



CHAIRMAN

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

March 12, 1981

COMMISSION
CORRESPONDENCE

The Honorable Tom Beville
Chairman
Subcommittee on Energy and
Water Development
Committee on Appropriations
U.S. House of Representatives
Washington, D.C. 20515



Dear Mr. Chairman:

Answers to "additional questions for the record" concerning NRC's 1982 appropriation request were provided to you on February 25, 1981 with the exception of a report on options to review and accelerate the licensing process. On February 27, 1981 we submitted the monthly status report updating our licensing scheduling which showed a 13 reactor month improvement in the total delays projected for licensing plants. This letter responds to the request to provide a report on possible additional improvements to the licensing process.

The basic problem we are confronting is the backlog of licensing decisions for new plants ready to come on line. As stated in our previous responses, we believe the problem is a direct consequence of the TMI accident and of the nationally accepted need to carefully reexamine the way in which the NRC and the nuclear industry fulfill their shared responsibility for safety. As a consequence of that accident we were forced to slow our licensing process for more than a year, in spite of the utilization of additional resources provided by the Congress for that purpose and the internal redirection of staff resources.^{1/} This substantial pause occurred while plant construction continued. Due to the need for applicants to address TMI requirements and the need to adjudicate these new requirements in some cases, our licensing approval process is now on the critical path for operation of a number of plants.

We believe that considerable reductions in the delays are possible. To that end the Commission has already made it clear to the staff that expedited licensing decisions are a high priority in this agency. As is evident from the February 27 monthly status report, we have already found ways to reduce the impact on two plants by expediting staff review, and in the case of McGuire, improving the hearing schedule. Construction slippage on the Zimmer and San Onofre-2 plants has also reduced the impact of the licensing process. However, the Commission is also investigating changes which could be made to reduce the length of the licensing process in general, in order to benefit all potentially affected plants.

^{1/}Commissioner Ahearne notes these were to develop and evaluate additional requirements based on lessons learned from TMI.

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Obviously there are different solutions depending on where in the process an affected plant might be. For this reason this discussion is divided into two parts, one addressing possible solutions to the short term problem, i.e. plants now affected or soon to be affected, and the other the longer term problem, i.e. plants completed in 1983 and beyond. I believe we can reduce the delay in the process for both cases within existing statutory constraints, although the most difficult cases are those few plants presently well along in the process.

The plants in the short-term category include those presently complete and those which will be completed in 1981 and 1982. For many of these plants, the primary problem will be the projected length of the hearing process, and subsequent Commission review. In general, increased staff review effort would come too late to provide any significant time savings. For a few plants in this category, however, by adjusting staff resources, expedited and rescheduled staff review will help. For example, we have already reduced the delay to Fermi and Waterford by a total of 10 months. Generally, for those plants not involving a hearing, delay caused by the licensing process is minimal. For seven of the eight plants not scheduled for hearing,^{2/} a total of one month of delay is estimated. Twelve months of delay is expected for the eighth plant, Salem-2, which is now awaiting FEMA approval of emergency preparedness planning.

Further time savings for the short term group of plants can be gained by increasing the efficiency of the hearing process and subsequent Commission and Appeals Board review. The hearing process itself consists of a pre-hearing phase, an evidentiary hearing phase, and a post-hearing phase during which the Licensing Board writes its decision. While it appears that there may be opportunities for time savings in the hearing process, speeding up proceedings to minimize possible economic consequences must be balanced against the need to make administrative decisions which represent fair opportunity for public participation and which are sound and will survive judicial review.

Within that constraint, our legal staff and the Licensing and Appeal Boards believe that time savings could be realized during the pre-hearing and post-hearing phases. A review of the actual length of our most recent operating licensing hearings indicates that the time period between issuance of the supplemental staff evaluation report and initial Licensing Board decisions averages 18 months. These hearings were conducted under somewhat relaxed time schedules since the hearings were scheduled to be completed well before plant completion. We believe we can compress the average time to approximately 10 months by tightening the periods allowed for each part of the pre-hearing process and by providing firmer time management

^{2/}These plants include Salem-2, LaSalle-1 and 2, Farley-2, Sequoyah-2, Grand Gulf-1, Watts Bar-1, and WNP-2. The Commission has authorized the Director, Nuclear Reactor Regulation, to issue a full power license to Farley-2 when he determines that NRC requirements are met.

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of the entire process. The Commission is publishing for comment on an expedited schedule, proposed changes to NRC rules which would accomplish this. Implementation of these changes could eliminate most of the impact for those plants with hearings scheduled to be completed in late 1981 and 1982.

Present Commission review practices could also be modified to save time. The suspension of the immediate effectiveness rule resulted in the following review procedure: an initial Licensing Board decision approving plant operation is automatically stayed for 60 days for Appeal Board review, and for a further 20 days for Commission review. Nominally, the review adds an additional three months to the process.

While the Commission has agreed tentatively to shorten this review, we have not yet decided upon the best mechanism to accomplish this. Two alternatives are available. Under the first approach the Commission would decide whether or not to stay the Licensing Board's decision within 10 days of the decision to grant a low power license and within 30 days of a decision to grant a full power license. The Appeal Board would not participate in this review. The normal Appeal Board review process and consideration of ancillary stay motions would proceed in parallel and if the Appeal Board found that the initial decision should be reversed, it could order a plant to shut down. For a plant whose Licensing Board approval was not reversed (most plants have historically fallen into this category) a nominal savings of two months could be achieved in beginning operation if the Commission acted quickly.

