the executive and legislative bodies of municipalities. The FRCOG shall be subject to any procurement regulations which apply to municipalities.

(j) The powers of regional planning agencies and economic development areas as previously conferred upon the County of Franklin under Chapter 425 Acts 1963 as amended, MGL chapter 40B secs. 5, 5A, 5B and 14 and as enumerated by the Enabling Act.

(k) The power, notwithstanding any general or special law to the contrary, to retain all powers and authorities of the former County executive and legislative bodies necessary for the execution of any responsibility transferred to the Council of Governments by the Enabling Act. Any responsibility of the former County of Franklin for which the Commonwealth has no explicit jurisdiction, shall be retained by the FRCOG and its successor offices, including but not limited to, appointment authority of the executive to other corporate bodies.

(l) The powers of Massachusetts municipalities, special districts and authorities not specifically limited by this charter or its enabling act may be granted to the FRCOG by the bylaw approval process set forth by this charter.

(m) The powers of town Selectmen under MGL chap. 41 sec. 52 and 56 approval of bills and warrants, the powers of the former County of Franklin under MGL chaps. 79-88, 97 & 114 (highways and burial grounds, generally), 32B (health insurance), 40 (dogs and other animals), 42 (boundaries), 159 & 160 (railways), and 252 (swamps and quarries).

(n) The power to incur operating debt in anticipation of revenue up to one half of the most recent year's audited total revenues.

(o) The power to exercise any powers, authorities or duties which may be assigned by general law or administrative rule to regional planning agencies or counties.

(p) The power to accept, state, federal, or private grants for any purpose.

ARTICLE 3 REPRESENTATIVE BODY: THE COUNCIL

SECTION 3.1 *Structure*

3.1.1 *Composition:* The Council shall be comprised of one representative from each member municipality appointed by that municipality's Board of Selectmen or Chief Executive. In addition, the Franklin Regional Planning Board (FRPB) shall elect or appoint one of its members to the Council. The elected members of the Executive Committee shall be *ex-officio* members of the Council but shall not be officers of the Council.

3.1.2 *Term and Vacancies:* Appointments shall be for the duration of a fiscal year. Procedures for notice of appointments to the FRCOG shall be outlined by bylaw. For the purpose of forming the initial council, appointments shall be made by the member towns and FRPB within 30 days of the adoption of this charter. Vacancies shall be defined by bylaw and filled within 30 days by the appropriate appointing authority as set forth by section 3.1.1 above.

3.1.3 *Eligibility:* Representatives shall be residents and registered voters of the towns from which they are appointed. The FRPB representative shall be a resident of Franklin County or of any other municipality which is a member. A Representative shall not be an employee of the Council.

3.1.4 *Compensation and Benefits:* Representatives shall not be eligible for salary or any personnel benefits.

3.1.5 *Organization:* In the month immediately following the approval of this Charter by at least 14 member towns, but not sooner than July 1, 1997, the first organizational meeting of the Council shall be held. The Council shall meet at least quarterly, and shall elect a Chair, Vice-Chair and Secretary at its annual organizational meeting, which shall be its first meeting following July 1 of each year.

3.1.6 Voting: Each member shall have one equal vote on all non-appropriations matters, except that Executive Committee members shall not vote upon matters of recall under Article 3.2.2 of this Charter. On appropriations questions, each member town representative shall cast a weighted vote equal to their proportional share of the total member assessment outlined in Article 7 of this charter except that the FRPB representative shall hold a vote of 1% creating a total possible vote of 101%.

3.1.7 Quorum: Not less than 50 percent of the total weighted or equal vote of the Council as applicable to the actions to be taken.

SECTION 3.2 Powers and Duties

3.2.1 Powers and Duties in General: Except as is otherwise provided by the Laws of the Commonwealth, all legislative powers of the FRCOG shall be vested in the Council which shall exercise its powers consistent with the Laws of the Commonwealth and this Charter.

3.2.2 Specific Powers of the Council:

Subpart 1: By a simple majority of the weighted or equal vote present as applicable:

- (a) The power to pass whatever measures are deemed necessary and proper for the operation of the Council in accordance with the Laws of the Commonwealth.
- (b) The power to approve the FRCOG annual operating budget and appropriate funds as required by the budget.
- (c) The power to pass resolutions and organization bylaws.
- (d) The power to establish internal rules of operation.
- (e) The power to establish standing committees as deemed necessary to carry out its duties.

