

PR-5051

**HUNTON & WILLIAMS**

707 EAST MAIN STREET P. O. Box 1535

**RICHMOND, VIRGINIA 23212**

TELEPHONE 804 788-8200  
CABLE HUNTWAND

**WASHINGTON D.C. OFFICE**  
1919 PENNSYLVANIA AVE. N.W. 20036  
P. O. Box 19230  
TELEPHONE 202 223-8650

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Mr. Samuel J. Chilk  
Secretary of the Commission  
United States Nuclear Regulatory  
Commission  
Washington, D.C. 20555

Attention: Docketing and Service Branch

Re: Notice of Proposed Rulemaking,  
44 Fed. Reg. 61372  
(October 25, 1979)

Dear Mr. Chilk:

This letter is being filed on behalf of the Uranium Fuel Cycle Group and constitutes a notice of intent to participate as a full participant in the Nuclear Regulatory Commission's proposed rulemaking "to reassess its degree of confidence that radioactive wastes produced by nuclear facilities will be safely disposed of, to determine when any such disposal will be available, and whether such wastes can be safely stored until they are safely disposed of," 44 Fed. Reg. 61372, 61372-61373 (October 25, 1979). In accordance with the Commission's Notice of Proposed Rulemaking, id. at 61373-74, this letter sets forth the identity of this Group, its qualifications to participate, its tentative positions on the issues and its views regarding inter-participant discovery.

The Uranium Fuel Cycle Group is an ad hoc group of 16

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investor-owned electric utilities<sup>\*/</sup> which own, operate, are constructing or are planning to construct a significant proportion of the nuclear generating capacity in the United States. This Group has participated in all phases of the Commission's generic proceeding regarding the Environmental Effects of the Uranium Fuel Cycle (the so-called "Table S-3" rulemaking), at both rulemaking and appellate levels, since the inception of that proceeding in 1972. In that proceeding, this Group has addressed, among other things, the standardized depiction in the S-3 rule of the environmental effects of reprocessing and nuclear waste disposal. This Group's substantial involvement in and contribution to that proceeding amply demonstrate its qualifications to participate in this proceeding. Some of the participants in the Uranium Fuel Cycle Group are also participating here through the Utility Waste Management Group, and the Uranium Fuel Cycle Group expects to collaborate fully with that Group in this proceeding.

The close relationship between the instant proceeding and the S-3 proceeding is brought to the fore by the Commission's statements in its Notice of Proposed Rulemaking. In particular, the Commission has made clear that "this proceeding will draw upon the record compiled in the Commission's recently concluded rulemaking on the environmental impacts of the nuclear fuel cycle (44 FR 45362-74 (August 2, 1979)), and the record compiled herein will be available for use in the general fuel cycle rule update discussed in that rulemaking." 44 Fed. Reg. at 61373. This Group thus has a substantial interest in assuring, and special qualifications to contribute toward, the continuity and completeness of the records in these related generic proceedings.

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<sup>\*/</sup>The Group consists of Baltimore Gas and Electric Co., Boston Edison Co., Carolina Power & Light Co., Consumers Power Co., Long Island Lighting Co., Northeast Nuclear Energy Co., Pacific Gas and Electric Co., Pennsylvania Power & Light Co., Philadelphia Electric Co., Public Service Electric and Gas Co. of New Jersey, Southern California Edison Co., The Connecticut Light and Power Co., The Hartford Electric Light Co., Virginia Electric and Power Co., Western Massachusetts Electric Co., Yankee Atomic Electric Co.

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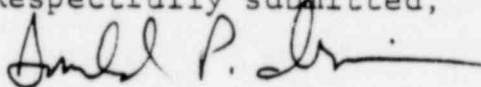
The Group's position, consistent with its position in the S-3 proceeding, is that there is a reasonable assurance that radioactive wastes from nuclear generating facilities will be safely disposed of, that a safe method of off-site storage or disposal is likely to be available by the year 2007, and that in any event such wastes can be safely stored either on-site or off-site until a safe system of permanent disposal is in place. This Group does not at this time contemplate raising any other special matters or concerns in this proceeding.

With regard to procedures for this rulemaking, this Group strongly supports the Commission's first alternative proposal "to strictly control inter-participant discovery and to provide that requests for interrogatories, depositions or other formal discovery will not be entertained unless the Commission finds compelling justification therefor," 44 Fed. Reg. at 61374. Certainly the Commission is not required to provide for adjudicatory discovery procedures in a generic rulemaking proceeding. Vermont Yankee Nuclear Power Corp. v. NRDC, 435 U.S. 519 (1978). The use of formal discovery was properly rejected by the Commission in the S-3 proceeding and should likewise be rejected here. The probable benefits to be derived from the utilization of such procedures in the proposed generic rulemaking are marginal at best, while the potential for delaying and distracting the focus of the proceeding is grave. The Commission's proposed procedures provide that (1) statements and cross-statements will be filed, (2) participants will be expected to make available voluntarily relevant documents to the extent practical, and to reference and produce on request the documents on which they rely, and (3) participants may submit questions for the Commission, in its discretion, to propound at a potential oral hearing. These procedures, which are similar to those used in the recently completed S-3 rulemaking, should prove more than adequate to

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produce a sound rulemaking record without burdening the Commission or the participants with the difficulties which would be engendered by formal discovery. It follows that importation of the formal procedures of 10 CFR Part 2 into this proceeding would be totally inappropriate. We are not prepared to state at this time whether adoption of 10 CFR Part 2 or other formal discovery procedures would deter this Group from participating in this proceeding. However, we firmly believe that the interests of the participants and of the Commission in producing an adequate record will be best served by strictly limiting inter-participant discovery as the Commission has proposed.

Respectfully submitted,



George C. Freeman, Jr.  
Donald P. Irwin  
K. Dennis Sisk  
Counsel for the  
Uranium Fuel Cycle Group,  
consisting of

BALTIMORE GAS AND ELECTRIC COMPANY  
BOSTON EDISON COMPANY  
CAROLINA POWER & LIGHT COMPANY  
CONSUMERS POWER COMPANY  
LONG ISLAND LIGHTING COMPANY  
NORTHEAST NUCLEAR ENERGY COMPANY  
PACIFIC GAS AND ELECTRIC COMPANY  
PENNSYLVANIA POWER & LIGHT COMPANY  
PHILADELPHIA ELECTRIC COMPANY  
PUBLIC SERVICE ELECTRIC AND GAS  
COMPANY OF NEW JERSEY  
SOUTHERN CALIFORNIA EDISON COMPANY  
THE CONNECTICUT LIGHT AND POWER COMPANY  
THE HARTFORD ELECTRIC LIGHT COMPANY  
VIRGINIA ELECTRIC AND POWER COMPANY  
WESTERN MASSACHUSETTS ELECTRIC COMPANY  
YANKEE ATOMIC ELECTRIC COMPANY

Hunton & Williams  
P.O. Box 1535  
707 East Main Street  
Richmond, Virginia 23212

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