TOLEDO EDISON

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Mr. Lee V. Gossick
Executive Director for Operations
U. S. Nuclear Regulatory Commission
Washington, D. C. 20555

Dear Mr. Gossick:

We at Toledo Edison as well as others in the utility industry recognize the critical role that the Nuclear Regulatory Commission performs in insuring the safety of the United States nuclear reactor power generating facilities. However, on occasion, dedicated Commission organizations and personnel create conditions which lead to frustration and which tend to strangle the creativity and enthusiasm of those of us who are deeply engaged in this industry, both in private industry and in government. Continued unchecked, such conditions can even be counterproductive to the goals of safety. Perhaps some personal observations would help to illustrate Commission activities which appear to extend the bounds of regulation beyond any productive level.

During the nuclear reactor licensing process and through both formal and informal communications between the applicant and the NRC staff representatives, the applicant's facility design and operating practices are molded to meet NRC requirements contained in codified regulations, Regulatory Guides, Standard Review Plans and, in many cases, unwritten "management positions." While at times the participants may be engaged in adversary-like actions, the final design and operation practices are developed to be acceptable and meet the requirements of both parties. One of the final steps in the licensing process is the development of technical specifications, both safety and environmental, which as recent experience has shown, can affect the operating practices and control the cost of operation to a large degree. The present technical specification development practice is almost oblivious to the years of previous discussion, compromise and changes to the applicant's planned operation of the facility. Commission representatives dictate technical specification requirements and limitations without meaningful consideration of past commitments, agreements and intentions of the applicant, and at times even of other Commission personnel.

Toledo Edison has experienced serious impacts from this approach during the development of the recent Davis-Besse Unit 1 safety technical specifications, and is now again caught up in the process of radiological effluent technical specifications that are being redrafted under the requirements of the Commission's letters of July 10, 1978 and November 15, 1978. We find again flagrant examples of the Commission dictating through technical specifications how and what facility equipment is to be operated rather than limiting the scope of the technical specifications to what objectives are to be accomplished. For example, the specifications would specify what the operability of the waste evaporator shall be, in addition to specifying the facility discharge concentration limits. This practice gives absolutely no credit for the conservative design which specified evaporator capacity, quantity and flexibility significantly in excess of minimum requirement and general practice at that time in order that unit availability for generating electric power would not suffer due to equipment operating problems. Under unreasonable technical specification demands, unit availability can suffer due to inoperability of equipment which is not needed to meet discharge limitations. Under these conditions, theoretically, if unneeded equipment were inoperable, a facility could be incapable of meeting NRC operating restrictions even though discharge stream contamination levels were zero. It might be noted that during our licensing proceedings, ACRS members challenged the staff's approaches when demands were made on applicants as to how to accomplish objectives rather than assuring that an objective is met.

In times of increasing attention to availability and reliability of energy producing systems, it is wholly out of context to impose requirements which are counterproductive to incentives which provide flexibility for operating contingencies in their designs.

Another disconcerting feature of the radiological effluent technical specifications now being demanded is the increased requirements of submittal to the Office of Reactor Regulation for review and approval of operating manuals, procedures and programs. The regulatory system already has, and uses, mechanisms of the Office of Inspection and Enforcement to assure that licensees meet their commitments for facility operation. Here again, details of operation practices and modes are under licensing scrutiny for review and pre-approval rather than the basic objectives and limits of the facility operation.

The synergistic effects of regulations, implementing documentation, and enforcement techniques must be considered wherever new requirements are proposed. Elsewhere we have seen the plague of continual reinterpretation of implementation documents not adequately reviewed

by industry and staff for impact and benefit prior to their issuance as detailed guidance. This was, and is, evident in certain portions of the security area with draft NUREG's, NUREG's and security guidelines. Although the additional implementation documents, such as NUREG 0472 "Draft Radiological Technical Specifications for PWR's," are advertised as general "guidance" they are used by the staff as basic source documents of requirements. The flexibility in methods to meet the appropriate regulations is replaced by the requirements imposed by the implementation document. It is this step that adds a new level of regulatory requirements on utilities that can be in excess of the intent and authority granted by the original regulations. This continues in spite of the NRC's policy statement in response to Executive Order 12044 (March 24, 1978) directing each Executive Agency to adopt procedures to improve existing and future regulations. "The policy of the Nuclear Regulatory Commission is that value impact analysis be conducted for any proposed regulatory actions that might impose a significant burden on the public (where the public is defined in its broadest sense)."

I ask of you to evaluate the practices that apparently bypass the Commission's value impact analysis and impose facility operating restrictions which negate the purposes of the basic design features. Toledo Edison strongly believes that the current radiological effluent technical specification redrafting is both an unnecessary and non-productive effort.

Yours very truly,

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Copy: Mr. Harold R. Denton, Director
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