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**NUCLEAR UTILITY BACKFITTING  
AND REFORM GROUP**

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October 15, 1990

Mr. Samuel J. Chilk  
Secretary of the Commission  
U.S. Nuclear Regulatory Commission  
Washington, D.C. 20555  
Attention: Docketing and Service Branch

Subj: Notice of Proposed Rulemaking:  
Nuclear Power Plant License Renewal  
55 Fed. Reg. 29,043 (July 17, 1990)

Dear Mr. Chilk:

In accordance with the above-referenced Notice of Proposed Rulemaking (the Notice), the following comments are submitted on behalf of the Nuclear Utility Backfitting and Reform Group (NUBARG).<sup>1/</sup> Our comments are limited to a single issue -- the applicability to nuclear power plant license renewals of the NRC backfitting rule. 10 C.F.R. § 50.109.

On December 1, 1989, NUBARG commented on the NRC Advanced Notice of Proposed Rulemaking for Nuclear Power Plant License Renewal. 54 Fed. Reg. 41,980. The primary focus of our December 1989 comments was our position that the NRC should not allow the license renewal process to become an "open season" for interested parties to propose any and all backfits to a plant -- in particular those backfits that may be unrelated to the extension period of operation.

We have reviewed the Notice and have concluded that many of our concerns have been addressed. We support the NRC in principle in its agreement with NUBARG that the backfitting rule should apply to the license renewal process. However, there are several related aspects of the Notice that require further clarification. We address these aspects below.

- 1/ NUBARG, which consists of twenty-four utilities, actively participated in the development of the NRC backfitting rule and has followed its implementation closely.

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First, Section III of the Notice states in part:

The licensing basis for a nuclear power plant during the renewal term will consist of the current licensing basis for that plant together with any additional considerations related to possible degradation through aging of systems, structures, and components (SSCs) important to license renewal, necessary to ensure that the facility can continue to be operated without undue risk to the health and safety of the public.

55 Fed. Reg. at 29,045 (emphasis added). NUBARG believes that the NRC should add to a licensing basis only if it establishes that those additions are warranted pursuant to 10 C.F.R. § 50.109. While we take some comfort from the word "necessary," the reference to "any additional considerations related to possible degradation" is overly broad and could result in additions to the licensing basis, without a backfitting analysis, that are not fully supported by fact. We believe that any additions to the licensing basis should be based not merely on conjecture, and that the backfitting rule would serve as a disciplined framework for the evaluation of any proposed additions to the licensing basis.

Second, Section IV.k of the Notice states in part:

All age-related requirements that the staff believes are necessary to ensure adequate protection during the extended life would be imposed without regard to cost. \* \* \* Second, any age-related requirements necessary to ensure that the plant will operate in conformance with the current licensing basis may be imposed without regard to cost. \* \* \* In either case, the staff need not prepare a separate document explaining the basis for this conclusion. Instead, the basis for such a conclusion will be explicitly documented by the staff in a safety evaluation report that presents the results of the staff's license renewal application review.

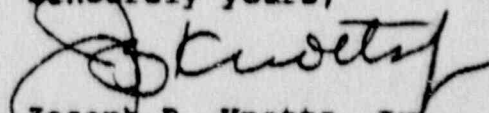
55 Fed. Reg. at 29,052 (emphasis added). NUBARG believes that the above NRC view is ambiguous and could undermine the stability of the license renewal process. The statement could be read to suggest that the NRC may avoid a backfitting review whenever it simply "believes" that a matter of adequate protection is involved. To clarify this matter, we believe that a clear indication that all new age-related requirements must be processed in accordance with Section 50.109 should be added to the Statement of Considerations for the final regulation.

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As the NRC is aware, under Section 50.109, no backfitting analysis is required for plant modifications that are required to bring a facility into compliance with a license or to ensure that the facility provides an adequate level of protection to the health and safety of the public and is in accord with the common defense and security. See 10 C.F.R. §§ 50.109(a)(4)(i) and (ii). However, when it invokes one of the exceptions to the backfitting rule, the NRC shall prepare a documented evaluation that supports its determination. This evaluation, if in accordance with the backfitting rule, shall include a statement of the objectives of, and reasons for, the modification and the basis for the exception. See 10 C.F.R. § 50.109(a)(6). We also recommend that any safety evaluation report that is published by the NRC to support its use of the "adequate protection" exception to the backfitting rule describe the basis for that use in detail. Fuel disclosure by the NRC would allow a licensee to understand fully, and question if appropriate, the basis for the exception.

We have concluded as a result of our review of previous NRC safety evaluation reports on various issues that it is not clear that a typical safety evaluation report discussion would provide the necessary level of detail to satisfy the intent of a Section 50.109(a)(4) evaluation. Therefore, we recommend that the Committee to Review Generic Requirements (CRGR), in its role as the coordinator of NRC implementation of the backfitting rule, become involved in any attempt to invoke the adequate protection standard. This involvement would include, at a minimum, CRGR review of a safety evaluation report before it is issued to the licensee and perhaps CRGR involvement in discussions on the issue between the licensee and the NRC.

Sincerely yours,



Joseph B. Knotts, Jr.  
Daniel F. Stenger  
Thomas C. Poindexter