



Carolina Power & Light Company

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Mr. Samuel J. Chilk
Secretary
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

OFFICE OF SECRETARY
NRC
PROPOSED RULE
PR-50 (44)
(47 FR 27371)

RE: Mandatory Property Insurance for
Decontamination of Nuclear Reactors
(47 Fed. Reg. 27371, June 24, 1982).

Dear Mr. Chilk:

Carolina Power & Light Company ("CP&L or "Company") submits the following comments in response to the Advance Notice of Proposed Rulemaking of the Nuclear Regulatory Commission ("NRC" or "Commission") entitled "Mandatory Property Insurance for Decontamination of Nuclear Reactors". 47 Fed. Reg. 27371 (June 24, 19882). CP&L owns and operates the Brunswick Steam Electric Plant, Units 1 and 2, pursuant to operating license numbers DPR-71 and DPR-62, and Unit No. 2 of the Robinson Steam Electric Plant pursuant to operating license number DPR-23. The Brunswick Units are boiling water reactors, each rated at 2436 Mwt. Robinson Unit No. 2 is a pressurized water reactor rated at 2300 Mwt. In addition, CP&L has under construction the Shearon Harris Nuclear Power Plant, which consists of two 900 megawatt electric pressurized water reactors, pursuant to construction permits numbers 50-400 and 50-401. CP&L has, therefore, a substantial interest in the issues presented by the Advance Notice of Proposed Rulemaking.

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Summary of CP&L's Views

CP&L is a member of the Utility Decommissioning Group which has submitted comments addressing the various issues raised by the Advance Notice and responding to each of the Commission's questions. CP&L is submitting these additional views in order to emphasize certain aspects of the Group's comments and to offer some additional comments and information in response to the issues raised by the Commission's questions 1 and 3.*

As will be discussed more fully below, CP&L believes that the present requirements regarding property insurance as set forth in the Commission's Interim Final Rule, 47 Fed. Reg. 13750 (March 31, 1982), coupled with annual publication by the Commission of relevant statistics, are adequate and are the most appropriate means for providing a reasonable degree of assurance that a licensee will have funds sufficient to finance the costs of decontamination and debris removal in the event of an accident at one of its nuclear facilities. Additional regulation by the Commission regarding property insurance is neither necessary nor likely to effectuate the goals the Commission would wish to promote.

*CP&L is a member of Nuclear Mutual Limited ("NML") and Nuclear Electric Insurance Limited ("NEIL") each of which has submitted to the Commission its comments concerning the proposed rule. CP&L herein reiterates its concurrence in the views expressed by each entity in its comments.

Responses to Questions 1 and 3 Posed by Commission
in the Advance Notice of Proposed Rulemaking

Question 1 What dollar limits of property insurance coverage should the NRC require. . .

CP&L's Response.

The Commission's present requirements regarding maintenance of property insurance, as expressed in the Interim Final Rule, are sufficient to provide assurance that a licensee will have funds for decontamination and debris removal following an accident.

Effective August 1, 1982, Nuclear Mutual Limited ("NML") increased the policy limits of its primary property insurance to \$500 million. As of August 1, 1982 \$460 million of primary insurance coverage is available from American Nuclear Insurers and the Mutual Atomic Energy Reinsurance Pool ("ANI/MAERP") and CP&L understands that ANI/MAERP intends to increase its policy limits to \$500 million by January 1983. As of September 15, 1982, excess insurance coverage in the amount of \$365 million is available from Nuclear Electric Insurance Limited ("NEIL") and \$67 million is available from ANI/MAERP. It is CP&L's understanding that the ANI/MAERP excess coverage will increase to \$100 million by January 1983.

Those numbers demonstrate that there is ample coverage currently available well in excess of the \$775 million that would be available under Professor Long's recommendation. These facts also demonstrate that property insurance capacity to cover the risk of accidents at commercial nuclear facilities has been increasing and is continuing to increase as a result of the voluntary efforts of industry and natural market forces.

For NRC to mandate specific dollar limits of property coverage would, in CP&L's view, be undesirable because it would preclude a utility from fashioning its insurance protection in accordance with its specific needs based upon the particular circumstances of its nuclear operations e.g. the number, size and age of nuclear units which it owns or operates. This is the kind of judgment which the utility's management is best equipped to make and which it should continue to make.

CP&L endorses, therefore, the alternative, posed by the Commission in Question 1, of continuing in force the requirements of the Interim Final Rule regarding property insurance in conjunction with annual publication by the NRC of the amounts of property insurance maintained by each licensee. Such information would be available for use by state utility commissions, investors and others in evaluating a utility's management decisions with respect to the maintenance of property insurance coverage. The currently effective annual reporting requirement of 10 CFR §50.54 (w)(4), pursuant to which licensees advise the Commission with respect to the amounts and sources of property insurance they maintain, appears to be adequate. CP&L can discern no need to amend that provision in order to implement the alternative under discussion.

