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U.S. HOUSE OF REPRESENTATIVES
SUBCOMMITTEE ON ENERGY CONSERVATION
AND POWER
OF THE
COMMITTEE ON ENERGY AND COMMERCE
WASHINGTON, D.C. 20515

W. MICHAEL MCCABE
STAFF DIRECTOR

August 6, 1982

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

Dear Chairman Palladino:

Thank you for your letter of August 5, 1982 regarding the hearing scheduled for August 16. I appreciate the difficulties which the schedules of the various Commissioners pose for their appearance on that date. Nevertheless, because of the need to examine, expeditiously, the Commission's Memorandum and Order of July 27, 1982, and because the 120 day period regarding emergency preparedness at Indian Point Units 1 and 2 has begun, I do not feel the Subcommittee's hearing can be delayed.

I would appreciate the appearance of the single Commissioner whom you indicated will be available as well as the appearance of any other, whom by adjusting their plans could also be present at the hearing. I ask that the Commissioners reexamine their schedules with my request in mind.

In addition to those Commissioners who can appear, I believe the hearing would benefit by receiving the views of the Atomic Safety and Licensing Board, to whom an invitation to appear will also be sent.

I indicated in my letter of August 3 that questions would be submitted to you for response by close of business August 11, 1982. The questions are the following:

- (1) What is the Commission's justification for its delay in considering and ruling on Con Edison and PASNY's appeals of May 10 until after the start of the Licensing Board hearings on June 22?
- (2) In the Commission's July 22 Order, regarding admissibility of issues, the Commission stated, "It has become clear to us that our instructions are not being applied by the Licensing Board." In what respect has the Commission determined that the Board has failed to

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PDR COMMS NRCC
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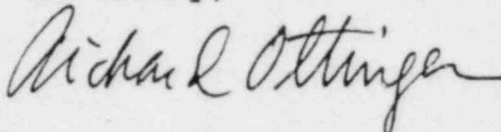
comply with the Commission's guidelines and the instructions of the Commission's order? Please provide explicit description on the manner in which it has been evidenced that the Commission's instructions are not being carried out.

- (3) The July 22 Order further states the Commission's concern that the Board needs to "assure that the proceeding remains clearly focused on the issues of the Order." What in the Board proceedings is perceived by the Commission to be unfocused or beyond the scope of inquiry? What is the basis for that judgment?
- (4) What extraordinary problems with the conduct of the hearings and the contentions presented caused the Commission to reformulate the issues after the hearings were underway? Please identify the concerns of specific Commissioners.
- (5) The Indian Point proceedings have been plagued by unreasonable delays for three years. In the September 18, 1981 Order that the Commission stated it would like to receive the Board's recommendations no later than one year from that date. How is the Commission's recent action consistent with the Commission's stated purpose to resolve these issues efficiently and expeditiously?
- (6) Why did the Commission not allow the parties to address the questions and concerns of the Commission prior to formulation of the new Order?
- (7) Did the Commission first discuss matters of concern which prompted the Order with the Licensing Board at any point prior to releasing the Order? If not, why not?
- (8) What review of the transcript of the hearings did the Commission undertake in advance of its decision? Did the Commission read the testimony, particularly with regard to questions 3 and 4, dealing with emergency planning?
- (9) What affect did the pre-filed testimony of the intervenors have on the Commission's decision about the Order and guidance?

- (10) How does the Commission characterize the July 22 Order? Does the Commission assert that the July 22 Order reiterates instructions previously established, refines the original guidance, or changes the instructions?
- (11) If the Commission sees the Order as providing new instructions and changing existing instructions, what impact does the Commission intend its Order to have on the evidence to be provided by intervenors?
- (12) Did the Commission ask the OGC to provide any guidance or evaluation or to render a systematic review of the Board's proceedings? If not, why not?
- (13) What is the Commission's interpretation of the September Order on the issue of linking the probability of an accident with accident consequences? What is the reasoning of the Commission that requires that parties address the connection of probability and consequences in the hearings?
- (14) Does the Commission feel that the Board should consider the consequences of an accident on New York City?
- (15) Does the Commission's goal for the hearing record to be developed include emergency planning at Indian Point?
- (16) What is the Commission's position on the significance of emergency planning at Indian Point?
- (17) How does the Commission separate the question of risk and population density from emergency planning? Is it in the Commission's interpretation that emergency planning is peripheral to the purpose of the hearing?
- (18) Is it the Commission's position that problems with emergency planning noted by FEMA could not be the basis for issuing a show cause order in this special proceeding?
- (19) Why did the Commission dismiss the Union of Concerned Scientists' petition to "show cause"?
- (20) What actions will the Commission take to remedy the deficiencies outlined in emergency planning procedures by FEMA?

- (21) The Subcommittee also requests that the NRC provide all relevant documents on this Decision and Order, including transcripts of meetings, staff notes, internal memoranda, draft orders, guidance comments, and other communications involving commissioners or staff, including the Office of General Counsel.

Sincerely,



Richard L. Ottinger
Chairman

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