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October 15, 1982

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(47 FR 35996)

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

Attn: Docketing and Service Branch

Dear Sir:

The following comments are submitted on behalf of Florida Power & Light Company, Houston Lighting & Power Company and Iowa Electric Light & Power Company in response to the notice of proposed rulemaking which appeared in the Federal Register on August 18, 1982 (47 Fed. Reg. 35,996). The notice announces that the Commission is proposing a change in its regulations which would clarify that all Part 50 licensees may take reasonable action that departs from a license condition or technical specification in an emergency when such action is immediately needed to protect the public health and safety. We believe that the proposed amendment is well founded and support its adoption.

The discussion contained in the rulemaking notice notes that the

proposed rule does not provide significant guidance to Part 50 licensees for identifying those situations in which deviations from license conditions or technical specifications are allowable

and, in addition, that the

proposed rule and the Supplementary Information does not contain standards

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Secretary of the Commission  
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to be used by the NRC Staff in determining whether to take enforcement action against Part 50 licensees who deviate from license conditions or technical specifications,

and solicits comments. 47 Fed. Reg. 35,997. With respect to the first matter, we do not believe that additional guidance is either necessary or appropriate at this time. There are, of course, significant differences in facility designs, and organizational and other variations among utilities. Accordingly, we believe that maximum flexibility should be preserved in order to allow for the development of procedures best suited to individual needs. If additional guidance appears appropriate in the future, it can be provided through further amendments.

Similarly, with respect to the second matter, we do not believe that detailed standards for determining whether enforcement action is appropriate -- in cases where improper deviations from license conditions or technical specifications might have occurred -- are desirable. Differences in such things as equipment designs and operating procedures make it difficult to foresee all of the various situations which could arise. Because of the wide variety of potential circumstances, the specification of precise criteria would not be practical. NRC regulations already contain, in 10 C.F.R. § 50.59 for example, provisions for licensee deviations from documentation, and detailed standards for appropriate enforcement action have not been necessary. The approach indicated in the notice, whereby "enforcement action for a violation of the rule would not be taken unless a licensee's action was unreasonable considering all the relevant circumstances having to do with the emergency" (47 Fed. Reg. 35,997) appears to be sound and useful. Accordingly, we do not favor the incorporation of detailed specifications into the rule at this time.

Sincerely,

*Michael A. Bauser*  
Michael A. Bauser

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