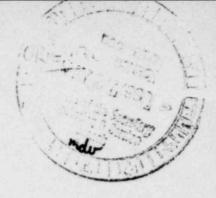
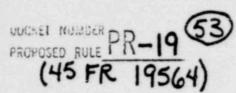


May 27, 1980



DR. DONALD F. KNUTH President



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

ATTN: Docketing and Service Branch

Re: Proposed Rulemaking -- 10 CFR Part 19 Informal Conference During Inspection

Dear Sir:

In the March 26, 1980 Federal Register, the Commission published a notice of proposed rulemaking concerning 10 CFR Part 19 (45 Fed. Reg. 19564). KMC, Inc., as a consultant to utilities on physical security matters, and the utilities in the Physical Security Coordinating Group (identified in the Attachment to this letter) who own and operate and/or are constructing nuclear power plants, are pleased to submit the following comments on the proposed rule.

In general, the proposed amendments would codify in NRC regulations the practice of holding meetings with licensees during NRC inspections and would allow NRC inspectors to invite to these meetings individuals determined by the inspector to have legitimate interests in the inspection.

Our comments are directed to one aspect of the proposed rule -- its potential impact on the disclosure of material exempted from disclosure including information relating to physical security plans. We express no views on the other implications of the rule.

As noted above, the proposed [would allow an NRC inspector to invite any persons whom the spector determines have "legitimate interests in the matters of aining to the inspection." As explained in the Supplementary Information accompanying the proposed rule, the new language would give the inspector the "prerogative" of having "interested individuals" present at inspection meetings. The licensee would be required to attend these meetings and could not object to attendance by persons invited by the inspector. 8006090 10,8 Acknowledged by card. 5/27/80... mdv. L 4-1 PT 19

Mr. Samuel J. Chilk May 27, 1980 Page 2

Material described in \$2.790, including physical security plans, can be the subject in inspection meetings. Obviously, the physical security plans and procedures of the facility should not be discussed in a public forum. It goes without saying that public disclosures can compromise plant security. Yet the proposed rule would allow an inspector to invite individuals to meetings at which such matters are to be discussed even if those individuals are not authorized to receive that information.

The Supplementary Information recognizes the problem by noting that a licensee "would not choose to discuss these matters in an open meeting." It goes on to conclude that

"These problems should be obviated by the fact that the NRC inspector and the licensee would have the prerogative of inviting only persons with legitimate, specific interests."

The "legitimate, specific interest" test does not solve the problem. NRC decisions have held that almost everyone residing within fifty miles of the plant has a sufficient "interest" to intervene in a licensing proceeding. Someone unaffiliated with the licensee might assert a "legitimate, specific interest" in a matter otherwise exempted from disclosure -- e.g., an interest in physical security of the plant because of an alleged concern over plant sabotage. Even journalists could conceivably fall within this standard.

Although we have no doubt that the vast majority of NRC inspectors would exercise their discretion wisely in inviting persons to inspection meetings concerned with sensitive information, we believe that an appropriate limitation should be written into the proposed rule. Such a restriction could be in the form of the underscored language, added to the last sentence of proposed \$19.14(h):

"(Action taken under this subparagraph shall not affect the option of confidentiality afforded any individual who provides information to the NRC, to the extent authorized by law, and shall not

Mr. Samuel J. Chilk May 27, 1980 Page 3

cause the disclosure of material exempt from disclosure under \$2.790, to individuals not authorized by the licensee to receive such information)."

Thank you for the opportunity to submit these comments.

Sincerely,

Donced F. Knuth

Donald F. Knuth

Attachment

PHYSICAL SECURITY COORDINATING GROUP Arizona Public Service Company Baltimore Gas & Electric Company Carolina Power & Light Company Commonwealth Edison Company Consumers Power Company Detroit Edison Company Duke Power Company Duquesne Light Company Florida Power & Light Company GPU Service Corporation Nebraska Public Power District Niagara Mohawk Power Corporation Northeast Utilities Service Company Northern States Power Company Pennsylvania Power & Light Company Portland General Electric Company Public Service Electric & Gas Company Rochester Gas & Electric Corporation Sacramento Municipal Utility District South Carolina Electric & Gas Company Southern California Edison Company Wisconsin Electric Power Company Wisconsin Public Service Corporation Yankee Atomic Electric Company