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November 27, 1989

Secretary of the Commission
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

Attention: Docketing and Service Branch

Re: Proposed Rule on Procedures Applicable to Proceedings for the Issuance of Licenses for the Receipt of High-Level Radioactive Waste at a Geologic Repository [54 FR 39387]

Dear Mr. Chilk:

The attached comments on the above-referenced document are submitted by the Edison Electric Institute/Utility Nuclear Waste and Transportation Program (EEI/UWASTE). EEI is the association of the nation's investor-owned electric utilities. UWASTE is a group of electric utilities providing active oversight of the implementation of federal statutes and regulations related to radioactive waste management and nuclear transportation.

Together, EEI/UWASTE represent most of the holders of contracts with DOE for disposal of spent nuclear fuel under the Nuclear Waste Policy Act (NWPA), as amended. To date, electric utilities have contributed the vast majority of the $ 4 billion that has been paid into the Nuclear Waste Fund and are currently paying for the entire civilian nuclear waste program, including the NRC's regulatory review. These funds are collected from electricity consumers. It is extremely important that the nuclear waste program is carried out in an efficient, fair and cost-effective manner, and that those being funded by the Nuclear Waste Fund carry out their responsibilities, recognizing the duty that is owed to those funding the program.

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EEI/UWASTE participated in the negotiated rulemaking that resulted in the promulgation of Subpart J to 10 CFR Part 2. EEI/UWASTE opposed the promulgation of Subpart J as originally proposed. Among the reasons for our opposition was the NRC's need to address procedural changes that would be needed to meet the statutorily prescribed licensing schedule. During that rulemaking, we identified a number of additional modifications to the Rules of Practice that should be adopted, including:

- Resolution of substantial numbers of technical issues by generic rulemaking well in advance of the hearing.

- The establishment of a more appropriate threshold for admitting contentions.

- Tighter standards for late-filed contentions.

- Limitations on other discovery mechanisms beyond those in the proposed Licensing Support System (LSS) rule.

On September 26, 1989, the Nuclear Regulatory Commission published in the Federal Register a notice of proposed rulemaking to amend 10 CFR Part 2 [54 Fed. Reg. 39387]. The proposed rule would amend the Commission's Rules of Practice as they apply to the licensing of a geologic repository for the disposal of spent fuel and high-level radioactive waste. These changes to Subpart J and other portions of 10 CFR Part 2 are intended to assist the NRC in meeting the mandate of Section 114(d) of the NWPA. That provision requires the NRC to make a decision on the issuance of a construction authorization for the repository within three years after the Department of Energy ("DOE") files its application (with a one year extension for good cause).

When the Commission adopted Subpart J, it specifically reserved the right to make further improvements to existing procedures, including further changes to the rules contained in the negotiated rulemaking [54 Fed. Reg. 14925, 14930 (1989)]. The Commission's current rulemaking implements that reservation.

EEI/UWASTE commend the NRC for following through on its earlier promise and seeking to implement its "commit[ment] to do everything it can do to streamline its licensing process and at a the same time conduct a thorough safety review of the Department of Energy's application to construct a high-level waste repository" [Id.]. Almost all of the proposed changes are clearly beneficial and will improve the licensing process. For example, the compulsory schedule for the hearing provides an appropriate mix of flexibility and predictability. However, the Commission must go beyond the current proposals in several areas if it is to seek to comply with the licensing schedule in Section 114(d). These further changes include:

- o A threshold for admitting contentions that better reflects the enormous volume of information that will be available prior to the hearing.

- o Limitations on other discovery mechanisms beyond those in the proposed LSS rule.

- o Codification in Subpart J of the procedures that the Commission has promised to incorporate in the notice of hearing for the high-level waste proceeding.

- o Generic rulemaking on technical issues. Although such rulemaking does not fall within the scope of 10 CFR Part 2, it is nevertheless a key to reducing the overall repository licensing timetable.

The contention threshold and notice of hearing issues are discussed at length in the detailed comments attached hereto. The generic rulemaking issues and discovery limitations were discussed in our earlier comments on Subpart J.

We would also urge that the Commission continue to assess its Rules of Practice to identify other areas for improvement. We look forward to working with the Commission and with other interested parties to further the NRC's goals of achieving the statutory licensing timetable, providing a thorough technical review, and affording equitable treatment to all parties in the repository licensing proceeding.

