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April 4, 1981

TO: Samuel J. Chilk, Secretary of the Commission, U.S. Nuclear Regulatory Commission

FROM: Loretta Van Coppenolle for Citizens Concerned About Nuclear Power (CCANP)

RE: Proposed Rule Expediting NRC Hearing Process

We find it ironic that the accident at Three Mile Island has caused a desire in the Nuclear Regulatory Commission to expedite the hearing process for nuclear power plant construction and operation. Rather we would believe the opposite would be true: that the seriousness of that accident would cause greater deliberation in future licensing procedures. If Three Mile Island itself had more methodically been investigated prior to its firing up, the costly event that occurred there three months later might never have been allowed to happen. You cite that the "delay costs caused by reallocation of personnel because of Three Mile Island to utilities and, ultimately, ratepayers could run into billions of dollars." One serious accident of the magnitude of Three Mile Island or worse could itself run into billions of dollars and cause untold physical harm to people and the environment as well. Is not the avoidance of such another mishap worthwhile not only in moral terms but in economic ones too?

There are three points in the proposed rule which we would take issue with. The first is point 1, listed on page 4 of your March 13, 1981, memorandum, in which formal discovery against the NRC staff would be eliminated. Recent history has shown that the NRC does not always, on its own initiative, discover problems at a plant site. In the intervention in which CCANP is engaged against the licensing of the South Texas Nuclear Project, allegations which were brought by the intervenors to the NRC's attention at least in great part resulted in the NRC's levying of the highest fine to date against a plant under construction and a strong show cause order. It is very possible that without the intervenors' ability to engage in discovery against the NRC staff, neither the intervenors nor the NRC would have been capable of achieving all that they have in this case. The proposed rule would permit the staff to "produce relevant documents and ... to respond to ... requests for information wherever practicable" (underlining mine). What interpretation is and will be given the word "practicable" when such requests are received? What assurance does the sender of such requests have that every just means is being taken to forward information to him? If I may paraphrase one humorist, "If guidelines worked, then Moses would have written The Ten Recommendations." If the staff is not in some way compelled to produce documents, etc. in response to intervenors' requests, then there is no guarantee those requests will ever be honored or that those documents will ever surface during proceedings.

L-H-1, P1.2

Point 3 (page 5) seriously limits the concept of fairness which should be the hallmark of any and all litigation in this country. It is entirely plausible that new information surfacing only after a Licensing Board has issued a prehearing order could substantially change the premises for and the value of that order. But if the Licensing Board is not allowed to reconsider that order, the logic and judiciousness of the proceedings could be seriously infringed.

Point 4 (page 5) would permit the Licensing Board Chairman to act alone on prehearing matters. It is unclear whether the other two members of the Board would even be present during prehearing conferences. Their absence could greatly jeopardize the continuity of the entire intervention process. Whether or not they would be present however again raises the question of fairness. In proceedings such as these the Board serves as both judge and jury, three individuals as opposed to thirteen. To whittle that number still further to one makes one wonder if the concentration of power might not be excessive in matters of this seriousness.

Yours sincerely,

Loretta Van Coppenolle

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