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United States Senate

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS
WASHINGTON, D.C. 20510

July 2, 1982

Honorable Nunzio J. Palladino
Chairman
Nuclear Regulatory Commission
Washington, D.C. 20555

Dear Mr. Chairman:

I understand the Governor of Massachusetts and the Massachusetts Executive Office of Energy Resources have requested that the Nuclear Regulatory Commission permit the State to receive the \$550,000 civil penalty recently imposed by the Commission on the Boston Edison Company. The State intends to use these funds to expand an innovative weatherization/conservation program that would benefit those served by, or living near, the Pilgrim I nuclear powerplant where the violations occurred.

Although there exists no precedent for such an action, I urge the Commission to support this request for several reasons.

First, section 234(a) of the Atomic Energy Act authorizes the Commission to "compromise, mitigate, or remit" the civil penalties it imposes upon a licensee. Because no limitations or conditions constrain this authority, the Commission has the opportunity to exercise it in an imaginative and innovative way, including in the manner proposed by the State of Massachusetts. Although your authority may be implicit rather than explicit, other agencies with similar authority, such as the Department of Energy, have used it creatively and successfully to enhance their enforcement capabilities. In fact, the Massachusetts request would extend a program initially funded from a distribution arising out of an enforcement action by the Department of Energy.

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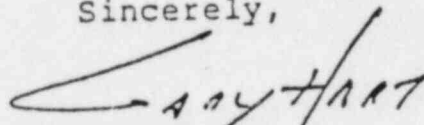
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Second, granting this request would enhance the Commission's ability to carry out its mandate for protecting public health and safety by generating good will and public support for the agency's enforcement activities, as well as providing additional flexibility in the negotiation of consent orders.

Third, there is a direct connection between the imposition of the civil penalty and the Massachusetts proposal. Payment of the penalty to the State would help redress the increased rates for replacement power paid by Boston Edison ratepayers during the period the Pilgrim I plant was shut down to correct the violations. These replacement power costs averaged \$500,000 per day. The conservation measures financed by the civil penalty will reduce the use of petroleum, which increased to provide Boston Edison with replacement power during the Pilgrim I outage. Thus, those ratepayers who suffered as a result of the Pilgrim I violations would receive some compensatory benefits from use of the civil penalty by the State.

Finally, notwithstanding the decision of Richard C. DeYoung, Director, Office of Inspection and Enforcement, I know of no past Congressional action that constitutes a limitation on your exercising your authority under section 234(a) for the purpose proposed by the State of Massachusetts.

Sincerely,



Gary Hart
Ranking Minority Member
Subcommittee on
Nuclear Regulation