EEI/UWASTE appreciate the opportunity to submit these comments, including the detailed comments attached hereto. EEI/UWASTE generally support the changes proposed by the Commission, but believe that additional changes should be made that will increase the likelihood that the Commission will be able to meet the licensing schedule set forth in Section 114(d) of the NWPA.

Sincerely,

Loring E. Mills

Loring E. Mills

LEM/cjl
Enclosure

UWASTE

Utility Nuclear Waste and Transportation Program
A Program Administered by the Edison Electric Institute

DETAILED COMMENTS ON PROPOSED REVISIONS TO 10 CFR 2

November 27, 1989

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SUMMARY OF
EEI/UWASTE's
RECOMMENDATIONS/CONCLUSIONS
ON PROPOSED REVISIONS TO 10 CFR 2

1. Given the history of 10 CFR 2 and commitments by the Commission to revisit the rule, it is highly desirable for the Commission to propose further revisions to 10 CFR 2 Subpart J.

2. The new language in Section 2.1014 with respect to the threshold for the admission of contentions does not add much to current NRC requirements. The Commission should adopt a more substantial threshold for the admission of contentions. The NRC should require at least a proffer in affidavit or other evidentiary form to demonstrate that a genuine dispute exists of a material issue of law or fact.

3. Although the proposed revision to Section 2.1014(a)(4) makes a significant and fully justified change to that provision by removing the automatic "good cause" for late-filed contentions that are based on information or issues raised in the Staff Safety Evaluation Report, further modifications should be made. As a minimum, late-filed contentions should raise a "new" and "significant" issue.

4. EEI/UWASTE support the hearing schedule provisions of proposed Section 2.1026 Appendix D. They represent an appropriate blending of firmness and flexibility. However, Appendix D and/or proposed Section 2.1026 should reflect the fact that some of the actions may occur in parallel/or prior to the time specified in Appendix D.

5. The Commission is certainly entitled to rethink the usefulness of the sua sponte provision. In the repository proceeding, there is simply no need for the licensing board to have this authority. No less that four other governmental entities will be scrutinizing the application -- a fifth level of review is unnecessary. The Hearing Licensing Board will have more than enough to do in the repository hearing without having to concern itself with issues that have not been raised by the parties.

6 The Commission proposes to modify 10 CFR Section 2.1010 to give itself the authority to use a variety of presiding officer options in the pre-license application phase. While EEI/UWASTE appreciate the Commission's desire to have available to it options other thar a three member licensing board, in this particular case the rule should continue to specify the use of such a board.

7. The proposed rule would also add a provision on summary disposition (Section 2.1025). Proposed Section 2.1025 requires that an answer opposing a summary disposition motion accompanied by supporting affidavits must itself be supported by supporting affidavits. We support this change and would also suggest that proposed Section 2.1025 require that answers supporting a summary disposition motion also be accompanied by supporting affidavits.

8. The Supplementary Information accompanying the proposed rule announces the Commission's intent to include in the notice of hearing for the repository proceeding several issues relating to management of the hearing. With one exception (see #9), EEI/UWASTE supports the Commission's position on the issues identified. However, these issues should be included in Subpart J as Commission regulations.

9. The one issue identified for inclusion in the notice of hearing with which EEI/UWASTE does not agree, is the instruction to the NRC Staff to refrain from procedural disputes "between other parties in which the Staff does not have an interest," absent a request from the Hearing Licensing Board. For several reasons discussed herein, we see no reason for the Staff to be instructed to stand clear of these disputes.

EDISON ELECTRIC INSTITUTE
UTILITY NUCLEAR WASTE AND TRANSPORTATION PROGRAM
DETAILED COMMENTS ON THE PROPOSED
REVISIONS TO PROCEDURES APPLICABLE TO
PROCEEDINGS FOR THE ISSUANCE OF LICENSES
FOR THE RECEIPT OF HIGH-LEVEL
RADIOACTIVE WASTE AT A GEOLOGIC REPOSITORY

The following comments on the Nuclear Regulatory Commission's proposed amendments to 10 CFR Part 2 [54 Fed. Reg. 59387 (1989)] are offered by the Edison Electric Institute (EEI) and the Utility Nuclear Waste and Transportation Program (UWASTE, the successor to Utility Nuclear Waste Management Group). EEI is the association of the nation's investor-owned electric utilities. UWASTE is a group of electric utilities providing active oversight of the implementation of federal statutes and regulations related to radioactive waste management and nuclear transportation.

