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Office of the Secretary of the Commission
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

Dear Sir:

The Federal Register (Vol. 47, No. 122) published an advance notice of proposed rulemaking, in conjunction with the report by Dr. John D. Long (NUREG-0891), and requested comments from interested parties.

Due mostly to the meager response from the insurance industry and interested groups in the original notice in August of 1981, I submit my comments as an insurance broker that deals exclusively with nuclear insurance. These opinions are my personal opinions and should not be construed as an official position of Marsh & McLennan, Inc.

For question No. 1, if the NRC determines it must regulate the Nuclear Insurance Industry, then quantitative minimum insurance requirements should be established and updated periodically.

Personally, I feel the NRC already over-regulates the nuclear industry to the point of crippling it, and regulating insurance is already accomplished on the state level. This would also seem to open the door for the NRC to become involved in the day-to-day management of utilities, and does not directly address or affect the public health and safety.

Also, any requirements to compound or pyramid insurance will do no more than increase the costs of insurance significantly without generating substantial new capacity.

Recent history in property insurance shows that as utilities perceived a stagnation and lack of flexibility of the insurance pools, a new market was sought and developed (Nuclear Mutual Limited). Since that time, capacity, as well as quality, has improved markedly.

By identifying a quantitative number for capacity (such as $1 Billion), it would leave a great deal of flexibility for insurance managers to better assess their risks and provide the required insurance in the most cost-effective manner. It would also provide a goal for the insurance markets to work toward, and maintain competition. If the capacity criteria is to carry all available capacity or pyramid programs, there is no incentive to keep costs down, and no reason to search for new capacity.

The most recent increases in property insurance capacity, which will make available $1 Billion in capacity around the first of the year, is adequate proof that the markets can respond on their own given something to shoot for and incentives for accomplishing.

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As available market capacity increases and more reactor operating data becomes available, the capacity requirements and goals can be reviewed and adjusted as necessary.

The commission must remember that there has been only one significant property loss in the insurance industry in 25 years that even came close to exceeding the available capacity. TMI can only happen once, and operating experience shows that the chances of a similar incident causing significant property damage are actually less than they were when the TMI accident occurred.

Certainly the requirements for flood insurance did not jump, nor were they made mandatory, when the Teton Dam in Idaho failed in 1977.

For questions 2,3 and 4, again I think the market can adequately respond on its own, given some goals to accomplish. The individual policies, conditions of coverage, etc., as well as adequate limits might best be addressed by seeking a Maximum Foreseeable Loss (MFL)/Probable Maximum Loss (PML) Study, which the insurance industry as a whole has used for establishing limits and coverage for many years. I would also add that there are a good number of individuals that would be willing and able to provide input at no cost to the Federal Government or the Utility Industry.

Two individual questions that I would like to answer concern retroactive assessments and replacement power insurance.

Although it seems that utilities may be reaching a saturation point for retroactive assessments, this can never be substantiated until tested. I would guess that there would be no problems as long as there were some guarantees that any assessment could be passed on to ratepayers. The assessments would result in a relatively minor rate increase for larger utilities, and serve a very useful purpose of developing needed capacity, quickly, and allow replacement with guaranteed cost insurance as it becomes available.

The same is true or replacement cost insurance. If these replacement costs were allow to be passed on to the consumers, this insurance would not be necessar freeing some capacity and, again, reducing total insurance costs.

PUC's are required to review these passed on costs so that, although the consumer must pick up the cost on an interim basis, the utility itself earns no profit on this purchased replacement power, which is incentive enough to minimize the time and amount actually purchased.

I would like to reiterate my concern for the NRC's proposed involvement in regulating the Nuclear Insurance Industry. By having someone in the NRC knowledgeable about insurance matters follow the industry, and by providing goals and incentives to adequately protect the industry's investments, the consumer would best be served as costs are minimized - costs that are eventually borne by the consumer.

As I stated before, these comments reflect my personal opinion, and not that of my employer or any of my clients.

Thank you for the opportunity to comment.

Sincerely,

DJ Ashburn

Daniel J. Ashburn
Assistant Vice President

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