



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

May 22, 1987

The Honorable Edward J. Markey
U.S. House of Representatives
Washington, D.C. 20515

Dear Representative Markey:

On February 6, 1987, you wrote to the Commission requesting certain documents and "...a complete chronology of all communications and meetings regarding this proposal [the proposed emergency planning rule change], including for each communication: the date, participants, and subject discussed."

The Commission's February 25 response included a chronology of the development of the rule in question. We specifically noted in our response that, since 1980, "individual Commissioners and other agency officials have had numerous discussions about the problems caused when state and local governments refuse to take part in the emergency planning process". That response was and continues to be accurate.

In the April 28 hearing of the House Subcommittee on Energy and the Environment, you broadened the request made in your earlier February 6 letter and inquired whether, in addition to any conversations Commissioners may have had regarding the specific emergency planning proposal recently submitted for public comment, there were contacts between Commissioners offices and outside individuals on the general subject of a revision to NRC rules in the broad area of emergency planning.

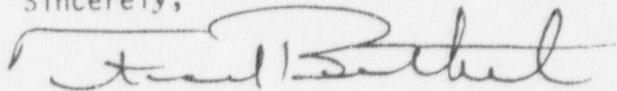
With respect to your latest inquiry, the only such specific contact I recall came in the form of two telephone calls, last fall I believe, from Mr. David Rossin, Assistant Secretary for Nuclear Programs at the Department of Energy. While I have no documentation of those calls, the substance was in the nature of an inquiry as to whether the Commission was contemplating generic rulemaking action on the emergency planning issue. I responded that it was my judgment that the Commission was sensitive to the problem, but that I had not seen any specific Commission proposal. I also informed Mr. Rossin that further such inquiries from the Department, while entirely proper, were unnecessary, and that indeed they could prove to be counter-productive to any eventual Commission consideration of the emergency planning issue. There was no discussion of any matter under adjudication before the Commission.

In further response to your latest request, I have consulted with my personal staff and have ascertained that none of them recalls specific or noteworthy conversations with individuals outside the agency on the subject of proposed revisions to the Commission's emergency planning regulations,

other than the conversation involving my personal counsel and Mr. Bickwit, as I mentioned at the April 28 hearing.

As indicated in the Commission's letter of February 25, 1987, on numerous other occasions (literally almost any time a knowledgeable individual spoke to me on matters related to nuclear power), the broad subject of the emergency planning conundrum would have been mentioned. As long as the rules prohibiting ex parte communications on matters under adjudication are not violated, I consider it a duty of my office to discuss such matters with any concerned citizen who wishes to do so.

Sincerely,

A handwritten signature in cursive script, appearing to read "Fred Bernthal", written in dark ink.

Frederick M. Bernthal

cc: Representative Morris K. Udall
Representative Manuel Lujan, Jr.