I. PROPRIETY OF CURRENT RULEMAKING

In promulgating the initial version of Subpart J to 10 CFR Part 2, the Commission explicitly anticipated that it would revisit the adequacy of its Rules of Practice as they apply to the licensing of the high-level waste repository [54 Fed. Reg. 14925, 14930 (1989)]. The Commission also explicitly committed to further evaluate the contentions threshold issue in view of an on-going rulemaking involving Subpart G to 10 CFR Part 2 [id. at 14931] and to give further consideration to the issue of requiring an intervenor to provide an affirmative case

[id.]. Commissioner Curtiss suggested an even broader look at those provisions of Subpart J that did not directly relate to the Licensing Support System [Id. at 14932-33].

It is, therefore, highly desirable for the Commission to propose further revisions to Subpart J. The fact that Subpart J had its genesis in a negotiated rulemaking in no way undermines the Commission's proposal. The Commission did not bind itself forever to the positions adopted in the negotiated rulemaking. As explicitly stated in the notice establishing the negotiating committee, the NRC agreed only to issue for comment any proposed rule resulting from a consensus of the negotiating committee (unless inconsistent with NRC's statutory authority or not appropriately justified.) The final rule was to be based on consideration of comments received on the proposed rule and other materials in the rulemaking record [52 Fed. Reg. 29024, 29027 (1987)]. Since there was no consensus within the negotiating committee [54 Fed. Reg. at 14926], the NRC was not even bound by the product of the negotiations. In any event, the Commission is always entitled to modify its regulatory scheme, so long as it articulates permissible reasons for any changes.[1] Indeed, an agency is required to continually reexamine significant policies.[2]

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[1] Black Citizens for Fair Media v. FCC, 719 F.2d 407 (D.C. Cir. 1983).

[2] Environmental Defense Fund v. EPA, 465 F.2d 528 (D.C. Cir. 1972).

II. STANDARDS FOR INITIAL CONTENTIONS

In Subpart J, the Commission adopted a threshold for admitting initial contentions[3] [10 CFR Section 2.1014(a)(2)]. EEI/UWASTE in their comments on Subpart J had urged the adoption of a more substantial threshold for the admission of contentions, particularly in view of the enormous volume of data and documents that would be available years in advance of the time for filing contentions.

At the same time that it was issuing Subpart J, the NRC noted that it was considering changes to Subpart G, including changes to the contentions threshold standards of 10 CFR Section 2.714, and stated that it would reexamine the provisions of Section 2.1014(a)(2) in light of these changes. On August 11, 1989, the Commission issued its final rule revising Subpart G and adopting a modified contentions threshold.[4]

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[3] The threshold for admitting initial contentions requires: a) the bases for each contention set forth with reasonable specificity; b) reference to the specific documentary material (or the absence thereof) that provides a basis for each contention; c) the specific regulatory or statutory requirement to which the contention is relevant. Like the initial Subpart J rule, the contentions requirement applies to all persons seeking to participate as a party, including the host State or affected Indian Tribe. The Commission may wish to consider whether it is necessary to amend 10 CFR Section 60.63(a) so that there can be no dispute that the "unquestionable legal right to participate" referred to in that provision relates to the issue of standing, and not the independent requirement to submit contentions [50 Fed. Reg. 27158, 27160 (1986)].

[4] The new contention threshold provisions of (Subpart G) 10 CFR Section 2.714 requires: a) a specific statement of the issue of law or fact to be raised or controverted; b) a brief explanation of the bases of the contention; c) a concise statement of the alleged facts or expert opinion that support the contention and on which petitioner intends to rely

The proposed revision to Subpart J [Section 2.1014(a)(2)] generally tracks the revised Section 2.714. Under proposed Section 2.1014(a)(2), each contention must include:

- o a specific statement of the issue of law or fact to be raised or controverted;
- o a brief explanation of the bases of the contention;
- o a concise statement of the alleged fact or expert opinion that supports the contention and on which petitioner intends to rely in proving the contention;
- o references to the specific sources and documents on which petitioner intends to rely to establish the facts or expert opinion;
- o sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact;
- o references to the specific documentary material that provides a basis for the contention (or if petitioner believes that any documentary material fails to contain information relevant and required information, identification of each failure and supporting reasons for this belief.)

