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NUCLEAR MANAGEMENT AND RESOURCES COUNCIL

1776 Eye Street, N.W. • Suite 300 • Washington, DC 20006-2496
(202) 872-1280

89 DEC 15 P5:08

Joe F. Colvin
Executive Vice President &
Chief Operating Officer

DOCKET NUMBER PR 30,40,50,60,72,150
PROPOSED RULE (54FR 30049)
December 15, 1989

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

Attention: Docketing and Service Branch

RE: Proposed Rule - Preserving the Free Flow of Information
to the Commission
54 Fed. Reg. 30049 (July 18, 1989)
Request for Comments

Dear Mr. Chilk:

On July 18, 1989, the U. S. Nuclear Regulatory Commission ("NRC") published a notice of proposed rulemaking entitled "Preserving the Free Flow of Information to the Commission" (54 Fed. Reg. 30049). On September 19, 1989, Nuclear Management and Resources Council, Inc. ("NUMARC") submitted comments on behalf of the nuclear industry on that proposed rule.

On November 8, 1989, Sen. John B. Breaux, Chairman of the U. S. Senate Subcommittee on Nuclear Regulation of the Committee on Environment and Public Works, sent a letter to NUMARC expressing concern about some of the statements made in NUMARC's comment letter to the NRC. On December 4, 1989, a meeting was held with staff of Sen. Breaux and the Subcommittee to better enable us to understand the concerns the Senator had expressed. As a result of the additional information provided us and the insight gained from that meeting, we concluded that certain statements that we made in our comments could be misinterpreted and were in need of clarification. In particular, we decided that these supplemental comments should be submitted to clarify our views in two specific areas to ensure that the record in this docket appropriately reflects our position on these subjects.

At the outset, NUMARC reiterates its strong support of the underlying policy of the proposed rule, that is, to facilitate the free flow of information to the NRC. With respect to the first of two areas we want to clarify in these supplemental comments, the comments we had filed on September 19, 1989, stated our concern that the NRC appeared to be proceeding with this rulemaking on the basis of a single case being cited in the record and that the NRC had promulgated the proposed rule without waiting for licensee responses to the NRC letter to licensees dated April 27, 1989, requiring the identification of any agreements that might include clauses which could, or could be interpreted to, restrict the ability of employees to provide information to the NRC. Since the submittal of our comments, we obtained

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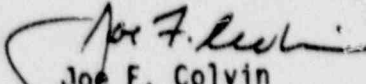
from the NRC Public Document Room a letter from the NRC to Sen. Breaux dated August 29, 1989, regarding the responses submitted by licensees. In that letter the NRC stated that 18 agreements had been identified by licensees as containing clauses that could be construed to be restrictive. Even though the specific circumstances of those agreements have not been made public because of the confidentiality provisions of those agreements, it is now clear that there exists more than a single case which the NRC can evaluate to determine whether, and if so what, additional regulations may be required, and we withdraw our comment on this point.

The second major area where concern was expressed that the NUMARC comments could be misconstrued dealt with the legal permissibility of settlement agreements to resolve disputes so that the time and expense of protracted litigation could be avoided. We now understand the position of the Subcommittee regarding the inclusion of restrictive clauses in such settlement agreements and the limits that are applicable to such clauses. In Sen. Breaux's comments on the Senate floor on November 8, 1989, he referred favorably to the type of agreement that Northeast Utilities had described in a letter to Sen. Breaux dated September 8, 1989. We have reviewed the proposed settlement agreement language referenced by the Senator and believe that such an approach is consistent with the principles that we support and attempted to describe in our September 19, 1989, comments to the NRC.

We hope that these supplemental comments will eliminate any misunderstanding of the industry's position on this important matter. We ask that these comments be included in the public record in this proceeding and be taken into account by the Commission in its deliberations on a final rule to address this issue.

As we stated in our September 19, 1989, comments, the nuclear industry supports the concept of full, and timely, disclosure to the NRC of safety or other regulatory concerns. In that submittal we provided recommendations that we believe would effectuate the policy underlying the proposed rule in a more balanced and reasonable manner. We reiterate our request that the NRC consider these recommendations, and we stand ready to assist the NRC in achieving the desired goals of the NRC, the nuclear industry, and the Congress.

Sincerely,


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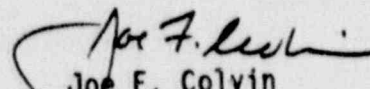
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