



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

OFFICE OF THE
COMMISSIONER

April 27, 1981

MEMORANDUM FOR CHAIRMAN HENDRIE
COMMISSIONER BRADFORD
COMMISSIONER AHEARNE

This comment by Westinghouse picks up on a point I have raised a number of times. I think this suggestion deserves serious consideration. I would not go quite as far as Westinghouse -- entirely prohibit the staff from being a party -- but only not make it mandatory for the staff to be a party.

A handwritten signature in dark ink, appearing to read "Victor Gilinsky".

Victor Gilinsky

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cc: Dircks
Rosenthal
Cotter
Bickwit
Shapar
Denton
✓ SECY

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Excerpt from Westinghouse Letter to Chilk

Dated April 7, 1981

Subject: 10 CFR Part 2 - Rules of Practice for
Domestic Licensing Proceedings; Expediting
the NRC hearing Process (Proposed Rule:
46 Fed. Reg. 17216; March 18, 1981)

REGULATORY STAFF SHOULD NOT BE A PARTY

The preamble to the proposed rule states that the Commission's technical staff has proposed a substantial reordering of Staff review resources. However, the Commission noted that reallocation of such resources alone does not appear sufficient and, accordingly, the Commission examined the hearing process to see where that process might be expedited. Westinghouse believes that one method of expediting the hearing process and freeing Staff review resources would be to eliminate the Staff as a party to the NRC adjudicatory licensing proceedings. The proposal in the rule changes whereby formal discovery against the Staff in the licensing proceedings is eliminated only partially removes the Staff as a party to the hearings. Westinghouse submits that the Commission eliminate the Staff completely as a party to the hearing. As an initial matter, this would clearly benefit the Commission in terms of better utilization of Staff resources since the Staff would no longer have hearing responsibilities of a party. In addition, Westinghouse believes that taking the Staff out of the hearing as a party would improve the hearing process. The applicant is the proponent of the license and, as such, bears the burden of proof or the consequences of failure to obtain a license. At the present time, however, the Staff is seen by the public as also being a proponent of the license. Removing the Staff as a party to the hearing clearly would make such appearance less likely.

By removing the Staff as a party, Westinghouse does not suggest that the Staff should play no role in the hearing process. Rather, the Staff should be available to the Licensing Boards in order to provide those Boards with the benefits of its expertise and judgment on issues raised in the hearing. The Staff also could be required to provide the environmental impact statement and witnesses as necessary to support such statement.