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DEC 21 1970

Mr. Edward J. Bauser
Executive Director
Joint Committee on Atomic Energy
Congress of the United States

Dear Mr. Bauser:

In its memorandum opinion of August 26, 1970, In the Matter of Northern States Power Company (Monticello Nuclear Generating Plant, Unit 1), Docket No. 50-263, the Commission directed the staff to give consideration to the institution of rule making proceedings for the purpose of making clarifying amendments to AEC regulations pertaining to the resolution of questions of privilege arising in AEC adjudicatory proceedings. The Commission has adopted the amendments to its Rules of Practice in 10 CFR Part 2, enclosed for the information of the Joint Committee on Atomic Energy, clarifying its policy and revising its procedures with respect to the subpoena of AEC personnel and the production of Commission inspection reports and internal working papers in Commission adjudicatory proceedings.

An amendment to § 2.720, Subpoenas, dealing with the appearance of AEC personnel to give oral testimony, provides that AEC staff witnesses designated by the General Manager or the Director of Regulation, as appropriate, or by their designees, will be made available for oral examination at the hearing or on deposition regarding any matter, not privileged, which is relevant to the issues in the proceeding. The attendance and testimony of the Commissioners and named AEC personnel at a hearing or on deposition may not be required by the presiding officer, by subpoena or otherwise, except that provision is made for certification to the Commission of the matter of whether the attendance and testimony of AEC personnel should be required in exceptional circumstances. The amended section also permits the submission of written interrogatories.

The production of AEC records and documents is covered in new § 2.744. This section specifies that AEC will as a matter of policy produce, on the application of a party to an adjudicatory proceeding, and a showing of need and relevance, Commission inspection reports and other records and documents, the basic purpose of which is to record matters of fact relating to license applications or licensed activities, if the facts contained in those reports and documents are not otherwise available. Certain privileged matter would be deleted from those reports, records and documents.

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Internal working papers, which are defined in a new § 2.4(o), are exempt from disclosure. Applications therefor must be addressed to the presiding officer. Upon a determination by the presiding officer that the party making the request has demonstrated need and relevancy and that the production of any privileged papers, records and documents would not be contrary to the public interest and would not adversely affect the rights of any person, the General Manager or the Director of Regulation, as appropriate, will either authorize production of such records and documents or state any objections to production. If the General Manager or the Director of Regulation, as appropriate, objects to production of such papers, records and documents, the matter will be certified to the Commission or the Atomic Safety and Licensing Appeal Board, as appropriate, for determination.

Conforming and clarifying amendments have also been made to §§ 2.740, 2.741 and 2.780.

The enclosed notice of rule making is being transmitted to the Office of the Federal Register. The amendments will become effective upon publication in the Federal Register.

Enclosed also is a copy of a public announcement which we plan to issue on this matter in the next few days.

Sincerely,

(signed) Harold L. Price

Harold L. Price
Director of Regulation

Enclosures:

1. Notice of Rule Making
2. Public Announcement

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