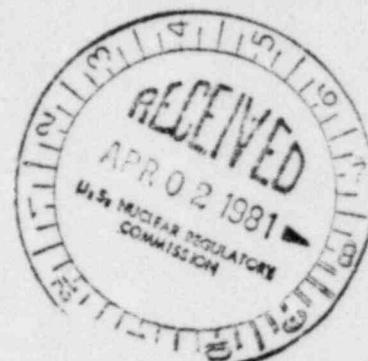


MAR 30 1981



The Honorable Thomas A. Luken
U.S. House of Representatives
Washington, D.C. 20515

Dear Mr. Luken:

Your March 6, 1981 letter to Chairman Joseph Hendrie concerning the NRC hearing and review schedule for the Zimmer Nuclear Power Plant has been referred to me for response. You urge the NRC to make every effort to accelerate the hearing schedule for Zimmer and to compress the time for NRC Staff review.

The Zimmer Licensing Board has taken steps to expedite the hearing schedule by proceeding to hearing on separate issues while the review is still ongoing on other issues. The most recent hearing involved financial qualifications issues and was completed on March 12, 1981. The Staff's safety review is scheduled for completion by June 1, 1981 and hearings could commence by the first of October. Under current regulations an effective Commission licensing decision is possible by July 1982.

To further improve this schedule and that of other impacted facilities, the Commission is also investigating generic changes which could be made to reduce the length of the licensing process. Further time savings for the short term group of plants, such as Zimmer, 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 prehearing 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, the NRC 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. The average time can potentially be compressed to approximately 10 months by tightening the periods allowed for each part of the pre-hearing process and by providing firmer time management of the entire process. The Commission

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, it has 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 not well into the hearing 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. Zimmer has recently reported a slippage in its completion schedule from July 1981 to November 1981. However, the NRC caseload forecasting panel has projected completion of the Zimmer facility for April 1982. 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

As you can tell from the above discussion, the Commission is pursuing a number of alternatives to improve the projected licensing schedule for Zimmer. I trust this has been responsive to your request.

Sincerely,

(Signed) William J. Dircks

William J. Dircks
Executive Director for Operations

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FROM Rep. Thomas A. Luken		ACTION CONTROL	DATES	CONTROL NO.
		COMPL DEADLINE	4-7-81	10263
		ACKNOWLEDGMENT		DATE OF DOCUMENT
		INTERIM REPLY		3-6-81
TO Chairman		FINAL REPLY		PREPARE FOR SIGNATURE OF:
		FILE LOCATION		<input type="checkbox"/> CHAIRMAN
				<input checked="" type="checkbox"/> EXECUTIVE DIRECTOR
DESCRIPTION <input checked="" type="checkbox"/> LETTER <input type="checkbox"/> MEMO <input type="checkbox"/> REPORT <input type="checkbox"/> OTHER		SPECIAL INSTRUCTIONS OR REMARKS		
Expresses concern re the hearing process and reviews for the Zimmer plant		<p><u>PRIORITY</u></p> <p>3/17 Returned - to transfer to ELD per HThompson str</p>		
CLASSIFIED DATA				
DOCUMENT/COPY NO.		CLASSIFICATION		
NUMBER OF PAGES		CATEGORY		
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- _____ Policy Evaluation _____

Incoming: Rep Thomas Luken

From: _____

To: Hendrie Date 3/6/81

Subject: urges NRC to accelerate the hearing schedules of the AS&IB for the Zimmer ~~XXXX~~ plant

- Prepare reply for signature of:
- Chairman
 - Commissioner _____
 - EDO, GC, CL, SOL, PA, SECY, IA, PE
 - Signature block omitted
 - _____
 - Return original of incoming with response

XX/XX For direct reply*

Suspense: April 7

- For appropriate action
- For information

REC'D 041 100/81
 Date... 3/19/81
 Time... 12:00

Remarks: OCA to Ack, Docket 25

For the Commission: billie

*Send three (3) copies of reply to Secy Correspondence and Records Branch

THOMAS A. LUKEN
20 DISTRICT, OHIO

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MOBILE OFFICE

Congress of the United States
House of Representatives
Washington, D.C. 20515

March 6, 1981

COMMITTEE:
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SELECT COMMITTEE ON AGING
SUBCOMMITTEE ON
HEALTH AND LONG TERM CARE

Hon. Joseph Hendrie
Acting Chairman
Nuclear Regulatory Commission
1717 H Street, N.W.
Washington, D.C. 20555

Dear Chairman Hendrie:

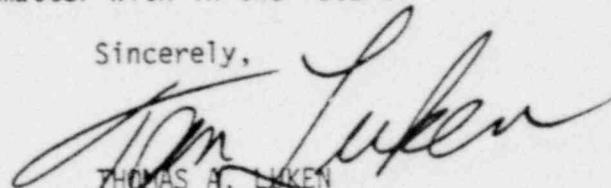
I am greatly concerned about the excessively long time spent in the conducting of hearings and reviews for the Zimmer Nuclear Power Plant in Ohio. The regulatory process for this plant has already consumed more than ten years. These delays and time consuming processes only add to the costs borne both by consumers and investors.

Furthermore, the trend seems to be continuing. According to the reports submitted by the Nuclear Regulatory Commission to Appropriations Subcommittee Chairman Bevill, the completion for the Operating License procedure has been moved back from November, 1981 to July of 1982. At a time when this nation is still at the mercy of foreign oil supplies, prudent planning for our future would point to a continued use of nuclear power generation. I do believe that the time frames used for both construction and operation licenses would serve as a deterrent to new nuclear power plant construction.

I would urge you to make every effort to accelerate the hearing schedules of the Atomic Safety and Licensing Board for the Zimmer plant. In addition, I believe it is essential for the Nuclear Regulatory Commission to compress the time used by the staff for any analysis and review of the hearing record. It is essential that to the fullest extent possible the Commission and its staff operate in an efficient and time saving manner. I am confident that we can see a full discussion of the few remaining issues concerning the Zimmer plant and still reduce the current July, 1982 deadline.

I am hopeful you share my concern over the delay in the Zimmer proceedings. I look forward to discussing this matter with in the future.

Sincerely,


THOMAS A. LUKEN
Member of Congress

TAL:sj

dupe 8103180529



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

March 12, 1981

CHAIRMAN

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.

March 12, 1981

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

March 12, 1981

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.

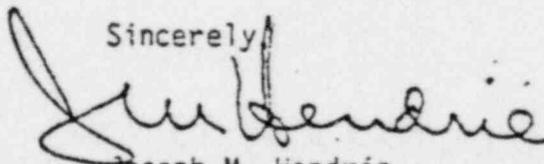
I would also point out that all our efforts in this regard are dependent upon licensees meeting submittal schedules in a timely and comprehensive manner. As demonstrated by the recently reported slippage in completion of both Zimmer and San Onofre-2, optimistic licensee completion schedules not only 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

March 12, 1981

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"