



CHAIRMAN

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

November 7, 1989

The Honorable Morris K. Udall, Chairman  
Committee on Interior and Insular Affairs  
United States House of Representatives  
Washington, D.C. 20515

Dear Mr. Chairman:

I am enclosing the Nuclear Regulatory Commission's responses to the questions that you posed in your October 27, 1989 letter relating to the agreement between the Long Island Lighting Company and the State of New York to close and decommission the Shoreham nuclear power plant. If you need further information, please do not hesitate to contact me.

Sincerely,

A handwritten signature in cursive script that reads "Kenneth M. Carr".

Kenneth M. Carr

Enclosure: Responses to Questions

cc: Representative Don Young

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PDR COMMS NRCC  
CORRESPONDENCE PNU

QUESTION 1. Does the NRC support the "Kitter Amendment" to the NRC authorization bill adopted by the Energy and Commerce Committee on July 6, 1989?

ANSWER.

The Commission takes no position on the Ritter Amendment. In our judgment, to do so would not be compatible with the agency's regulatory responsibilities.

QUESTION 2. Does the NRC support legislation concerning plant-specific NRC licensing actions? If so, under what circumstances would NRC support legislation that would result in termination or denial of a plant licence?

ANSWER.

As an independent regulatory agency charged with protecting the public health and safety and the common defense and security, the Commission generally prefers that Congress not enact plant specific legislation relating to pending regulatory matters. However, the Commission recognizes that it is appropriate for Congress to consider plant specific legislation focusing on national policy objectives, and it appears that the Ritter Amendment is concerned with such objectives. However, as noted above, the Commission takes no position on the amendment.

QUESTION 3. Does the NRC have the authority to compel a licensee to generate electricity from a commercial nuclear facility if the licensee does not desire to generate electricity from the facility?

ANSWER.

The Atomic Energy Act of 1954, as amended (AEA), provides limited authority to the Commission to compel the generation of electricity by a licensee who does not desire to do so. The Commission may order the operation of any commercial nuclear facility licensed under sections 103 or 104 of the Act, subject to the payment of just compensation for any damages, during a period of Congressionally-declared state of war or national emergency pursuant to Section 108 of the AEA, 42 U.S.C. § 2138. As provided by Section 186(c) of the AEA, 42 U.S.C. 2236, the Commission may also operate a facility, the license for which has been revoked pursuant to Section 186, "in cases found by the Commission to be of extreme importance to the national defense and security or to the health and safety of the public"; just compensation for the use of such facility must be paid by the Commission. In addition, the Commission may, upon a determination that the public convenience and necessity requires, order the continued operation of a facility the license for which has been revoked, again subject to the payment of just compensation, in accordance with Section 188 of the AEA, 42 U.S.C. § 2238. None of these provisions has ever been exercised. No funds have been authorized or appropriated to pay just compensation under them.

QUESTION 4. Does the NRC have the authority to compel a licensee to complete construction of a nuclear facility that is not complete?

ANSWER.

Nothing in the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, or other legislation enacted by the Congress provides any authority to the NRC to compel the completion of a licensed nuclear facility that is not complete.

QUESTION 5. If a licensee determines that a nuclear facility should be closed and decommissioned, does the NRC have the authority to compel that licensee to continue to operate the facility because the NRC determines that the power generated by the facility is needed?

ANSWER.

As stated in response to Question 3, in accordance with Section 188 of the Atomic Energy Act of 1954, as amended, 42 U.S.C. § 2238, the Commission, upon a determination that the public convenience and necessity requires, "may, after consultation with the appropriate regulatory agency, State or Federal, having jurisdiction, order that possession be taken of and such facility operated for such period of time as the public convenience and necessity . . . may, in the judgment of the Commission, require...." The exercise of this authority is contingent upon the predicate that the license for such facility had been revoked pursuant to Section 186 of the AEA, 42 U.S.C. § 2236 and requires the payment of just compensation.

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October 27, 1989

The Honorable Kenneth M. Carr  
Chairman  
U.S. Nuclear Regulatory Commission  
Washington, D.C. 20555

Dear Mr. Chairman:

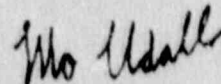
On November 9, 1989, the Subcommittee on Energy and the Environment will conduct an oversight hearing concerning the agreement between the Long Island Lighting Company and the State of New York to close and decommission the Shoreham nuclear power plant. Instead of requesting the Commission to testify at the hearing, I would appreciate the Commission providing written responses to the following questions by November 7, 1989:

- (1) Does the NRC support the "Ritter Amendment" to the NRC authorization bill adopted by the Energy and Commerce Committee on July 6, 1989?
- (2) Does the NRC support legislation concerning plant-specific NRC licensing actions? If so, under what circumstances would NRC support legislation that would result in termination or denial of a plant license?
- (3) Does the NRC have the authority to compel a licensee to generate electricity from a commercial nuclear facility if the licensee does not desire to generate electricity from the facility?
- (4) Does the NRC have the authority to compel a licensee to complete construction of a nuclear facility that is not complete?
- (5) If a licensee determines that a nuclear facility should be closed and decommissioned, does the NRC have the authority to compel that licensee to continue to operate the facility because the NRC determines that the power generated by the facility is needed?

Hon. Kenneth M. Carr  
October 27, 1989  
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Your cooperation in providing the Subcommittee with a written response to these questions by the requested date is urgently requested.

Sincerely,



Morris K. Udall  
Chairman