The other alternative is to make the initial Licensing Board decision immediately effective. Appeal Board and Commission review would consist of a post-effectiveness review, as was the case prior to the TMI-2 accident. Thus, the Commission would not play a direct role in determining whether a plant can be initially permitted to operate and would have to rely on the ability to give clear guidance to the Boards, but would have the opportunity to shut down a plant upon review. This alternative would require that the regulations be changed by rulemaking. The time savings for plants on the hearing schedule would be a nominal three months. The Commission has decided to seek public comment on both alternatives through publication of a proposed rule. Reducing review time, by either alternative, would be of particular benefit to those few plants which are now well into the hearing process. These plants include Diablo Canyon, McGuire, and San Onofre.

For those plants due to be completed in 1983 and beyond, the major action to eliminate potential delay is early completion of staff reviews. Accomplishing this will require better scheduling of specific reviews and increased staff resources applied to casework. We are already in the process of assessing the impact of redirecting existing staff resources to casework. We believe we can redirect some resources by deferring some lower priority projects and reassigning others, but before committing to such a change, we will carefully review the impact on essential safety related activities. Early relief from the hiring freeze is crucial to solving the resource problem. We are also assessing the ability of the

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DOE laboratories to provide increased assistance for licensing reviews. Compressing present hearing and review schedules would also help reduce the possibility that long term plants would be delayed by the licensing process.

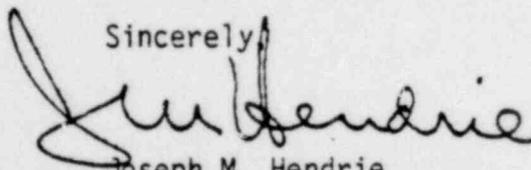
I would also point out that all our efforts in this regard are dependent upon licensees meeting submittal schedules in a timely and comprehensive manner. As demonstrated by the recently reported slippage in completion of both Zimmer and San Onofre-2, optimistic licensee completion schedules not only help create apparent delays, but can in the long term affect staff review scheduling to the detriment of providing timely reviews of other plants which would actually be completed sooner. Early modifications to the existing licensing process can reduce the present backlog. In addition, a careful review of the basic purposes and functions of the licensing process, including the present realities of licensee and staff communication and responsibilities, may provide additional long-term benefits. This review will assess the underlying assumptions of NRC licensing and is expected to be a long-term effort.

For those plants most severely impacted, i.e. Salem-2, Diablo Canyon, and McGuire, another possibility is direct Commission intervention, if a detailed case-by-case review indicates that such intervention would be helpful. While the Commission is considering this as a possibility, no decision has yet been reached. However, we are now reviewing these cases with this alternative in mind.

While you did not specifically request options which would require a change in existing law, I should note that one legislative option exists which would eliminate the impact on presently completed plants delayed by the hearing process. This action is legislation allowing interim operations in advance of completion of hearings. Preliminary consultations within the Commission lead one to believe that we may support some variation of this approach as offering relief to the plants that are held up in licensing over issues that do not, in the Commission's judgment, pose any threat to the public during the initial stages of operation.

I am including as attachments all potential options developed by the staff at the Commission's request. In addition to those changes I have already described, the Commission intends to consider all other options as it continues its resolution of the delay problem. I will keep you informed of our progress.

Sincerely,



Joseph M. Hendrie

Attachments:
As stated

cc: Rep. John T. Myers

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Attachments:

1. OPE/OGC Summary of Options to Accelerate the Licensing Process
2. W. Dircks memorandum of February 23, 1981, "Improvements in the Licensing Review Process"
3. L. Bickwit, Jr. memorandum of February 23, 1981, "Expediting Impacted Operating License Hearings"
4. A. Rosenthal memorandum of February 18, 1981, "Hearing Before the Bevill Committee"
5. B. Cotter, Jr. memorandum of February 25, 1981, "Workload, Resources and Recommendations"
6. B. Cotter, Jr. memorandum of March 5, 1981, "Conduct of Licensing Board Proceedings"
7. H. Shapar note to L. Bickwit, A. Rosenthal, and B. Cotter of March 9, 1981, "Conduct of Licensing Board Proceedings"
8. L. Bickwit, Jr. memorandum of March 10, 1981, miscellaneous charts on licensing proceedings
9. L. Bickwit, Jr. paper of February 17, 1981, "Intervention in NRC Adjudicatory Proceedings"



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Attachment 1

March 3, 1981

MEMORANDUM FOR: Chairman Hendrie
Commissioner Gilinsky
Commissioner Bradford
Commissioner Ahearne

FROM: Edward J. Hanrahan, Director *EJH*
Office of Policy Evaluation

Leonard Bickwit, Jr. *LB*
General Counsel

SUBJECT: OPTIONS TO ACCELERATE THE LICENSING PROCESS

Enclosed is a list of options to accelerate the licensing process for use as discussion points in your upcoming meetings on this subject. The list is essentially a summary of the staff suggestions presented in earlier meetings and memoranda.

We have categorized the options as follows:

Category A - Staff review process options

Category B - Hearing process options

Category C - Other options, such as rulemaking

For each option we have also provided the category of plants which we believe would benefit as follows:

Category I - Plants now complete or nearing completion with staff reviews essentially finished -- awaiting outcome of hearings or licensing decisions.

Category II - Plants due for completion in 1981-1982 which may be affected by the staff review and hearing processes.

Category III - Plants due to be completed in 1983 and beyond.

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