



UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D. C. 20555

June 30, 1980

William S. Jordan, III, Esq.
Sheldon, Harmon & Weiss
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Washington, D.C. 20006

Dear Mr. Jordan:

The Commission appreciates receiving your June 9, 1980 letter on the policy statement for Three Mile Island-related operating license requirements. As I am sure you are aware, on June 16, 1980 the Commission, with Commissioners Gilinsky and Bradford dissenting, voted to issue the policy statement you referred to in modified form. A copy of the final policy statement is enclosed. From your letter it is obvious that you strongly disagree with the action taken by the Commission. However, I believe that at least part of your concern is based on a misunderstanding of the Commission's intentions in issuing the statement.

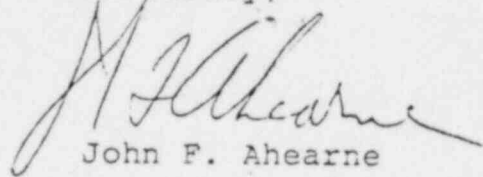
At the outset it should be clear from a careful reading of the final statement that it in no way diminishes intervenors' present rights to litigate Three Mile Island related issues before Atomic Safety and Licensing Boards and Appeal Boards. This is because parties are as free as they have been in the past to raise issues before boards regarding compliance with the Commission's safety regulations in the light of any new insights or information from Three Mile Island. The policy statement does signal a Commission intention to depart from past decisions which generally have restricted parties' rights to raise safety issues before boards to only those issues falling within the reach of the Commission's current safety regulations. However, this change is in the direction of permitting parties to raise more issues, not fewer. It is true that limits were placed on the ability of parties to raise these additional issues which go beyond Commission regulations, i.e., parties may raise issues before boards regarding the need for or compliance with the supplementary Three Mile Island operating license requirements but may not raise issues regarding the sufficiency of those requirements which themselves go beyond our current regulations. The Commission majority believed that, in light of the extensive studies and investigations of the Three Mile Island accident and the fact that the only departure from past practice is one which broadens the litigation rights of parties, the policy statement is both reasonable and wholly within the Commission's legal authority.

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Moreover, under the special review procedures now in effect under 10 CFR Part 2, Appendix B, no operating license may issue without action by the Commission itself. The Commission recognizes that a policy statement does not have the force and effect of law but merely indicates a policy which the Commission intends to apply in the future. In the future should any question be raised before the Commission itself under Appendix B regarding the validity of any part of the policy statement as applied to a particular case, the Commission recognizes its obligation to consider the question and reply on the merits based on the state of the record before it.

I hope the foregoing allays your concerns.

Sincerely,



John F. Ahearne

Enclosure: Policy Statement



U.S. NUCLEAR REGULATORY COMMISSION
FURTHER COMMISSION GUIDANCE
FOR POWER REACTOR OPERATING LICENSES
STATEMENT OF POLICY *

I. BACKGROUND

After the March 1979 accident at Three Mile Island, Unit 2, the Commission directed its technical review resources to assuring the safety of operating power reactors rather than to the issuance of new licenses. Furthermore, the Commission decided that power reactor licensing should not continue until the assessment of the TMI accident had been substantially completed and comprehensive improvements in both the operation and regulation of nuclear power plants had been set in motion.

At a meeting on May 30, 1979, the Nuclear Regulatory Commission decided to issue policy guidance addressing general principles for reaching licensing decisions and to provide specific guidance for near-term operating license cases.^{1/} In November 1979, the Nuclear Regulatory Commission issued the policy guidance in the form of an amendment to 10 CFR Part 2 of its regulations,^{2/} describing the approach to be taken by the Commission regarding licensing of power reactors. In particular, the Commission noted that it would "be providing case-by-case guidance on changes in regul... now acted on three

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