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CHAIRMAN

UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D. C. 20555

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February 5, 1987

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The Honorable Edward J. Markey
Committee on Energy and Commerce
United States House of Representatives
Washington, D.C. 20515

OFFICE OF THE
DOCKETING SUPERVISOR
BRANCH

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Dear Congressman Markey:

I am responding to your letter dated January 14, 1987, concerning notification to parties when meetings are conducted by the NRC staff as part of its review of a license application. NRC policy in this matter is covered in a Commission policy statement published in the Federal Register on June 28, 1978. A copy of this policy statement is enclosed.

I regret that a representative of the State of Massachusetts Attorney General's Office was unable to attend the January 14, 1987 meeting. Because of the concerns of the participants in the Seabrook hearing, the Staff is initiating a practice whereby the active parties in the Seabrook proceeding will be notified of scheduled meetings by telephone (in addition to written notification) as soon as possible after a meeting is scheduled. We will give parties two weeks notice of meetings as you suggest. However, unusual circumstances might require that a meeting be scheduled with less than two weeks notice. In those cases, we will provide as much advance notice as possible.

The Staff will also transcribe all future meetings related to Applicants' December 18, 1986 petition for a waiver of the 10-mile emergency planning zone. The transcripts of those meetings will be available to all parties to the Seabrook proceeding. I believe that these measures will address the concerns of the parties involved in the Seabrook proceedings.

Sincerely,

Lando W. Zech, Jr.
Lando W. Zech, Jr.

Enclosure:
As Stated

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PDR COMMS NRCC
CORRESPONDENCE PDR

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UNITED STATES NUCLEAR REGULATORY COMMISSION
RULES and REGULATIONS

TITLE 10, CHAPTER 1, CODE OF FEDERAL REGULATIONS—ENERGY

COMMISSION NOTICES
POLICY STATEMENTS

Conduct of Proceedings

43 FR 28058
Published 6/28/78

DOMESTIC LICENSE APPLICATIONS

Open Meetings and Statement of NRC Staff
Policy

The Nuclear Regulatory Commission's (NRC's) regulations in 10 CFR 2.102 permit applicants to confer informally with the NRC technical staff during reviews of domestic license or permit applications. These meetings have served as an essential means for the exchange of technical information and views necessary for the technical review of applications. For several years other parties or potential parties to domestic licensing proceedings, as well as members of the general public, have, upon request, been permitted to attend applicant-NRC technical staff meetings as observers. However, the Commission's regulations do not require that others be permitted to attend such informal meetings between applicant and staff, and the general practice being followed in this regard has never been formally articulated. This statement is intended to provide such articulation. It is also noted that this matter is related to the provision for increased public participation which was approved by the Commission during its consideration of NUREG 0292 (Denton Report).

As a general matter, the Commission and staff try to involve concerned citizens in any Commission activity in which they have expressed an interest. All meetings conducted by the NRC technical staff as part of its review of a particular domestic license or permit application (including an application for an amendment to a license or permit) will be open to attendance by all parties or petitioners for leave to intervene in the case. These meetings are intended by the NRC technical staff to facilitate an exchange of information between the applicant and the staff. It is expected that the NRC technical staff and the applicant will actively participate in the meeting. Others may attend as observers. Likewise, when meetings are scheduled between the staff and other parties or petitioners, applicants would be permitted to attend only as observers.

The general policy of open meetings described above will admit of only a few exceptions, which must be approved by the Director of the relevant division. For example, some persons may not be permitted to attend meetings where classified or proprietary information (including sensitive safeguards information) is to be discussed. The NRC staff will prepare a written

summary of the unclassified and non-proprietary portions of such meetings and forward the summary to interested persons unable to attend so that they will be informed of what transpired at the meeting. However, attendance will not be limited solely because preliminary opinions, recommendations, or advice will be offered on the merits of the applications during the meeting.

When a party or petitioner for leave to intervene requests, reasonable efforts will be made by the NRC staff to inform the party or petitioner of forthcoming meetings conducted by the NRC technical staff so that appropriate arrangements for attendance can be made. It is recognized that in some cases the need for a prompt meeting may make it impossible or impracticable to notify all parties and petitioners. The policy described above also cannot practicably be applied to chance encounters between NRC technical staff personnel and other parties or petitioners but such chance encounters will not be permitted to serve as a source of information for the conduct of licensing reviews.

46 FR 28533
Published 5/27/81

Statement of Policy on Conduct of
Licensing Proceedings

I. Background

The Commission has reviewed the docket of the Atomic Safety and Licensing Board Panel (ASLBP) and the current status of proceedings before its individual boards. In a series of public meetings, the Commission has examined at length all major elements in its licensing procedure. It is clear that a number of difficult problems face the agency as it endeavors to meet its responsibilities in the licensing area.

This is especially the case with regard to staff reviews and hearings, where requested, for applications for nuclear power plant operating licenses.