Subpart 2: By a two-thirds majority of the weighted or equal vote present as applicable:

- (a) The power to authorize the FRCOG to enter into indebtedness for capital and real property acquisitions pursuant to general law.
- (b) The power to recall a vote of the Executive Committee, procedures to be outlined by bylaw.
- (c) The power to approve acquisition and disposal of real property or significant capital assets.
- (d) The power to override Executive Committee rejection of amendments to organizational bylaws as set forth in Article 8.4.

ARTICLE 4

EXECUTIVE BODY: THE EXECUTIVE COMMITTEE

SECTION 4-1 Structure

4.1.1 Composition: The executive powers of the Franklin Regional Council of Governments shall be exercised by an Executive Committee which shall consist of five members, no two of whom shall be from the same Member town. Two members shall be elected at the state biennial election, two shall be elected by the Council and one shall be elected or appointed by the Franklin Regional Planning Board.

4.1.2 Term and Vacancies: The terms of Council and FRPB members on the executive committee shall be for the duration of a fiscal year. Procedures for notice of appointment or election to the executive committee shall be outlined by bylaw. Vacancies shall be defined by bylaw and filled within 30 days by the appropriate board.

The two members chosen by the voters in the member towns at the biennial election shall serve four year terms beginning on the first Tuesday following January 1 of the year following their election. However, in the first election, the individual with the highest vote shall serve a four year term and the individual with the second highest vote shall serve a two year term, hence staggering their terms thereafter. If a person from the same town as another candidate appears to be chosen, the person with the higher number of votes shall be declared elected. If a person residing in the same town as a still sitting member of the committee resides, he/she shall not be declared elected. In such a case the person with the next highest number of votes, who lives in another town, shall be declared elected. Definition and procedures for filling vacancies shall be outlined by the bylaws. If the Secretary of State declines to place the names of regionally elected executive committee member candidates on the ballot, such members shall be deemed elected by aggregating the total votes received at the town elections of all members. The first such elections shall be held at the spring town elections of 1998. The same provisions

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for length and staggering of terms shall apply with terms beginning July 1 of the year in which the election is held. Candidates shall follow each town's rules for securing a place on the ballot. Candidates for said elected positions shall not run representing a political party.

4.1.3 Eligibility: Executive Committee members shall be residents and registered voters of member towns. The FRPB member shall be a resident of Franklin County or other member town. Executive Committee members shall not be employees of the Council.

4.1.4 Compensation and benefits: The Council may establish an annual stipend for members of the Executive Committee. Other personnel benefits shall be provided as required by law, or as may be authorized by bylaw.

4.1.5 Organization: Within 30 days of the first meeting of the Council, the first meeting of the Executive Committee shall be held. The Executive Committee shall meet at least monthly and shall elect a Chair, Vice-Chair and Secretary at its annual organizational meeting, which shall be established by bylaw. The Secretary shall act in the capacity of the former County Clerk with respect to all matters under jurisdiction of the FRCOG.

4.1.6 Voting: Each member shall have one equal vote on all matters.

4.1.7 Quorum: The Executive Committee shall conduct all of their official business with at least three members present, provided proper notice has been given to all five members.

SECTION 4.2 Powers and Duties

4.2.1 Powers and Duties in General: The executive powers of the Council shall be vested solely in the Executive Committee and may be exercised either directly by the Executive Committee, or through the Executive Director as set forth in Article 5 of this Charter. The Executive Committee shall cause this Charter and the bylaws and orders for the administration of the FRCOG to be enforced. The Executive Committee shall exercise general supervision and direction over the FRCOG. Each FRCOG committee, employee, or agent shall furnish any documents or information, or shall appear before the Executive Committee as it may request.

