Washington Public Power Supply System
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Docket No.: STN-50-470

September 10, 1982
G03-82-915

Mr. Darrell G. Eisenhut, Director
Division of Licensing
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

Dear Mr. Eisenhut:

Subject: CONFORMANCE WITH CESSAR INTERFACE REQUIREMENTS

References:
a) Letter from J. Carson Mark to Nunzio J. Palladino, dated December 15, 1981

b) Letter from J. R. Miller to A. E. Scherer, dated March 12, 1982, "Conformance with CESSAR Interface Requirements"

c) Letter from A. E. Scherer to D. G. Eisenhut, dated July 19, 1982, "Conformance with CESSAR Interface Requirements"

In their report to the Commission on the System 80 NSSS design (Reference a), the ACRS questioned whether Combustion Engineering ("C-E") "should be required to evaluate the adequacy of the implementation of interface requirements, including such items as the influences of plant control system performance and reliability on NSSS integrity and function".* In response to the NRC Staff's

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* With respect to the ACRS concern regarding the "influence of plant control system performance and reliability on NSSS integrity and function", we understand that the ACRS was addressing issues such as control system failures and high energy line breaks. The CESSAR-F SER states (on page 7-24) that these issues "are not amendable to generic efforts. Each reference plant will be required to address these issues". Thus, this aspect of the ACRS concern appears to have been previously addressed.

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request of March 12, 1982 (Reference b), C-E provided its views (Reference c) that a new licensing requirement regarding mandatory C-E review of implementation of interface requirements at individual plants is unnecessary and unwarranted.

The Washington Public Power Supply System ("Supply System") is constructing its Nuclear Project No. 3 ("WNP-3"), a power reactor utilizing the System 80 NSSS design. Accordingly, the Supply System is vitally interested in the outcome of this issue, and through this letter is providing its views on the issue to the NRC. In summary, the Supply System submits that from technical and policy perspectives such a new licensing requirement is unwarranted and unjustified. In addition, the Supply System is concerned that such a requirement may be contrary to current antitrust law and policy.

The use of interface requirements is not new or unique to the System 80 NSSS and CESSAR. "Safety-related" interface requirements are actually a subset of the overall interface requirements provided by C-E (and all other NSSS vendors) to all utility customers and/or their architect/engineers. These overall interface requirements are part of the contractual and working documents used in design and construction of all nuclear power reactors.

Unlike earlier C-E custom NSSS designs, for the System 80 design the "safety-related" interface requirements are documented in the generic Safety Analysis Report ("SAR") for early NRC Staff review. Thus, for the System 80 design the NRC Staff will have had an early opportunity to analyze interface requirements in detail to assure their adequacy. See NUREG-0852, NRC Staff Safety Evaluation Report on the System 80 design. However, as with past designs, each utility using a System 80 design is required to describe conformance with these interface requirements in its own FSAR. The utility's conformance with such requirements is evaluated in detail by the NRC Staff in its Safety Evaluation Report issued in the affected docket.

In short, with regard to developing, evaluating and reviewing interface requirements and conformance therewith, there is no significant difference between facilities with System 80 designs and other C-E designs. In that there have been no significant problems with interface requirements at facilities using other C-E designs, there is no apparent justification for imposing added requirements on the System 80 design plants regarding system interfaces.

To the extent that the ACRS is concerned that only C-E can understand C-E generated interface requirements and assure conformance with such requirements, the System System submits that this concern is totally unfounded. Past experience with C-E designs has shown that interface requirements developed by C-E are understood and effectively implemented by non-C-E organizations. In that such requirements are thoroughly reviewed by C-E, the NRC and the utility

in question prior to acceptance of the requirements, this result is not surprising. Further, during design and construction of all C-E plants, including those with System 80 designs, a constant dialogue between C-E and the utility and its A/E is maintained. For example, during the design and construction of the Supply System's WNP-3 facility, the Supply System and C-E have discussed such requirements on a regular basis. As a result, C-E is well aware of interface aspects of the Unit 3 facility. It is our experience that if the Supply System has questions about C-E's interface requirements, we discuss the issues with C-E. In sum, from a technical perspective there is little support for the position that C-E be required to evaluate conformance with interface requirements as a licensing condition.

In addition, imposition of such requirements could be viewed as an NRC sanctioned shift of responsibility for assuring the adequacy of conformance with interface requirements from the applicant for a license to C-E. Thus, from a policy perspective, the Supply System seriously questions the wisdom of such action. This is particularly the case here, where such action is apparently technically unsupportable and thus may result in increased costs without corresponding increases in public health and safety.

Finally, we believe that requiring an applicant to select a particular vendor or A/E to verify the NSSS and balance-of-plant interfaces raises significant antitrust implications which the NRC is required to consider, particularly where, as here, there are no important health and safety considerations which compel the requirement. It is well-established that the antitrust laws represent a fundamental national economic policy. Gulf States Utilities Co. v. F.P.C., 411 U.S. 747 (1973). Thus, the courts have held that regulatory agencies are obliged to take full account of the antitrust laws and their underlying policies before action. Id., 411 U.S. at 756-61; California v. F.P.C., 369 U.S. 482, 484-85 (1962); City of Pittsburgh v. F.P.C., 237 F. 2d 741 (D.C. Cir. 1956). See also section 105 of the Atomic Energy Act. We believe that such national policy and the well-estabished judicial rule that agencies take full account of the antitrust laws even where not expressly required to do so require that the Staff take into account the antitrust implications of any requirement to use a designated company (to the exclusion of all others) to verify conformance with System 80 design interface requirements.

In the long-term, we believe that such a requirement would tend to stifle competition in the private sector and is contrary to the policies of the antitrust laws and the Atomic Energy Act. We believe that the better course is, consistent with current requirements and practice, to allow the applicant the freedom to select the methods it believes are best suited to complete the verification. In sum, for the NRC to dictate to a license applicant its selection of a particular firm to do a specific job is directly at odds with the Congressional policy and statutory mandates.

In conclusion, the Supply System submits that requiring C-E to verify conformance with interface requirements for System 80 design plants is (1) unwarranted and unjustified from either a technical or policy perspective and (2) contrary to federal antitrust policy. Further, to impose such a requirement would be inconsistent with sound regulatory policy and contrary to Chairman Palladino's mandate discussed in Reference c that requirements issued "(a) do in fact contribute effectively and significantly to the health and safety of the public, and (b) do lead to utilization of both NRC and licensee resources in as optimal a fashion as possible in the overall achievement of protection of public health and safety". Memorandum of October 8, 1981 from Chairman Palladino to William Dircks, Subject: Reactor Requirements and Regional Office Reorganization at p. 2.

Sincerely,

GD Bouchey

G. D. Bouchey, Manager (370)
Nuclear Safety and Licensing

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