



**PUBLIC
SERVICE
INDIANA**

S. W. Shields
Senior Vice President
Nuclear Division

Chairman
Regulatory Reform Task Force
U. S. Nuclear Regulatory Commission
Washington, DC 20555

- REFERENCES:
- 1) Letter: LeBoeuf, Lamb, Leiby, & MacRae to Chairman, Regulatory Reform Task Force, "Comments on Proposed Nuclear Standardization Act," July 16, 1982.
 - 2) Letter: Conway (ANEC) McCollam (EPI) & Walske (AIF) to Chairman, Regulatory Reform Task Force, "Comments on NPC Proposed Legislation - Nuclear Standardization Act of 1982," July 16, 1982.
 - 3) Letter: W. G. Council (NUBARG) to Chairman, Regulatory Reform Task Force, "Comments on Proposed Legislation; Nuclear Standardization Act of 1982, 47 Fed. Reg. 24044, June 2, 1982," July 16, 1982.

Dear Mr. Chairman:

Public Service Company of Indiana, Inc. (PSI) appreciates the opportunity to comment on the proposed Nuclear Standardization Act of 1982, as well as the Commissioners' views and additional legislative proposals as published in the 47 Federal Register 24044-95 on June 2, 1982. Overall, we commend the Commission for its efforts to streamline the licensing process.

PSI has previously provided comments on this proposed legislation through our attorneys (Reference 1) and through industry groups of which we are members (References 2 and 3). However, we wish to briefly supplement these comments in the following areas:

1) Backfitting

PSI agrees with the position of industry groups (References 2 and 3) that backfitting is one of the most serious regulatory issues confronting the NRC and its licensees. Unnecessary backfitting

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Backfitting (continued)

requirements can lead to unneeded expenditures of the ratepayer's money and may reduce plant safety. Since there have been no new reactor orders in the last few years, the backfitting issues are of greater importance and urgency to the industry than standardizing future designs.

Section 196 of the proposed bill does address backfitting requirements for standardized plant designs. Specifically, it states, "No license applicant for a production or utilization facility shall be required to change an approved final standardized plant design unless it can be demonstrated that without a change to the design, the overall risk of plant operation to the public health and safety, or the common defense and security will be substantially greater than that estimated at the time of the initial issuance of the approval and the design change is necessary to bring the plant within acceptable levels of risk."

PSI supports the eventual development of a backfitting rule that includes the concept of an acceptable level of risk and applies to all plants presently operating and under construction. Many of the present regulatory problems of the nuclear industry are caused by the assumption that any reduction in risk is valid regardless of the cost. Therefore, a standard for determining the necessity of a regulation would benefit both the industry and the NRC.

However, it is premature to include the concept of acceptable levels of risk in legislation at this time. The NRC has not yet adopted safety goals or a methodology for determining compliance with these goals. Without this definition, the inclusion of this concept will only cause confusion and uncertainty within the industry and produce no improvement in safety.

2) Hearing Reform

Many nuclear plants are presently under construction and participating in the licensing process. To be truly effective, the Standardization Act should be expanded to reform the present licensing process.

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Hearing Reform (continued)

Specifically, Section 189 of the Atomic Energy Act of 1954 should be amended to include the following:

- a. Hearings for construction permits, operating licenses or license amendments should not be required unless there are genuine and substantial disputed issues which have not been resolved in a previous proceeding.
- b. The "hybrid hearing" process proposed by AIF, ANEC, and EEI (Reference 2) should be adopted. The hybrid hearing would provide for both oral presentations and an adjudicatory-type hearing. Any person whose interest may be affected could petition the hearing officer for an opportunity to make an oral presentation. Those oral presentations would be limited to issues which are in controversy and for which the petitioner states his contention and its basis with reasonable specificity. Following the oral presentation, each party would have to submit in writing the issues which require an adjudicatory hearing and why that type of hearing is required. However, the adjudicatory-type hearing would only be approved when there is a genuine and substantial dispute of fact which can only be resolved with sufficient accuracy through an adjudicatory process. It would also have to be shown that the issue's resolution was critical to a decision in the proceeding.

3) Need for Power

Section 185b of the proposed legislation should be deleted. The authority of the Federal Energy Regulatory Commission (FERC) to determine the need for a new plant on behalf of the NRC is only one aspect of a complex relation between federal-state agencies. Although PSI agrees this issue should be addressed, it is not crucial or necessary to resolve it within the Nuclear Standardization Act. The mechanism for determining need for power for future stations should be addressed in future legislation.



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4) Application Fees

PSI supports the deferring of the application fees for a standardized design. However, the allocation mechanism described in sections 193b and 194b is confusing. The mechanism should be addressed in future NRC rulemaking and not in legislation.

5) One-Step Licensing

PSI supports the approval of a one-step licensing process in which a plant would receive a combined construction/operating license (C/OL). This concept should be expanded to include both standard and non-standard type of plants.

However, the level of detail required for a "final design" should be addressed elsewhere. Some aspects of the design may not be known at this time of the C/OL hearings (e.g., equipment test results). In addition, improvements in the state-of-the-art during the construction phase may necessitate some plant design changes. Therefore, a workable level of detail to be required at C/OL stage should be developed by future rulemakings and/or regulatory guides.

If discussion or clarification is required on these comments, please feel free to contact me.

Sincerely,

A handwritten signature in cursive script that reads "S. W. Shields".

S. W. Shields

SWS/MEN/ljl