4.2.2 Specific Powers of the Executive Committee:

- (a) The power to supervise the approval of warrants, collection, disbursement, and deposit of all FRCOG funds.
- (b) The power to exercise all administrative and executive powers of the FRCOG by majority vote.
- (c) The power to prepare and submit an annual operating and a capital outlay budget to the Council for its consideration and adoption, and supervise and administer the budget adopted by the Council.
- (d) The power to supervise the care and custody of all FRCOG property, institutions, and agencies.
- (e) The power of eminent domain as permitted by law and as enumerated in article 2 of this Charter.
- (f) The power to identify emergency situations and call emergency meetings of the Council with 24 hours notice.
- (g) The power to call meetings of the Council with two weeks notice, subject to the bylaws of the Council.
- (h) The power to sign all deeds, contracts, bonds or other instruments required to execute the powers of the FRCOG as set forth in Article 2.
- (i) The power to inquire at any time into the conduct of office or performance of duty of any FRCOG officer, employee, or Council member.
- (j) The power to establish internal rules of operation and review FRCOG bylaws submitted by the Council.
- (k) The power to make appointments to other public and private bodies as required by law or as requested by such other bodies or as previously required of the Commissioners of the former County.
- (l) Such other powers as may be granted by the Laws of the Commonwealth.
- (m) The power to conduct inquiries and investigations and exercise the power of subpoena.
- (n) The powers of former County Commissioners generally and under MGL chapter 34 relative to powers cited in Article 2.2.4 sections (c) and (m) of this charter.

4.2.3 *Delegation of Authority by the Executive Committee*

To the extent allowed by law, the Executive Committee may delegate to any subordinate officer or employee of the FRCOG the exercise of any power, function or duty assigned it by this Charter. All legal acts performed under such delegation shall be deemed to be the acts of the Executive Committee.

ARTICLE 5 ADMINISTRATIVE ORGANIZATION

SECTION 5.1 *Executive Director*

Appointment, Qualification, Term of Office, Duties - The chief administrative officer of the FRCOG shall be an Executive Director appointed by a majority vote of the Council to serve at their pleasure. The Executive Director shall be qualified by education, training and experience in public administration to perform the duties of the office, and shall exercise general day-to-day supervision and direction over all FRCOG activities. Specific powers and duties of the Executive Director shall be further enumerated by bylaw based upon descriptions of chief administrative positions in special act and home rule charters adopted by cities and towns of the Commonwealth. The Executive Director shall hire or terminate Director level positions with the majority advice and consent of the Executive Committee, except that the Franklin Regional Planning Board shall also give advice and consent upon the appointment or termination of the Director of Planning and Development. All other positions shall serve at the pleasure of the Executive Director.

SECTION 5.2 *Director of Finance*

The Director of Finance shall report to the Executive Director. The Director of Finance shall be qualified by education, training and experience in finance and accounting to perform the duties of the office, and shall be responsible for overseeing financial operations of the FRCOG. The Director of Finance shall have all of the powers and duties enumerated by the Enabling Act, and such additional powers and duties as may be provided by general law or bylaw.

SECTION 5.3 *Director of Planning and Development*

The Director of Planning and Development shall report to the Executive Director. The Director of Planning and Development shall be qualified by education, training and experience in planning to perform the duties of office and shall perform services in support of Article 8 of this Charter and such other duties as may be provided by general law or bylaw.

ARTICLE 6 FINANCING AND MEMBERSHIP

SECTION 6.1 *Membership Eligibility and Responsibilities*

6.1.1 *Eligibility:* Membership in the Franklin Regional Council of Governments is open to any Franklin County municipality which has secured an affirmative majority vote by its legislative body accepting this charter. The FRCOG is also open to any other Massachusetts municipality which has secured an affirmative vote by its legislative body and approval by a 2/3 majority vote of the full membership of the Council.

6.1.2 *Members:*

- (a) Any municipality that meets the criteria of section 6.1.1 by July 1, 1998 will be deemed a Member.
- (b) Members will have representation on the Council in accordance with Article 3 of this Charter.
- (c) Members shall commit to membership in the FRCOG for no less than three years effective July 1, 1998.

6.1.3 *Other Members:* Any other category of Members and related fee structures will be defined pursuant to the bylaws of the Franklin Regional Council of Governments.

6.1.4 *Responsibilities of Towns of the Former Franklin County:*

- (a) Towns which comprise the former County which decide not to become Members of the FRCOG by July 1, 1998 shall continue to be responsible for their allocable share of all related retirement system costs, retiree health insurance, and any other ongoing fixed costs of the former County as approved by the Council.