It must be emphasized, however, that the fundamental factor which will provide reasonable assurance of property insurance coverage adequate to cover costs of decontamination and debris removal and, hence, the protection of the public health and safety, is that the current Commission requirements are

sufficient in themselves. The current estimate of the costs of cleaning up Three Mile Island, Unit 2 is approximately \$1 billion. Because it was the most serious accident ever to be experienced at a commercial nuclear facility, it is appropriate to use the estimates of clean-up costs at TMI-2 in an analysis of what constitutes adequate coverage. As the figures cited above demonstrate, the industry is rapidly approaching and fully intends to reach this level of available coverage.

Furthermore, the nuclear industry has learned much from the TMI-2 events both with regard to reducing the probability of recurrence of an accident of the magnitude of the TMI-2 accident as well as with respect to ways in which to complete decontamination more expeditiously and at less cost. These lessons learned have been translated into the many improvements made at nuclear plants in response to Commission requirements as a result of the voluntary efforts of the industry through the Nuclear Safety Analysis Center and the Institute of Nuclear Power Operations (INPO). The events at the Ginna plant in January 1982 are evidence that valuable lessons have been learned and implemented.

Finally, to mandate the purchase of all available property insurance from all sources will arrest the growth of available capacity--a result antithetical to the goal of the Commission and of the nuclear industry. As Professor Long admits, such a requirement would not provide coverage equal to the sum of maximum policy limits. This is so because of the likelihood that reinsurers would not reinsure both ANI/MAERP and NML for a loss

at the same site. Thus, presently available capacity would be immediately reduced. With respect to the long term, the mandatory program as proposed by Professor Long would eliminate competition among the sources of property insurance and the benefits of which flow from such competition. The best evidence of the importance of competition to the continued expansion of available property insurance capacity is the role it has played thus far. There is no rational reason to disturb the forces of competition and the voluntary and aggressive efforts of the nuclear industry which are continuing to result in increased capacity to insure against risks of accidents at commercial nuclear facilities.

Question 3(a) To what extent, if any, should the NRC become involved with the structure and terms and conditions of the property insurance offered?

CP&L Response.

In CP&L's view, the Commission ought not attempt to regulate the terms and conditions of property insurance offered to NRC licensees for several reasons. First, it is doubtful that the Commission has the expertise or resources which would be necessary to effectively perform such a regulatory function. CP&L believes that the Commission's finite resources should continue to be committed to the resolution of important technical issues directly bearing upon the safe construction and operation of nuclear facilities. In addition, as indicated in these comments, there is substantial evidence to conclude that the present insurance programs plus the Commission's current requirements for maintaining property insurance are adequate to

provide protection of the health and safety of the public. Under such circumstances, there is a particularly tenuous link between the precise details of such insurance and the public health and safety. It is doubtful, therefore, that the Commission has the authority under the Atomic Energy Act to regulate such matters.

Question 3(b) Professor Long suggests that the use of retroactive assessments may be reaching the limits of sound insurance practice and recommends that retroactive insurance be eliminated from any future coverage. Should the NRC refuse to accept such coverage to satisfy its requirements? Is concern with overuse of retroactive assessments warranted?

CP&L Response.

CP&L strongly disagrees with Professor Long's recommendation and believes that there is strong evidence to support a conclusion that assessment type insurance continues to be the best means of expanding nuclear insurance capacity. CP&L has carefully analyzed the issue of whether assessment type coverage may be reaching the limits of its capacity in the context of a hypothetical accident. As a result of such analysis, CP&L has concluded that the limits of retroactive assessment capacity are not likely to be reached in the near future for the existing programs of property insurance, extra expense insurance and Price-Anderson public liability insurance.

In performing its analysis, CP&L postulated an accident occurring on January 1, 1983 at one unit at a two-unit site; that the cost of clean-up would amount to \$1 billion, and that the undamaged unit would be out of service for at least 2 1/2 years.

Under this scenerio and assuming that NML were the primary property insurer, it is unlikely that NML would be required to make a retrospective premium assessment. This is because NML would have accumulated enough funds, consisting of surplus, reinsurance, unearned premiums and anticipated additional premiums, to cover a sizeable portion, if not all, of the costs. The impact of these accumulated assets would be particularly significant because, as the TMI-2 experience has taught us, decontamination and repair of a damaged unit can be expected to take approximately five years. The costs of these activities, therefore, would be incurred and paid out over at least a five-year span. This analysis assumed normal loss experience for NML and took no credit for investment income which for the year 1981 alone exceeded \$20 million.

As of July 1, 1982, NML had accumulated a surplus of \$133 million; \$45 million in unearned premiums; \$101 million in reinsurance. In addition, assuming existing policyholders continue to carry the insurance, NML can anticipate annual premiums in 1983 and in each year thereafter of at least \$60 million per year.