As in the case of revised Section 2.714, the Supplementary Information accompanying the proposed revision to Section 2.1014 states that the rule would not require a petitioner to make its case at the contentions stage of the proceeding. The petitioner need only indicate the facts or expert opinion of which it is aware that provides the basis for its contention [54 Fed. Reg. at 39388].

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in proving the contention; d) sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact; and e) references to the specific portion of the application that petitioner disputes (or if petitioner believes the application fails to contain relevant and required information, identification of each failure and supporting reasons for this belief).

The proposed Section 2.1014 as well as the revised Section 2.714 are clearly permissible exercises of the Commission's discretion.[5] However, the Commission should go beyond the proposed change. The new language in Section 2.1014 adds little to current NRC requirements. As the Commission itself noted in describing the revised Section 2.714:

> "Nor does the Commission believe that this requirement represents that substantial a departure from existing practice"

[54 Fed. Reg. at 33170]. Quoting with approval from several Appeal Board decisions, the Commission appears to summarize both existing practice and the revised Section 2.714 as requiring only that a petitioner "provide some sort of minimal basis indicating the potential validity of the contention" [Id.]. The factual support need not even be in affidavit or formal evidentiary form [54 Fed. Reg. at 33171]. Indeed, the Commission quotes with apparent approval an Appeal Board decision that requires only "a brief recitation of the fact underlying the contention or references to documents and texts that provide such reasons" [54 Fed. Reg. at 33170].

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[5] Vermont Yankee Nuclear Power Corp. v. Natural Resources Defense Council, 435 U.S. 519, 543 (1977), "administrative agencies should be free to fashion their own rules of procedure and to pursue methods of inquiry capable of permitting them to discharge their multitudinous duties" (quoting FCC v. Schreiber, 381 U.S. 279, 290 (1965)). See BPI v. AEC, 502 F.2d 424 (D.C. Cir. 1974).

While Subpart G requirements provide a useful starting point for procedures to be applied to the repository licensing proceeding, the availability of the Licensing Support System with its enormous, accessible data base, and the availability of certain types of discovery during the pre-license application phase [Section 2.1018(b)(1)] warrant a more substantial threshold for contentions in the repository proceeding than in proceedings under Subpart G. Other agencies have required more rigorous showings before a hearing is invoked.[6] The NRC should require at least a proffer in affidavit or other evidentiary form to demonstrate that a genuine dispute exists of a material issue of law or fact. Such showing is authorized by law and is fully justified by the massive amounts of data that will be available well in advance of the time for filing contentions.

Another aspect of the initial contentions test that should be improved is the "no consequences" finding. The proposed rule states that the determination of whether a genuine dispute exists "shall consider whether the contention, if proven, would be of no consequences in the proceeding because it would not entitle the petitioner to relief" [(Section 2.1014(a)(2)(iii)(D)]. While it makes sense to exclude contentions that, even if petitioners prevailed, would not entitle them to any relief, the Commission's proposed language only requires that the Commission or presiding officer consider the lack of any consequences in

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[6] See, e.g. Cerro Wire & Cable v. FERC, 677 F.2d 124, 129 (D.C. Cir. 1982) (mere allegations of disputed facts insufficient; adequate proffer of evidence required); cf. Consumers Federation of America v. U.S. Consumer Product Safety Commission, 883 F.2d 1073, 1076 (D.C. Cir. 1989) (upheld threshold of proffer of preliminary data to justify initiation of rulemaking).

determining whether a genuine dispute exists. If the contention is of no consequence, that fact itself should mandate the contention's rejection.[7]

III. LATE-FILED CONTENTIONS

The proposed revision to Section 2.1014(a)(4) makes a significant and fully justified change to that provision by removing the automatic "good cause" for late-filed contentions that are based on information or issues raised in the Staff Safety Evaluation Report ("SER"). In NRC hearings, the adequacy of the Staff's safety review is not at issue, only the license application.[8] Therefore the SER should not constitute good cause for late contentions.