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(b) Payment for items under (a) shall be made pursuant to a schedule approved by the Council and submitted to each town affected by this section.

6.1.5 Member Assessments and Service Charges:

(a) Members will be assessed pursuant to the formula outlined in (b) below to fund that portion of the FRCOG general operating budget which is not offset by other revenues, including costs of the former County as set forth in section 6.1.4(a). Service charges will be established pursuant to the Bylaws of the FRCOG. An annual FRCOG budget assessment shall be transmitted to each member by February 1 indicating the core assessment and service charges which comprise the total.

(b) Each member's core assessment shall reflect a 10% weight for its share of the total members' population and a 90% weight for its share of the total members' total equalized property valuation (EQV). Total equalized property valuation shall be the latest figure certified by the Massachusetts Department of Revenue and population shall be the latest completed decennial federal census.

$$\frac{\text{Member's EQV}}{\text{Total Members' EQV}} \times \text{Total Core Assessment} \times .9 \text{ PLUS}$$

$$\frac{\text{Member's Population}}{\text{Total Members' Population}} \times \text{Total Core Assessment} \times .1 = \text{Member Core Assessment}$$

(c) Assessments shall be paid by Members on a quarterly basis according to the following schedule: July 1, October 1, January 1, and April 1.

(d) If any payment of service charges or assessments is not made when required, the Director of Finance shall cause notice to be sent to the delinquent member. Ninety days delinquency in any such payments to which notice shall have been given to the member shall entitle the Executive Committee to suspend membership until the delinquency is satisfied.

6.1.6 Adherence to Bylaws of the Franklin Regional Council of Governments: All members shall agree to be bound by the Franklin Regional Council of Governments Charter and Bylaws, and all amendments thereto, as a condition of continued membership in the FRCOG.

6.1.7 Withdrawal from Membership in the Franklin Council of Governments:

(a) After three years of membership, any Member may seek to withdraw from the Franklin Regional Council of Governments by an affirmative majority vote at the annual meeting of its Legislative Body.

(b) In all cases, the terms of withdrawal will include provisions for payment of the Member's allocable share of planning and development costs related to programs which that municipality had accepted if such costs have been incurred but not financed at the time of withdrawal; and shall provide for payment for all of the municipality's share of the FRCOG budget for the fiscal year following the vote to withdraw. The municipality shall also continue to be responsible for payments under 6.1.4.

(c) Procedures for withdrawal from Membership in the FRCOG shall be pursuant to the Bylaws of the FRCOG, but shall not supersede any provisions of this charter.

SECTION 6.2 Fiscal Procedures

6.2.1 Submission and Adoption of the Proposed Budget: The fiscal year of the FRCOG shall begin on July 1 and end on June 30. The Executive Director, operating within guidelines issued by the Executive Committee, shall by December 1 of each year, submit to the Council a proposed operating budget for the ensuing fiscal year with an accompanying budget message and supporting documents. The Executive Director shall also make available a proposed budget summary for public review. The Council shall adopt a proposed budget for the ensuing fiscal year not later than February 1. Should town meeting actions require revisions in the budget for the ensuing year, the Council shall take final action on a budget not later than June 1.

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6.2.2 Actual and Estimated Income and Expenditures - Each year the proposed operating budget shall provide a comprehensive financial plan of all FRCOG funds and activities. The budget shall show actual and estimated income and expenditures for the previous, current, and ensuing fiscal year and shall include proposed expenditures for current operations and proposed revenue sources; proposed capital expenditures and the proposed methods of financing capital expenditures; and estimated surplus revenue and free cash at the end of the current fiscal year, including estimated balances in any special accounts. The budget shall include a capital improvement program as appropriate. A cost allocation plan shall identify all costs and appropriations directly or proportionately attributable to each function. The budget shall in all events be a balanced budget.

