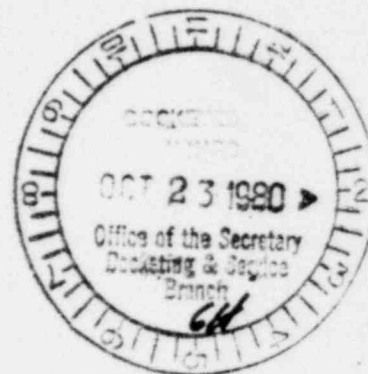


UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

BEFORE THE COMMISSION



In the Matter of )  
 )  
PROPOSED RULEMAKING ON THE STORAGE ) PR-50, 51  
AND DISPOSAL OF NUCLEAR WASTE ) (44 Fed. Reg. 61,372)  
 )  
(Waste Confidence Rulemaking) ) October 22, 1980

MOTION OF UNWGM-EEI  
FOR SUPPLEMENTATION OF THE  
COMMISSION'S MAY 28, 1980  
MEMORANDUM AND ORDER

On May 28, 1980, in response to motions from certain participants in this proceeding, the Commission issued a Memorandum and Order noting that it had directed its Office of Policy Evaluation "to form a working group to advise the Commission regarding the adequacy of the record to be compiled in this proceeding." Memorandum and Order, p. 2. As described in the Memorandum and Order:

The working group is composed of personnel from the Offices of Policy Evaluation, the General Counsel and the Executive Legal Director, and is provided with technical support by the program offices of Nuclear Materials Safety and Safeguards, Research, and Standards Development. The working group will review the participants' submissions and, after the cross-statements are filed, will identify issues in controversy and any areas in which additional information is needed. Depending upon the procedures adopted at that point, the working group will assist in obtaining this further information by: (1) preparing questions to be asked of

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participants by the Presiding Officer or the Commission; or (2) suggesting methods of obtaining this information by other means, including soliciting information from other sources. . . .

Id.

Sometime later, and subsequent to the filing of their suggestions concerning procedures for the remainder of this proceeding on October 6, 1980, UNWVG-EEI became aware of the NRC's October 1, 1980 "Request For Quotation No. RS-NMS-81-032 Entitled, 'Technical Support for the Confidence Rulemaking Proceeding'" (RFQ). Under the terms of the RFQ, the working group established to advise and assist the Commission would obtain assistance from an outside consultant.

In addition to preparing summaries of the Statements of Position and Cross-Statements which have been filed in this proceeding, the consultant would be required, under Task 3, to evaluate "the technical accuracy of the findings made in the statements and cross-statements," identify and discuss "any technical errors or omissions," and specify "areas where additional information is necessary to compile a complete record." In addition, under Task 4, the consultant would be required to describe "issues and controversies identified by the participants . . . or . . . by the contractor" and provide information or comments "which will assist the working group in its function of describing the significance of issues and the potential effect of possible resolutions of the issues

on the Commission's decision." Finally, the consultant would identify any "key facts, assumptions, or judgmental values which are important to the Commission's evaluation of a particular issue."

In light of the importance of these tasks to the Commission's overall decisionmaking process, UNWVG-EEI believe that the Commission should specifically provide that such work be performed by employees of the NRC rather than an outside consultant. This is particularly so in view of the policy and judgmental nature of some of the efforts described in the RFQ Tasks.

In addition, UNWVG-EEI believe that it is essential for the Commission to obtain the views of participants with respect to the work product of any consultant, or the working group itself, when it is provided to the Presiding Officer or the Commission as input to the decisionmaking process. UNWVG-EEI believe that they and other participants have worked diligently to assure that their individual views are accurately presented to the Commission; including their comments on the positions of other participants. We do not believe that it would be appropriate for those views to be provided to the Commission through the filter of summaries or judgments expressed by either an outside consultant or the working group itself unless participants are given the opportunity to bring to the Commission's attention any errors or misunderstandings which might be present in the work product.

Based on the foregoing, UNWVG-EEI hereby move that:

- (1) the Commission direct that the assignments enumerated in the Commission's Memorandum and Order of May 28, 1980 be accomplished exclusively by NRC personnel, and not outside consultants; and
- (2) that copies of the work product of the working group -- or any consultant, should the Commission deny the relief requested above -- be offered to participants for their review and comment when provided to the Commission or Presiding Officer as a basis for decisionmaking.

Respectfully submitted,

UTILITY NUCLEAR WASTE MANAGEMENT  
GROUP  
EDISON ELECTRIC INSTITUTE

By

  
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October 22, 1980

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