Further modifications should be made to the proposed late filed contentions rule. As currently written, a late-filed contention need not address a new issue. Nor is a late-filed contention required to raise a significant safety or environmental issue so long as it involves

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[7] One minor change that we would suggest in proposed Section 2.1014 would be in proposed Section 2.1014(a)(3). The existing language deals with the failure of a petitioner to comply with "paragraphs (a)(2)(ii), (iii) and (iv) of this section" [54 Red. Reg. at 14950]. The proposed version only covers the failure to satisfy "paragraph (a)(2)(iii) of this section." Since no change is proposed to the two subsections, (a)(2)(ii) and (iv), that would be dropped from Section 2.1014(a)(3), there does not appear to be any reason to delete the reference to these two provisions and and we would suggest that they be reinstated.

[8] See Louisiana Power & Light Co., (Waterford Steam Electric Station, Unit 3), ALAB-812, 22 N.R.C. 5, 56 (1985).

a "material" issue related to the 10 CFR Sections 60.112 or 60.113 performance evaluation. Allowing insignificant issues or issues that are not new to be added late in the process will likely imperil the schedule contemplated by the Commission. At a minimum, late-filed contentions, whether or not they relate to the 10 CFR Sections 60.112 or 60.113 performance evaluation, must raise a "new" and "significant" issue. A more appropriate standard would be one requiring that:

> (1) there is significant new information that would require modification in facility design, construction, or operation to protect the public health and safety (or the common defense and security); and
>
> (2) such modification would substantially enhance such protection by improving overall safety.

The late-filed contention portion of the rule must also clearly adopt the requirements for timely-filed contentions. As currently written, Section 2.1014(a)(4) does not appear to incorporate the requirements of Section 2.1014(a)(2)(ii)-(iv). While this must certainly have been the NRC's intent, Section 2.1014(a)(4) should be clarified to specifically incorporate those requirements.

IV. COMPULSORY HEARING SCHEDULE

EEI/UWASTE support the hearing schedule provisions of proposed Section 2.1026 and Appendix D. They represent an appropriate blending of firmness and flexibility. Given the

flexibility in that provision, it seems incorrect to label the schedule as "compulsory" [54 Fed. Reg. at 39388] There is, however, one aspect of the schedule that we would recommend modifying. As written, the schedule proceeds in a linear fashion. In practice, the Licensing Board(s) must have the authority to conduct portions of the proceeding in parallel. For example, Appendix D has the evidentiary hearing begin at day 720. In fact, some issues may be ripe for hearing at a much earlier point. Appendix D and/or proposed Section 2.1026 must reflect the fact that some of the actions may occur prior to the time specified in Appendix D. Unless there is a recognition of the possibility that some actions take place before the specified time, some parties may try to use Appendix D to delay those actions.

V. SUA SPONTE AUTHORITY

Proposed Section 2.1027 would limit the scope of the repository hearing to issues placed in controversy by the parties. Under Subpart G, licensing boards may raise issues on their own if they determine that a "serious safety, environmental or common defense and security matter exists" [10 CFR Section 2.760a]. That provision was added to the Commission's Rules of Practice in 1975 to codify a 1974 decision by the Commission.[9] Although the Commission's

[9] Consolidated Edison Co. of New York (Indian Point Nuclear Generating Unit 3), CLI-74-28, 8 AEC 7 (1974). See 40 Fed. Reg. 2973 (1975).

decision and the rule as initially adopted cautioned licensing boards to use the sua sponte[10] authority only in "extraordinary circumstances" and "sparingly" [id.], the Commission subsequently eliminated these constraints [44 Fed. Reg. 67088 (1979)].

The Commission adopted the sua sponte rule as an exercise of its discretion [Consolidated Edison, supra]. The Commission is certainly entitled to rethink the usefulness of that provision. The wisdom and usefulness of the sua sponte authority has been questioned on numerous occasions. In the repository proceeding, there is simply no need for the licensing board to have this authority. No less than four other governmental entities will be scrutinizing the application -- the Department of Energy, the State of Nevada, the NRC Staff, and the Advisory Committee on Nuclear Waste. A fifth level of review is unnecessary. The Hearing Licensing Board will have more than enough to do in the repository hearing without having to concern itself with issues that have not been raised by the parties.