ARTICLE 7 REGIONAL PLANNING AGENCY

SECTION 7.1 *Purpose, Responsibilities and Powers*

As stated by the Franklin Council of Governments Enabling Act, any and all regional planning activities or functions established pursuant to the provisions of Chapter 425 of the Acts of 1963 (the Act which establishes the Franklin County Commissioners as the Regional Planning Agency for Franklin County), as amended, and Sections 5, 5A, 5B, and 14 of Chapter 40B of the Laws of the Commonwealth (the Act which defines the actions of the Regional Planning Agency), and/or any subsequent provisions of the Laws of the Commonwealth with respect to regional planning, shall be the responsibility of the Franklin Regional Council of Governments under this Charter and subject to its provisions. The FRCOG shall be the Regional Planning Agency for the municipalities within the boundaries of the former Franklin County, known as the "Regional Planning District", and may expand such boundaries pursuant to general law or the provisions of this charter. The FRCOG may assume additional regional planning responsibilities granted by any subsequent provisions of state or federal legislation or regulations.

The Franklin Regional Council of Governments shall be comprised of three bodies: The Executive Committee, acting as the executive body, the Council, acting as the representative body, and the Franklin Regional Planning Board, acting as the advisory body on regional planning issues and policies. The Executive Committee, the Council, and the Franklin Regional Planning Board shall jointly have and may exercise any and all authority for regional planning as may be authorized by current and future federal and state laws. The Executive Committee, in consultation with and based upon the recommendations of the Franklin Regional Planning Board, shall be responsible for establishing policies to guide all regional planning and development activities of the region. The Franklin Regional Council of Governments as the Regional Planning Agency shall be staffed with a Director of Planning & Development, with appropriate planning qualifications, and other staff as grant or other funding permits. The purpose and objectives of the FRCOG as the Regional Planning Agency are to balance economic development with the protection of natural and cultural resources which are the foundation of the region's rural character and heritage and to advocate at the state and federal level to ensure that programs, policies and funding are responsive to issues affecting the region.

SECTION 7.2 *Franklin Regional Planning Board - Purpose, Composition, Responsibilities and Powers*

7.2.1 Purpose: The purpose and objective of the Franklin Regional Planning Board ("FRPB") shall be to promote, with the greatest efficiency, sustainable economic development in the Franklin Regional Council of Governments region and to protect public health, safety and welfare and the natural and cultural resources of the Regional Planning District.

7.2.2 Composition: The Franklin Regional Planning Board shall consist of the following members:

- (a) the Executive Committee (the Executive Body of the Franklin Regional Council of Governments);
- (b) the Chair of the Board of Selectmen of each town or the Board of Selectmen's designee, who may be someone other than a member of the Board of Selectmen;
- (c) the Chair of the Planning Board of each town or a member of that town's Planning Board; and
- (d) up to eighteen (18) persons residing within the Regional Planning District, as "Members At-Large" for the purpose of providing additional advice and guidance to the FRPB, with said persons broadly representative of business, labor,

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professional and social organizations, or interested in natural, cultural, historic and economic resources and other significant interests within the Regional Planning District. Such Members At-Large shall be elected by the Franklin Regional Planning Board in accordance with its by-laws.

7.2.3 Term of Office: Each representative shall serve a term of three years. In the case of vacancies, new appointments shall be made in accordance with the provisions of the Franklin Regional Planning Board by-laws.

7.2.4 Voting Powers: Each Franklin Regional Planning Board member shall have one equal vote.

7.2.5 Quorum: Not less than 15 percent of the full Franklin Regional Planning Board membership shall constitute a quorum.

7.2.6 Organization: The Franklin Regional Planning Board shall establish by-laws for its proceedings and organization. The Franklin Regional Planning Board may establish such technical advisory subcommittees as may be needed to assist the planning staff of the Franklin Regional Council of Governments and the FRPB in their duties and functions. The Franklin Regional Planning Board shall have voting representation on the Council and Executive Committee of the Franklin Council of Governments as set forth in Articles 3 and 4 above.

SECTION 7.3 Responsibilities and Functions

7.3.1 General Powers: The Franklin Regional Planning Board shall consult with and make recommendations to the Franklin Regional Council of Governments executive and legislative bodies concerning the objectives, policies, programs, budget, administration or other items necessary for the preparation and implementation of studies, plans and proposals in furtherance of the purposes set forth above and as provided by the Enabling Act, as amended; in Chapter 425 of the Acts of 1963, as amended, which establishes the Franklin County Commissioners as the Regional Planning Agency for the Regional Planning District and County; and in Sections 5, 5A, 5B, and 14 of Chapter 40B of the Laws of the Commonwealth, which defines the actions of a Regional Planning Agency, and as may be further provided by amendment or by any other subsequent provisions of state or federal law or regulations.

