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MAY 1 1981

The Honorable Alfonse D'Amato
 United States Senate
 Washington, DC 20510

Dear Senator D'Amato:

Your constituent, Mr. David deGraff, of Williamstown, commented on his perception of a lack of wisdom on the part of the Nuclear Regulatory Commission in imposing a civil penalty of \$215,000.00 on Niagara Mohawk Power Corporation. In his letter dated April 15, 1981, Mr. deGraff notes that it is not his intent to argue the guilt or innocence of Niagara Mohawk in this matter. In spite of his disclaimer, we feel obligated to note that this case involved a material false statement by the licensee, under oath. We did, and do, regard such matters as very serious violations, and believe that the strong enforcement actions we took were fully warranted.

Quite apart from the merits of this particular case, Mr. deGraff vividly argues that the ultimate payment of civil penalties such as this one, is made by consumers. In the abstract, his observation is correct, of course. However, the question of whether or not such penalties are permitted to be reflected in the rate base of a utility, or must be taken from shareholders' profits is a matter outside NRC's jurisdiction. Such matters are properly controlled by State Public Utility Commissions. In the case of New York State, as you know, this body is the Public Service Commission in Albany.

We do not wish to convey any lack of sensitivity to Mr. deGraff's concerns. We recognize that the perception of a "bungling bureaucracy" is not uncommon, particularly when that judgment is frequently reached on the basis of press coverage. We make a very concerted effort to exercise our regulatory authority in a tough, but even-handed and fair manner. We, of course, believe that we do so. At the same time, we acknowledge that others, like Mr. deGraff, may not share our view.

Sincerely,

(Signed) T. A. Rehm

for William J. Dircks
 Executive Director for Operations

81-0623-205
 J. Kesterman
 to phone XA
 5/13/81

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OFFICE	ET:DP	ELD DP	IE:DP	IE:DP	EDO
NAME	D. Thompson/bts	J. Murray	R. DeYoung	V. Stello	W. Dircks
DATE	5/13/81	5/13/81	5/13/81	5/13/81	5/ /81