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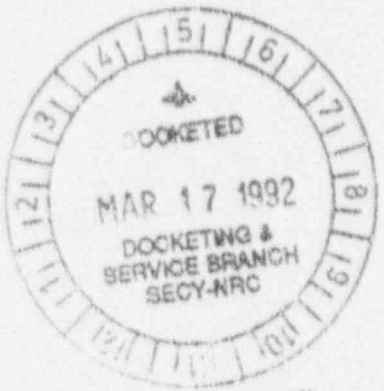

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The Honorable Samuel J. Chilk
Secretary
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

Attention: Docketing and Service Branch

Re: Petition for Rulemaking,
Docket No. PRM-50-57

Dear Mr. Chilk:

On January 17, 1992, the Nuclear Regulatory Commission published for comment a petition for rulemaking filed by the Public Staff of the North Carolina Utility Commission on October 4, 1991. 57 Fed. Reg. 2,059 (1992). Omaha Public Power District ("the District"), the licensee for the Fort Calhoun Station nuclear power reactor, hereby files its comments in response to the Commission's notice.

The petition for rulemaking asks the Commission to amend its regulations to eliminate the requirements for property damage and public liability insurance where all nuclear reactors have been shut down and all nuclear fuel has been removed from the site, except for fuel that may be stored in an Independent Spent Fuel Storage Installation. The District supports the petition for rulemaking and urges the Commission to adopt the amendments suggested by petitioner and set forth in the Commission's notice.

As proposed by petitioner, elimination of the requirements for property damage and public liability insurance would not apply to a site where all reactors are shut down, but nuclear fuel remains on site in reactor spent fuel storage. The District submits that the proposed amendments should be expanded to eliminate, or at least greatly reduce, the insurance requirements for all reactors that have been permanently shut down, whether or not spent fuel has been removed from the site.

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The Commission has already had substantial experience in dealing with reduced insurance coverage requirements for defueled reactors. For example, partial exemptions from 10 C.F.R. § 50.54(w) have been granted in a number of instances. E.g., 56 Fed. Reg. 2,962 (1991) (Fort St. Vrain); 56 Fed. Reg. 2,566 (1991) (Rancho Seco); 55 Fed. Reg. 18,993 (1990) (Shoreham). With regard to the requirements for public liability insurance, the District understands that Indian Point 1 has been granted a waiver of participation in the secondary financial protection program under the Price-Anderson Act.

These exemptions or waivers have been granted even through spent fuel remains on the site in a spent fuel pool and even though, in the case of Indian Point, other reactors continue to operate on-site. Thus, the Commission has recognized that the risk to be evaluated is the risk (or lack thereof) posed by the defueled, shut-down reactor, not the risk associated with other licensed facilities on the same site. The District submits that the Commission's experience in processing waivers or exemptions on a case-by-case basis supports both the amendments requested by petitioner and the expansion thereof requested by the District.

Until recently, early decommissioning of commercial nuclear reactors has been in response to events beyond the control of individual licensees. Now, however, older reactors are being voluntarily shut down early for economic reasons, as is the case with San Onofre Unit 1 and Yankee Rowe. Amending the regulations to give notice, in advance, of any insurance requirements that will be eliminated or reduced will assist licensees in evaluating the option of early decommissioning for economic reasons. Continued insistence upon a case-by-case approach is unnecessary and simply complicates the planning process. Amending the regulations also would eliminate the need for repeated individual requests for exemptions, thereby reducing the administrative burden for both licensees and the Commission.

Accordingly, the District recommends that the Commission either (1) adopt the amendments proposed by petitioner and institute a rulemaking to obtain comment upon additional amendments as discussed above, or (2) initiate a rulemaking to make effective both the amendments requested by petitioner and the additional amendments discussed above.

The District appreciates the opportunity to comment upon the petition for rulemaking.

Respectfully submitted,

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