7.3.2 Specific Powers:

(a) **Economic Development:** As authorized pursuant to Title IV, Part B of the Public Works and Economic Development Act of 1965, enacted by the United States Congress as Public Law 89-136, or current equivalent as amended, the Franklin Regional Planning Board shall oversee the development of and approve the Overall Economic Development Program (OEDP) for the Franklin Regional Council of Governments Regional Planning District and assist with other economic development activities in support of the OEDP.

(b) **Transportation:** As authorized by the Federal Highway Act of 1962 or current equivalent as amended, and the Massachusetts Executive Office of Transportation and Construction, the Franklin Council of Governments Regional Planning District is considered a metropolitan planning area. As such, its Metropolitan Planning Organization (MPO) is responsible for the planning and programming of financial resources for a multi-modal transportation system for the FRCOG region. The MPO is made up of the Secretary of Transportation, the Commissioner of the Massachusetts Highway Department, the Chairman of the Franklin Regional Transit Authority, the Chairman of the Greenfield-Montague Transportation Area, and the Chair of the Franklin Regional Council of Governments Executive Committee. As authorized by Section 134 of the Federal Highway Act of 1962 or current equivalent as amended, the Franklin County Planning Board and its successor, the Franklin Regional Planning Board is authorized to act as the Joint Transportation Planning Committee (hereinafter referred to as the JTPC). The Executive Committee Chair shall receive recommendations from the Franklin Regional Planning Board in its capacity as Joint Transportation Planning Committee (JTPC). As the JTPC, the Franklin Regional Planning Board shall ensure that the transportation planning process in the FRCOG region is comprehensive, continuing and cooperative ("3C") and shall have responsibility for approving the Unified Work Program and Transportation Improvement Program for the region.

7.3.3 Future Changes in Structure, Responsibilities and Functions: Any recommended changes in the structure, responsibilities or functions of the Franklin Regional Planning Board shall be made pursuant to the amendment or bylaw process outlined by this charter as appropriate.

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**ARTICLE 8
GENERAL PROVISIONS**

SECTION 8.1 *Specific Provisions to Prevail, Severability*

To the extent that any specific provision of this Charter conflicts with any provision expressed in general terms, the specific provision shall prevail. The enumeration of specific powers, however, shall not limit the intent of any general powers or responsibilities of the FRCOG or any office or board formed under this charter. If any provision of this charter is found to be invalid or superseded by state or federal law or regulation, in whole or in part, the remaining provisions of the Charter, or portions thereof, shall remain in force.

SECTION 8.2 *Charter Amendment Procedures*

The Council may, by a two-thirds vote of its full membership, submit proposed amendments to this Charter to the voters of member towns. Amendments shall be adopted by a majority vote by the legislative bodies in at least two-thirds of the member towns. The warrant articles used when voting on a Charter amendment shall contain a question in substantially the following form: "Shall the following Charter amendment which was proposed by a two-thirds majority vote of the full membership of the FRCOG Council be enacted?"

SECTION 8.3 *Enabling Act Amendment Procedures*

The Executive Committee may, by a two-thirds majority vote of the full Council membership, and with the majority vote of the Executive Committee, file a petition with the state legislature to amend the Enabling Act.

SECTION 8.4 *Bylaw Adoption Procedures*

Bylaws adopted by the Council by majority vote shall be presented to the Executive Committee for review. A majority vote of the Executive Committee shall be required for adoption. If the Executive Committee fails to take action on any bylaw within 21 days, the bylaw shall become effective. If the Executive Committee disapprove of any bylaw, they shall return the bylaw to the Secretary of the Council within 10 days with the specific reasons for the disapproval, in writing. If the Council does not override the disapproval of the Executive Committee by a two-thirds majority within 30 days, the bylaw shall be rejected and may not be proposed again for one calendar year thereafter. In no case shall a bylaw supersede any provision of this Charter.

**ARTICLE 9
TRANSITIONAL PROVISIONS**

SECTION 9.1 *Effective Date*

This Charter shall become fully effective on the first business day following an affirmative vote by at least 14 towns of the former County of Franklin, but not sooner than July 1, 1997.

