

OCT 28 1983

MEMORANDUM FOR: Jerome Saltzman  
Assistant Director for  
State and Licensee Relations  
Office of State Programs

THRU: Darrel Nash, Section Leader  
Licensee Relations Section, SLR  
Office of State Programs

FROM: Jim C. Petersen  
Licensee Relations Section, SLR  
Office of State Programs

SUBJECT: INCENTIVE REGULATION OF SONGS 2 AND OF GENERATION  
FACILITIES BY STATE PUCS NATIONALLY

In accordance with your request we have reviewed both (1) the recent California PUC decision that specifies a target capacity factor and related financial rewards/penalties for SONGS 2; and (2) the recent NARUC study on construction and operating performance incentives in the electric utility industry nationally. Following are brief summaries of each document and suggestions for possible additional staff action.

In its September 7, 1983 decision, the California PUC softened the reward/penalty provisions that its staff had suggested in the proceeding. The PUC provided that additional fuel costs resulting from SONGS 2 capacity factor below 55% and fuel cost savings for capacity factor above 80% would be shared equally (50/50) between the company (stockholders) and ratepayers. The PUC staff had recommended that additional costs and savings above and below a 65% capacity factor should accrue entirely to the company. The California PUC thought that standard was too harsh, particularly in the relatively untested area of incentives. The Commission emphasized the utility's obligation to adhere to all NRC rules and regulations and stated that the record of its proceedings included examples of other jurisdictions that have instituted nuclear performance standards without apparent detriment to nuclear safety. The PUC agreed with its staff that a performance standard such as a target capacity factor would not compromise safe plant operation. The PUC also recognized that nuclear plant outages may be due solely to factors outside the utility's control and that it would be flexible toward considering the causes and effects of such events on a case-by-case basis.

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The working NARUC staff subcommittee on electricity published a report on September 20\* that summarized incentive regulation of electric utilities by states of the U.S. The report's summary characterized incentive regulation and state studies that may lead to incentive regulation as representing "a very significant level of regulatory effort." "Currently, the greatest regulatory effort appears to be directed at the efficiency of operation and utilization of generation facilities." My review of the report and discussions with the California PUC author indicate that 36 States either have some form of incentive regulation in effect or are studying various incentive regulation plans. According to the NARUC study, seven States have incentives aimed specifically at nuclear plants and another twelve States have incentives aimed at generating plants generally.

Additional OSP effort in this area could include more research and reporting on the specifics of incentive plans in operation or under study in the various States. We presently have only very brief summaries of State activity except for California where we have somewhat more information. Significant additional work has been done by the National Regulatory Research Institute and published studies are available that could be obtained and summarized. My contacts with NRR indicate that that office's activity has essentially been limited to comments by Denton and other officials. There is no NRR staff study underway. My contacts at DOE indicate that a group there is pretty much up-to-date on monitoring State PUC activity in this area. DOE has no intervention or enforcement authority in the area.

\* "Report to the NARUC Committee on Electricity on Incentive Regulation in the Electric Utility Industry," NARUC Subcommittee on Electricity, September 1983.

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Distribution:

Subject: Incentive Regulation by State PUC's;  
SONGS-2

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