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Carl Walske
President

January 30, 1979

Secretary of the Commission
United States Nuclear Regulatory Commission
Washington, D.C. 20555

Attention: Docketing and Services Branch

RE: Docket No. 7590-01-M, Study of
Nuclear Power Plant Construction
During Adjudication

Dear Sir:

With regard to the captioned study, we strongly urge the study group to recommend retention of the immediate effectiveness rule (10 CFR 2.764), as it is currently being interpreted and implemented. As you are aware, the rule ordinarily comes into effect after an application has undergone extensive safety and environmental review and approval by the NRC regulatory staff as well as hearing review and approval by an Atomic Safety and Licensing Board. It is entirely reasonable for this very thorough, and time and resource consuming, process to be accorded an administrative presumption of correctness at that time. Moreover, NRC's existing stay provisions provide ample opportunities for the agency, either on its own initiative or at the initiative of a party to the application proceeding, to determine that a particular application should, for exceptional reasons, be excluded from the rule's coverage.

In sum, we believe that the present rule serves a valuable balancing function of operating in most instances to expedite properly reactor construction and operation, while providing a satisfactory mechanism for public protection in unusual instances where reasonable expedition may appear to be outweighed by competing considerations.

Thus, we firmly support the long-standing Commission policy underlying the rule, and see little merit to the criticisms that have recently been leveled at it. The rule, of course, is permissive, and does not require an applicant to proceed with construction or operation. Further, in view of the stay provisions, it cannot fairly be said that the rule precludes the Commission's active involvement in the licensing process, or prejudices the

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ultimate attainment of a good result. On the other hand, elimination or substantial modification of the rule, as some have called for, would in our view inevitably cause unnecessary delays to an already unduly protracted licensing process, with negligible countervailing benefits.

Testimony before Congress on licensing reform proposals by numerous industry spokesmen last year made clear that there was a pervasive perception in the nuclear industry of an unstable and unreasonably lengthy licensing regime which constituted a major roadblock to further nuclear development. Significant curtailment of the immediate effectiveness rule would clearly be viewed by industry observers as a major additional obstacle to an improved licensing process.

We urge that the study group keep this perspective in mind when assessing related aspects of administrative licensing reform. While the need for improvement is great, it is even more important for the practical impact of any suggested change to be carefully weighed before being adopted.

Sincerely,

SIGNED CARL WALSKIE

CW/pcs