



UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D.C. 20555

June 10, 1991

The Honorable Phil Gramm
United States Senate
370 Russell Senate Office Building
Washington, D.C. 20510-4302

Dear Senator Gramm:

The communication from your constituent, Melanie Paulas, protesting one-step reactor licensing has been referred to me for response. I appreciate the opportunity to address your constituent's concerns about the Nuclear Regulatory Commission's new process for licensing power reactors.

What Ms. Paulas refers to as "one-step licensing" is the Commission's new power reactor licensing process codified at 10 C.F.R. Part 52. "Part 52," as it is called, is not strictly a one-step licensing process. It is a modified two-step process in which all design and siting issues concerning a nuclear power plant are resolved before construction begins. Far from eliminating public participation, it seeks to solicit the public's input when it is most meaningful: before the reactor is built. The process provides many opportunities for interested members of the public to express their views and to participate in the process, both before and after the reactor is built. A brief description of how the process works will illustrate the many opportunities for public input. This description is taken from the testimony of James M. Taylor, Executive Director for Operations of the Nuclear Regulatory Commission, before the Subcommittee on Nuclear Regulation, Committee on Environment and Public Works, United States Senate.

The new Part 52 has three principal features: certification of standardized designs by rulemaking, the issuance of early site permits after a mandatory formal adjudicatory hearing, and the so-called "combined license," which combines into one document both construction authorization and an operating license.

Part 52 establishes a combined construction permit/operating license proceeding that should fully resolve most licensing issues before construction begins. This proceeding includes a mandatory formal public hearing.

The application must contain a high level of detail concerning the final design of the facility. If the application references a certified design, issues

decided in the design certification will be considered resolved and not subject to the mandatory hearing on the application. However, the applicant must show that the certified design can be successfully linked to site-specific design elements. If the application references an early site permit, the applicant must demonstrate that the design falls within the parameters specified in the early site permit.

Under the regulations, persons challenging the use of the certified design may argue that there are reasons for not applying one or more elements of the certified design. An applicant for a combined license may request an exemption or variance from some requirement of a design certification referenced by the application; however, the applicant must show that special circumstances are present, and that any detrimental effect the exemption may have on standardization itself is justified by those special circumstances. Moreover, the exemption request is subject to litigation in the mandatory hearing on the combined license. Construction of the facility may not start until the combined license is issued.

Operation under the combined license is permitted only upon the satisfactory completion of a program of inspections, tests, and analyses necessary and sufficient to provide reasonable assurance that the facility has been constructed and will be operated in conformity with the license, the Act, and the Commission's regulations. This program of inspections, tests, and analyses is also subject to litigation in the mandatory public hearing on an application for the combined license. Any significant change in the program during construction will require a license amendment or rule change, and there will be an opportunity for a hearing which must be completed before operation is authorized under the combined license.

Once construction is completed, and before the Commission authorizes operation, the public has another chance to participate in the process. The license holder must notify the Commission at least 180 days before the plant is ready for fuel loading. The Commission will publish this information in a Federal Register notice which will also advise persons whose interest may be affected of their opportunity for a hearing.

An interested party may contest the issuance of an authorization to operate in two ways. For issues

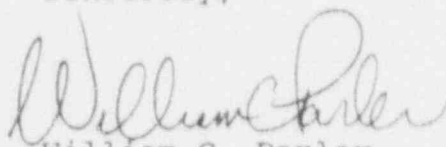
concerning a plant's conformance with the terms of a combined license, a party may file a petition which shows that there is good cause to modify or prohibit operation because one or more of the criteria in the combined license have not been met. The license holder and the NRC Staff are permitted to file responses to the petition. If the Commission finds that the petition raises genuine issues of material fact and meets certain other criteria, a formal adjudicatory hearing is held, unless the matter is exempt from adjudication under Section 554(a)(3) of the Administrative Procedure Act. (The exemption applies only to decisions which rest solely on "inspections, tests or elections.")

For issues going directly to the terms of the combined license, rather than to conformance with those terms, any person whose interest may be affected may provide a written petition to the Commission itself. The Commission must determine before operation whether the issues raised in the petition must be resolved before operation. If the petition is granted, the Commission will issue an appropriate order. If the petition is denied, the Commission will so advise the requester in writing, stating the reasons for its decision.

The procedures applicable to a public petition based on new information depend on the nature of the information and the relief sought. For example, a petition challenging the certified design might be treated as a request for rulemaking. In that case, a notice-and-comment procedure could be followed. Petitions raising other new issues going to the terms of the combined license would be resolved by the Commission in accordance with the procedure detailed above.

As you can see, the new process provides many avenues for meaningful public participation. I hope that my explanation alleviates your constituent's concern.

Sincerely,



William C. Parler
General Counsel

Phil Gramm
Texas

United States Senate

MEMORANDUM

Date: 5-17-91

My constituent has sent me the enclosed communication, and I would appreciate a response which addresses his/her concerns.

Please send your response, together with the constituent's correspondence, to me at the following address:

Office of Senator Phil Gramm
370 Russell Senate Office Building
Washington, D.C. 20510-4302

Attention: John Cerisano

Dear Senator Gramm,

I am writing to protest one-step reactor licensing which removes your right to participate as well. If it does so, this will lead to less nuclear safety, unfairness, and the deterioration of democracy. Citizens must have the right to participate in major decisions affecting their health and safety. Please do something to stop them.

Sincerely,
Melanie Pallas