

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

In the matter of)	
)	
INDIANA MICHIGAN POWER COMPANY)	Dockets Nos. 50-315 and 50-316
)	
(Donald C. Cook Nuclear Plant)	
Units Nos. 1 and 2))	

EXEMPTION

I.

Indiana Michigan Power Company (the licensee) is the holder of Facility Operating Licenses Nos. DPR-58 and DPR-74, which authorize operation of the Donald C. Cook Nuclear Plant, Units Nos. 1 and 2. The licenses provide, among other things, that Donald C. Cook Nuclear Plant, Units Nos. 1 and 2, are subject to all rules, regulations, and orders of the Nuclear Regulatory Commission (the Commission) now or hereafter in effect.

The facility consists of pressurized water reactors at the licensee's site located in Berrien County, Michigan.

II.

On August 5, 1987, the Commission published in the FEDERAL REGISTER a final rule amending 10 CFR 50.54(w). The rule increased the amount of on-site property damage insurance required to be carried by the Commission's power reactor licensees. The rule also required these licensees to obtain by October 4, 1988, insurance policies that prioritized insurance proceeds for stabilization and decontamination after an accident and provided for payment of proceeds to an independent trustee who would disburse funds for decontamination and cleanup before any other purpose. Subsequent to publication of the rule, the Commission has been informed by insurers who offer nuclear property insurance that, despite a good faith effort to obtain trustees required by the rule, the decontamination priority and trusteeship provisions will not be able to be incorporated into

policies by the time required in the rule. In response to these comments and related petitions for rulemaking, the Commission has proposed a revision of 10 CFR 50.54(w)(5)(i) extending the implementation schedule for 18 months (53 FR 36338, September 19, 1988). However, because it is unlikely that this rulemaking action will be completed by October 4, 1988, the Commission is issuing a temporary exemption from the requirements of 10 CFR 50.54(w)(5)(i) until completion of the pending rulemaking extending the implementation date specified in 10 CFR 50.54(w)(5)(i), but not later than April 1, 1989. Upon completion of such rulemaking, the licensee shall comply with the provisions of such rule.

III.

Pursuant to 10 CFR 50.12, "The Commission may, upon application by any interested person or upon its own initiative, grant exemptions from the requirements of the regulations of [10 CFR Part 50], which are ... Authorized by law, will not present an undue risk to the public health and safety, and are consistent with the common defense and security." Further, Section 50.12(a)(2) provides inter alia, "The Commission will not consider granting an exemption unless special circumstances are present. Special circumstances are present whenever ... (v) The exemption would provide only temporary relief from the applicable regulation and the licensee has made good faith efforts to comply with the regulation."

Despite a good faith effort to comply with the provisions of the rule, insurers providing property damage insurance for nuclear power facilities and licensees insured by such insurers have not been able to comply with the regulation and the exemption provides only temporary relief from the applicable regulation.

As noted by the Commission in the Supplementary Information accompanying the proposed rule, there are several reasons for concluding that delaying for a reasonable time the implementation of the stabilization and decontamination priority and trusteeship provisions of Section 50.54(w) will not adversely affect protection of public health and safety. First, during the period of delay, the licensee will still be required to carry \$1.06 billion insurance. This is a substantial amount of coverage that provides a significant financial cushion to licensees to decontaminate and clean up after an accident even without the prioritization and trusteeship provisions. Second, nearly 75% of the required coverage is already prioritized under the decontamination liability and excess property insurance language of the Nuclear Electric Insurance Limited-II policies. Finally, there is only an extremely small probability of a serious accident occurring during the exemption period. Even if a serious accident giving rise to substantial insurance claims were to occur, the Commission would be able to take appropriate enforcement action to assure adequate cleanup to protect public health and safety and the environment.

IV.

Accordingly, the Commission has determined, pursuant to 10 CFR 50.12(a), that (1) a temporary exemption as described in Section III is authorized by law, will not present an undue risk to the public health and safety, and is consistent with the common defense and security and (2) in this case, special circumstances are present as described in Section III. Therefore, the Commission hereby grants the following exemption:

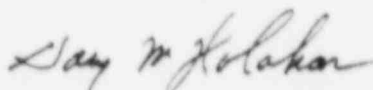
Indiana Michigan Power Company is exempt from the requirements of 10 CFR 50.54(w)(5)(i) until the completion of the pending rulemaking extending the implementation date specified in 10 CFR 50.54(w)(5)(i), but not later than April 1, 1989. Upon completion of such rulemaking the licensee shall comply with the provisions of such rule.

Pursuant to 10 CFR 51.32, the Commission has determined that the granting of this exemption will not result in any significant environmental impact (53 FR38123).

This exemption is effective upon issuance.

Dated at Rockville, Maryland this 30th day of September , 1988.

FOR THE NUCLEAR REGULATORY COMMISSION



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V and Special Projects
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