

Conte, Richard

From: Modes, Michael *RM*
Sent: Wednesday, August 17, 2011 11:28 AM
To: Miller, Ed
Cc: Cruz, Holly; Miller, Barry; Conte, Richard; Khanna, Meena; Burritt, Arthur; Raymond, William
Subject: RE: Seabrook ASR TIA Draft 7 GT Comments 8-12-11

The region is a little sensitive about the whole issue of licensee documents after we received a scathing letter from Exelon corporate legal counsel for our mishandling of their documents. (We had inappropriate possession of a brutally honest and very embarrassing draft root cause we were forced to release to the public under a FOIA). Exelon made it clear they believed the CERTREC system complies with the unfettered access requirements of the regulations and, as a corporate policy, have taken the position that no one, including the NRC, may take documents off-site (or into the resident office) without their agreement. We had OGC involved, with RI and RIII, for months trying to negotiate our way out of the mess with Exelon. Because of the implications about renewed license applications at Oyster Creek and Limerick, and my participation in the ASLB hearings at OC and VY I was asked to participate in the negotiations.

So I assume you are expressing a preference that "If we are going to establish an agency position, any documents relied upon to reach that decision would need to be docketed. "

I am making the assumption because, for example, if that were the agency position a renewed license would never be issued. The renewal audit teams, and regional inspection teams, review thousands of documents, used to support their final determination to issue a new license, without requiring the documents be submitted on the docket. We are very careful to record, in full, the document titles, date, revision, etc of everything we review and append the list to the reports which are then used as the basis for the SER. These document lists were very important during the Oyster Creek hearings because we could prove we had reviewed a contested procedure and found it acceptable before the applicant made a discovery the intervenor was opposed to.

If you are not inclined to use the CERTREC document system I'm curious how you are going to request the licensee submit the documents on the docket because the licensee is not a party to the Region's request to NRR to resolve this issue? If this were Exelon you can imagine what their reaction to a request like that would be.

May I suggest you follow the inspection model? Review whatever supporting documents, reports, data, etc you think you need to, on CERTREC, and append a complete list to the TIA response. Then the basis for your position is clear and on ADAMS.

From: Miller, Ed
Sent: Wednesday, August 17, 2011 10:17 AM
To: Conte, Richard; Modes, Michael
Cc: Cruz, Holly; Miller, Barry
Subject: Seabrook ASR TIA Draft 7 GT Comments 8-12-11

Rich/Mike,

Attached are the comments from Meena, George, and myself. I am discussing with TIA PMs (Holly/Barry), but the Certrec system may not work for us. If we are going to establish an agency position, any documents relied upon to reach that decision would need to be docketed. The documents can be withheld if proprietary/sensitive, however, I doubt that the licensee could make a valid claim of proprietary for the referenced documents. We can discuss when we have the call today.

Ed Miller
415-2481