For essentially the same reasons, there is little likelihood of a need for a call in any significant amount under NEIL-II excess property insurance program which would not pay out any significant amounts until the maximum limits of primary insurance had been reached. As of January 1, 1982, NEIL-II had accumulated \$1 million in surplus; \$5.1 million in unearned premiums; and \$61 million of reinsurance. As of January 1, 1983, CP&L estimates

these amounts would be \$7 million in surplus; \$45 million in unearned premiums and \$61 million in insurance. In addition NEIL-II would have annual premiums of at least \$47 million.

It is also unlikely that there would be a call for a retrospective premium for extra expense insurance under NEIL-I for replacement power. As of January 1, 1982, NEIL-I had accumulated \$81.8 million in surplus; \$19 million in reinsurance and \$55.4 million in unearned premiums. CP&L estimates that as of January 1, 1983, NEIL-I will have accumulated \$137 million in surplus; \$19 million in reinsurance; \$60 million in unearned premium and \$84 million in expected annual premiums.

Finally, assuming a \$560 loss under the Price Anderson program of nuclear liability insurance, CP&L would receive an assessment of only \$15 million. Again, because it would take several years for all claims to be filed and paid, it is likely that CP&L would be assessed its share of costs in installments over time as funds were needed.

These facts demonstrate, contrary to Professor Long's suppositions, that there is a very low probability that there will be a need for a call for retrospective premiums in the event of an accident at a U.S. commercial nuclear facility. This probability is made even lower by the low probability of the recurrence of an accident of the magnitude of TMI-2.

In view of these probabilities, the probability of a confluence of calls arising out of accidents at two or more commercial facilities is highly remote.

An examination of the likely rate treatment of an assessment is also enlightening for it demonstrates the very minimal impact assessment type insurance has upon a utility's customers.

CP&L performed such an analysis based upon its own circumstances which CP&L believes to be fairly representative of U.S. electric utilities having some nuclear generation. CP&L calculated the effect of a \$30 million assessment upon the average customer (12,000 kWh per year) of a utility with \$30 billion in annual kWh sales. The result is \$12.00 annual cost of \$1.00 per month:

30,000,000

30,000,000,000 (12,000) = \$12.00 annual cost

Moreover, assuming that the utility commission requires amortization of such cost, which is likely, the impact upon the customer is even less. For example, assuming a five year amortization period, the effect upon the average (1,000 kWh per month) customer would be approximately \$.20 to \$.35 per month depending upon the ratemaking treatment accorded the unamortized balance during the period of amortization.

Of equal importance is the fact that CP&L and at least some other licensees have been accumulating a reserve which will be used, to the extent of the funds contained therein, for payment of any retrospective premium which might be assessed. To the extent such reserve covers the assessment, there would be no further cost to the customer. CP&L's current reserve amounts to approximately \$5 million.

All of these facts demonstrate, in CP&L's view, that Professor Long's speculations about the negative impact of assessment type property insurance on nuclear utilities is without foundation.

Finally, it must be recognized that given the low probability of a call for respective premiums or a confluence of calls, it is imprudent in these economic times to require electric utilities to tie up substantial assets in anticipation of a contingency which is unlikely to occur. Such funds must be available for construction of needed new generation and for maintenance and modifications necessary to ensure efficient and safe operation of existing facilities.

Question 3(c) Should the NRC address the issue of whether, as a matter of public policy, it should require that all proceeds from property insurance be used to pay for decontamination after an accident before claims of creditors and owners are satisfied?

CP&L Response.

CP&L believes that an NRC requirement that priority be given to decontamination expenses is unnecessary and, if promulgated, would have a severely adverse impact upon the financial health of electric utilities.

Such a requirement is unnecessary for several reasons. First, for a facility which will be returned to service following an accident, decontamination and debris removal will be necessary first steps before repairs can commence. In any event, to the extent that such priority might be deemed useful, CP&L understands that NEIL-II excess insurance will contain such a feature as of November, 1982.

An NRC requirement of the kind under discussion would have an enormous adverse impact upon the electric utility industry's ability to attract new and much needed capital. Such regulation would negate one of the important bases of current investments; that is, current investors have acquired utility securities, at least in part, in reliance upon the assurance that property insurance is available to secure the utility's assets against loss. The elimination of such assurance would unquestionably constitute a major, if not insurmountable, obstacle to the utility's ability to attract new investors. This would, of course, raise the cost of money well beyond its unacceptable current levels.

For all of these reasons, therefore, CP&L believes it would be imprudent for the Commission to adopt a requirement that all proceeds from property insurance be used to pay for decontamination after an accident before claims of creditors and owners are satisfied.

CP&L appreciates this opportunity to present its views concerning the important issues raised in the Advance Notice of Proposed Rulemaking for the Commission's consideration.

Respectfully submitted,

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