

STATE OF NEW YORK DEPARTMENT OF PUBLIC SERVICE

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JOHN J. KELLNER  
Secretary

July 8, 1988

Secretary  
United States Nuclear Regulatory Commission  
Washington, DC 20555

Attention: Docketing and Service Branch

Dear Sir:

This letter responds to the notice that was published in the June 13, 1988, Federal Register, on page 21981. The notice invited comments on a proposed policy statement for cooperative efforts between the Nuclear Regulatory Commission (NRC) and the states with respect to commercial nuclear power plants and other nuclear production or utilization facilities.

We agree with the proposed statement that the protection of public health and safety and the environment can best be served by a policy of cooperation that unites the common goals of the NRC and the states. In addition, however, we would urge the NRC to recognize in its policy statement, the value of cooperation between the NRC and the states where there is mutual interest but differing goals and responsibilities. The following suggestions are intended to promote improved communication and cooperation.

1. Channelling state/NRC interaction through a single state liaison is too restrictive. The proposed policy statement should recognize the unique and diverse communication needs of various state agencies and allow for more than one state contact.

It is to a large degree the NRC's practice, and perhaps intent, to channel contact with states through the State Liaison Officer.

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It is our experience that this is not an efficient or effective process. While it may be suitable for routine contacts and distribution, it is not suitable for contacts involving intensive interaction where continued communication with various branches in Washington or with regional personnel is necessary. State radiological emergency preparedness personnel, for example have unique and intensive communication needs that may exist for extended periods. Similarly, state ratemaking bodies that periodically conduct intensive reviews of operations or construction have information and communication needs that go beyond the level normally available through a liaison. More efficiency interaction will be possible if the NRC will recognize continuing relationships with more than one permanent contact.

2. The policy statement should be broadened to recognize the state's needs for interaction with the NRC in areas central to state responsibilities, but substantially affected by NRC actions.

The proposed policy statement seems to focus primarily on state participation in health and safety, environmental, and other nuclear safety-related activities falling under NRC jurisdiction. It does not appear to address unique jurisdictional responsibilities of other state agencies. For example, state agencies are responsible for the evaluation of the reasonableness of construction costs that directly affect base rates as well as operation and maintenance expenses. These evaluations frequently result in state agency/NRC communication as the state agency seeks to evaluate the reasonableness of a particular company's efforts including compliance with NRC rules and regulations.

For nine years the New York Public Service Commission has had staff located at the Nine Mile Point site and until recently at Shoreham for the purpose of construction monitoring. That staff has worked closely with the NRC's staff to the benefit of both agencies and such cooperation should be encouraged as states seek to evaluate construction costs. At other times the Public Service Commission has conducted comprehensive reviews of construction and operational activities which prompted close and extensive communication with the NRC staff in Washington and at the regional level.

The NRC policy statement should recognize the needs of state agencies to be familiar with NRC regulations, policies, and actions as they seek to evaluate and promote efficiency during construction, operation, and decommissioning phases.

When such reviews become necessary effective communication should include attendance by state representatives for the purpose of observation at all enforcement, policy, exit, and other meetings affecting the issue at hand. For example, the Nine Mile Point One unit is currently out-of-service for an extended period. The outage extension may be due, in part, to Niagara Mohawk Power Corporation's failure to adequately complete its first ten-year in-service inspection program. In this instance it is important for the State of New York be given access to meetings between the company and the NRC and be able to establish open communication with NRC resident, regional, and branch personnel as it seeks to understand the extent to which the company fulfilled its license obligations.

3. The qualifications necessary for observers at NRC inspections and meetings need not be as stringent as those for participation in those activities.

The policy statement says that State representatives will be able to observe inspections, and entrance and exit meetings where the representative is knowledgeable in radiological health and safety matters. We are concerned that the NRC may impose a standard of knowledge and training that is inappropriate to the act of observing (as distinct from participating) in an inspection or meeting. We recommend that such a distinction be made in the policy statement.

Thank you for the opportunity to comment on your proposed statement of policy. We share your objective of enhancing the present degree of cooperation between the states and the NRC.

Sincerely,



G.F. WALSH  
Director, Power Division

GFW/JGR/pbf