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[10] The new contention threshold provisions of 10 CFR Section 2.714 requires: a) a specific statement of the issue of law or fact to be raised or controverted; b) a brief explanation of the bases of the contention; c) a concise statement of the alleged facts or expert opinion that support the contention and on which petitioner intends to rely in proving the contention; d) sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact; and e) references to the specific portion of the application that petitioner disputes (or if petitioner believes the application fails to contain relevant and required information, identification of each failure and supporting reasons for this belief).

VI. PRE-LICENSE APPLICATION LICENSING BOARD

Section 2.1010, as initially adopted, contemplates that a Pre-License Application Licensing Board ("PLALB") would be appointed to resolve disputes relating to the Licensing Support System during the period prior to DOE's filing of the construction authorization application [54 Fed. Reg. at 14936]. The Commission now proposes to modify 10 CFR Section 2.1010 to give itself the authority to use a variety of presiding officer options in the pre-license application phase.

While EEI/UWASTE appreciate the Commission's desire to have available to it options other than a three member licensing board, in this particular case we believe that the rule should continue to specify the use of such a board. One of the reasons for favoring the PLALB approach during the original rulemaking proceeding was to expose prospective members of the Hearing Licensing Board to the repository proceeding at an early stage. Although the Commission would not be obligated to name members of the PLALB to the Hearing Licensing Board, it was hoped that at least some of the PLALB members would eventually serve on the Hearing Licensing Board. Given the expected complexity of both the pre-license application and hearing phases, we see significant benefits in the early exposure to repository issues that the PLALB would provide to potential Hearing Licensing Board members. EEI/ UWASTE therefore respectfully request that the Commission not modify Section 2.1010.

VII. SUMMARY DISPOSITION

The proposed rule would also add a provision on summary disposition (Section 2.1025) that somewhat modifies the summary disposition language in Subpart G (Section 2.749). The Subpart J summary disposition provision tracks its Subpart G counterpart except that the proposed Section 2.1025 requires that an answer opposing a summary disposition motion accompanied by supporting affidavits must itself be supported by supporting affidavits. EEI/UWASTE endorse this change and would also suggest that proposed Section 2.1025 require that answers supporting a summary disposition motion also be accompanied by supporting affidavits. This could be accomplished by adding the underscored language to the fifth sentence of proposed Section 2.1025(a):

> If the motion was accompanied by supporting affidavits, any answer opposing or supporting the motion must be accompanied by affidavits in support of such answer.

A conforming change should also be made in the eighth sentence of proposed Section 2.1025(a) to reflect that affidavit requirement for responses to answers in support of summary disposition motions.

> The opposing party may, within ten (10) days after service, respond in writing to new facts and arguments presented in any answer filed in support of the motion, provided that such response shall be accompanied by supporting affidavits if the answer was accompanied by supporting affidavits.

VIII. NOTICE OF HEARING

The Supplementary Information accompanying the proposed rule announces the Commission's intent to include in the notice of hearing for the repository proceeding several issues relating to management of the hearing [54 Fed. Reg. at 39390]. With one exception (discussed below), we support the Commission's position on the issues identified. However, these issues should be included in Subpart J as Commission regulations. The Commission's intent, as reflected in the Supplementary Information (and presumably in the Supplementary Information that will accompany the final rule), is not binding on future Commissions -- nor even on this Commission. There seems no reason why such concepts as "lead intervenor," limitations on scope of cross-examination, authority of the Hearing Licensing Board to appoint subsidiary boards, and composition of the Board, could not be incorporated in Subpart J.

The one issue identified for inclusion in the notice of hearing with which we do not agree is the instruction to the NRC Staff to refrain from procedural disputes "between other parties in which the Staff does not have an interest," absent a request from the Hearing Licensing Board. Many of these procedural disputes may affect the timing, scope, or even outcome of the hearing, even though in a narrow sense they do not directly affect the Staff. Such issues could include interpretation of contentions and standing requirements, discovery disputes, and questions involving interpretation of NRC substantive rules. While the Staff might not have a direct interest in the outcome of a particular dispute, the precedent

established may have subsequent impact far greater than the original dispute. The views of the Staff on these issues should be brought to the Hearing Licensing Board's attention rather than depending on the Board in any particular situation to specifically request them. We see no reason for the Staff to be instructed to stand clear of these disputes.

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