SECTION 9.2 *Continuation of Personnel*

All former County personnel not transferred to the Commonwealth pursuant to the provisions of the Enabling Act shall continue to perform their duties as employees of the Franklin Regional Council of Governments, subject to appropriation, further reauthorization, and approval by the Council and the Executive Director.

SECTION 9.3 *Transition of Representative Body*

The County Advisory Board of Franklin County shall remain the representative body of the County through June 30, 1997 and continue as necessary under the Enabling Act as the Regional Advisory Board until such time as this Charter is adopted pursuant to the provisions above or June 30, 1998.

SECTION 9.4 *Transition of Executive Body*

The Franklin County Commissioners shall remain the executive body through June 30, 1997 and continue under the enabling act as the Franklin Council of Governments Committee until such time as this Charter is adopted or June 30, 1998. If the charter is adopted, the three sitting County Commissioners of the former County of Franklin shall elect

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among themselves two members to fill the regionally elected positions until such positions are filled through the state biennial election or town election process outlined in Article 4.1.2 of this charter. Should the Commissioners fail to elect two of their number, the Council shall, at their first meeting, elect two of the sitting Commissioners. In the event that less than two of the sitting Franklin County Commissioners are ready, willing and able to accept a position on the Executive Committee, or if a vacancy occurs prior to the first election, the Council shall elect a Franklin County resident to fill such position(s), except that such individual shall not already be a member of the Council.

SECTION 9.5 *Default in event of Charter vote failure*

In the event this charter is not adopted by a majority of voters in a majority of Franklin County towns by May 31, 1998, the former County Commissioners and County Advisory Board shall by June 15, 1998 adopt a plan for implementation effective July 1, 1998, which shall enumerate 1) any retirement liabilities of the former County, exclusive of those liabilities transferred to the Commonwealth, to be allocated among the towns of the former County; 2) any other fixed costs of the former county to be allocated among the towns of the former Franklin County according to the former county assessment formula; 3) a budget for a Franklin Regional Planning Commission (FRPC) to be assessed upon the towns for fiscal 1999 only, pending acceptance of membership in the FRPC by each municipality of the former Franklin County pursuant to MGL Chapter 40B sec 2A prior to June 30, 1999; 4) the transfer of all powers of the former Franklin County, such as those enumerated in Article 2 of this charter, to specific agencies of the Commonwealth, except those powers of the regional planning commission. The FRPC established by default of this charter shall be overseen by the former Franklin County Planning Board. Votes of acceptance of the FRPC shall be required as under MGL 40B to establish the FRPC as a 40B planning commission, and shall operate pursuant to all 40B requirements after July 1, 1999.

SECTION 9.6 *Legislative authorization of certain provisions*

The Council shall immediately seek legislative authorization for amendment of the enabling act for any power granted to Franklin Council of Governments by this Charter but requiring further legislative approval.

FRANKLIN REGIONAL

Executive Director • Jay DiPucchio

COUNCIL OF

Director of Finance • Carolyn Olsen
Director of Planning and Development • Peggy Sloan

GOVERNMENTS

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March 26, 1998

James P. Gleason, Chairman
Atomic Safety and Licensing Board Panel
Mail Stop T3 F23
U.S. Nuclear Regulatory Commission
Washington, DC 20555

Subject: Docket No. 50-029-LA

Dear Judge Gleason:

I have recently received a copy of your notice regarding ALPB No. 98-736-01-LA. As Chairman of the Franklin Regional Council of Governments I wish to make a clarification regarding this document.

The representation that the Franklin Regional Council of Governments has requested a hearing is not correct. The petitioner is the Franklin Regional Planning Board, an advisory board to the Franklin Regional Council of Governments.

Their 2/27 letter to David Meyer at NRC (Signed by the Chair of the Planning Board) states: "The Franklin Regional Planning Board is a broad-based coalition comprised of a representative from the Selectboard and Planning Board of each of the twenty-six towns of Franklin County, eighteen at large members living within the County, and the members of the Franklin Regional Council of Governments Executive Committee."

Although offered the opportunity, the Executive Committee of the Planning Board declined to bring this matter before the Franklin Regional Council of Governments.

Thank you for your attention to this matter.

Sincerely,



Brad C. Councilman, Chair
Franklin Regional Council of Governments

BCC:lg