Historically, NRC operating licensing reviews have been completed and the license issued by the time the nuclear plant is ready to operate. Now, for the first time the hearings on a number of operating license applications may not be concluded before construction is completed. This situation is a consequence of the Three Mile Island (TMI) accident, which required a

reevaluation of the entire regulatory structure. After TMI, for over a year and a half, the Commission's attention and resources were focused on plants which were already licensed to operate and on the preparation of an action plan which specified changes necessary for reactors as a result of the accident.

Although staff review of pending license applications was delayed during this period, utilities which had received construction permits continued to build the authorized plants. The staff is now expediting its review of the applications and an unprecedented number of hearings are scheduled in the next 24 months. Many of these proceedings concern applications for operating licenses. If these proceedings are not concluded prior to the completion of construction, the cost of such delay could reach billions of dollars. The Commission will seek to avoid or reduce such delays whenever measures are available that do not compromise the Commission's fundamental commitment to a fair and thorough hearing process.

Therefore, the Commission is issuing this policy statement on the need for the balanced and efficient conduct of all phases of the hearing process. The Commission appreciates the many difficulties faced by its boards in conducting these contentious and complex proceedings. By and large, the boards have performed very well. This document is intended to deal with problems not primarily of the boards' own making. However, the boards will play an important role in resolving such difficulties.

Individual adjudicatory boards are encouraged to expedite the hearing process by using those management methods already contained in Part 2 of the Commission's Rules and Regulations. The Commission wishes to emphasize though that, in expediting the hearings, the board should ensure that the hearings are fair, and produce a record which leads to high quality decisions that adequately protect the public health and safety and the environment.

Virtually all of the procedural devices discussed in this Statement are currently being employed by sitting boards to varying degrees. The Commission's reemphasis of the use of such tools is intended to reduce the time for completing licensing proceedings. The guidelines set forth below are not to be

Congress of the United States

House of Representatives

Committee on Energy and Commerce

Room 2125, Rayburn House Office Building

Washington, D.C. 20515

January 14, 1987

The Honorable Lando W. Zech, Jr.
Chairman
U.S. Nuclear Regulatory Commission
1717 H Street, N.W.
Washington, D.C. 20555

Dear Mr. Chairman:

For the second time in the past several months, my office was contacted by attorneys from the Attorney General's office in Massachusetts to complain of lack of notice of scheduled meetings between the NRC staff and Public Service of New Hampshire in connection with the Seabrook licensing proceeding. In this most recent instance, the Commonwealth of Massachusetts received notice yesterday of a meeting at NRC's Bethesda offices today. The subject of the meeting is the Brookhaven National Laboratory study paid for by the NRC as part of its evaluation of Seabrook's containment structure. The study is germane to the licensee's petition to waive the 10-mile Emergency Planning Zone requirement and was discussed at my Subcommittee's November 18, 1986 field hearing in Amesbury, Massachusetts.

The meeting comes approximately two weeks before the NRC staff, as well as other parties, are required to submit their views on the licensee's petition for waiver to the Atomic Safety and Licensing Board. It is essential that the Attorney General of Massachusetts and other parties be fully informed about what transpires at this meeting.

There is absolutely no excuse for providing one day's notice which precludes the Commonwealth from bringing technical experts to the meeting. NRC's Policy Statement on this subject contemplates two weeks notice of such meetings. Particularly where the issue is so sensitive, as is the case with Seabrook, there is no reason whatsoever for not complying with the two weeks specified in the Policy Statement.

Mr. Lawrence Sidman, the Subcommittee Staff Director, and Mr. Carlton Kammerer of the NRC, discussed the situation yesterday. Mr. Sidman requested a postponement of today's meeting, at my suggestion. Apparently, there was insufficient time to arrange a postponement. Instead, they agreed that there would be a stenographic record kept of the meeting which would be delivered to the Commonwealth of Massachusetts within 48 hours and that one

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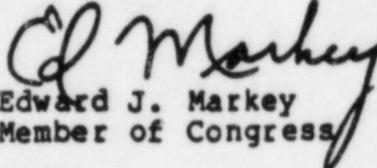
The Honorable Lando W. Zech, Jr.
January 14, 1987
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of my staff also would attend the meeting. They also discussed arrangements for providing adequate notice of future meetings of this type, as follows:

1. All meetings between the NRC staff and any person(s) that pertain to the Seabrook nuclear power plant will be noticed by mail two weeks prior to the scheduled meeting date.
2. Contemporaneously with the sending of the notice, the staff will telephone the interested parties and inform them of the meeting time, place, subject, and participants.
3. A complete record of the notice provided for all meetings, including the dates mail notices were sent and a list of the parties contacted, will be maintained and will be made available upon request.

Please confirm in writing that the NRC will adhere to these procedures in the future. I appreciate your commitment to improve the notice process, and I trust you will impress upon the staff the importance of adhering to these modest and reasonable guidelines.

Sincerely,


Edward J. Markey
Member of Congress