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SECRETARY

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

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BRANCH

Mr. Michael Mariotte
Executive Director
Nuclear Information
and Resource Service
Suite 601
1424 16th Street, N.W.
Washington, D.C. 20036

Dear Mr. Mariotte:

In a letter dated August 19, 1992, Dr. Thomas Murley, the Director of the NRC Office of Nuclear Reactor Regulation (NRR) denied the emergency relief requested by you on behalf of the Nuclear Information and Resource Service (NIRS) in its petition dated July 21, 1992 and in the addenda to the petition dated August 12, 1992. In his August 19, 1992 letter, however, he indicated that appropriate action would be taken on the specific issues raised in the petition in accordance with the requirements of 10 CFR 2.206. On September 3, 1992, you filed on behalf of NIRS an appeal of the Director, NRR's determination. Therein, you suggested that in addition to the plants identified in your petition and addenda, the units of the Carolina Power and Light Company's (CP&L) Brunswick plant should be included for immediate suspension of operating license while the use of Thermo-lag in fire protection measures is examined by the NRC. CP&L filed a response to your appeal on October 2, 1992.

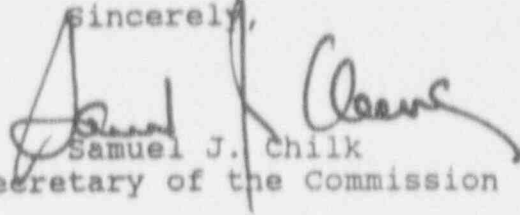
Your appeal was submitted to the Commission pursuant to 10 CFR 2.206. That section provides that, within 25 days after the date of a Director's Decision, the Commission may on its own motion review that decision, in whole or in part, to determine if the director has abused his discretion. Review is at the discretion of the Commission; no individual has the right to such a review. No petition or other request for Commission review of a Director's Decision under this section will be entertained by the Commission (See 10 CFR 2.206(c)). Thus, the appeal request, as well as the response of CP&L, has been referred to the Director, NRR for appropriate consideration in conjunction with his review of the issues raised in your petition.

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To the extent that the Director, NRR's decision to deny emergency relief is an interim response to the NIRS petition, the Commission has determined not to undertake a formal review. Accordingly, the decision became final agency action on September 14, 1992. You may be interested in the action recently taken by the Commission concerning issues related to Thermo-Lag 330-1 fire barrier material set forth in the enclosed memorandum to the Executive Director for Operations.

Sincerely,


Samuel J. Chilk
Secretary of the Commission

Enclosure: 9/21/92 Memo re COMSECY-92-026

cc: EDO
OGC
Director, NRR
OPA
OCA
CAA
Dale E. Hollar
Associate General
Counsel, CP&L



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September 21, 1992

MEMORANDUM FOR: James M. Taylor
Executive Director for Operations

FROM: Samuel J. Chilk, Secretary

SUBJECT: COMSECY-92-026 - STAFF'S PLANNED ACTIONS TO
ADDRESS ISSUES RELATED TO THERMO-LAG 330-1
FIRE BARRIER MATERIAL

By memorandum dated August 17, 1992, the Commission identified three matters related to the NRC staff's acceptance and review of the use of Thermo-Lag 330-1 fire barrier material in NRC licensed facilities which required action by the staff. On August 25, 1992, you forwarded to the Commission the staff's planned actions to identify and resolve programmatic issues and to resolve technical issues associated with the Thermo-Lag fire barrier material.

The Commission believes that, although the staff actions to date are interim measures, they have addressed the immediate concerns regarding the safety of those plants using Thermo-Lag 330-1 material as a fire barrier. The measures put in place should compensate for the fire protection weaknesses found with the Thermo-Lag material. Until the issues associated with the fire protection barriers are resolved, the compensatory measures should assure that an adequate level of fire safety can be maintained and that plants using Thermo-Lag material can continue to operate. The staff should continue to develop a longer-term resolution that obviates the need for compensatory measures.

The Commission has reviewed the staff's action plan and finds that its scope and depth of review appear to be adequate to address and resolve any outstanding technical safety issues. The staff should proceed in accordance with the schedule outlined. The Commission still awaits the staff plans to resolve the three programmatic issues raised in the August 17, 1992 memorandum and intends to follow this matter closely. The staff should provide the Commission with periodic reports, at least every three months, on the progress toward completion and notify the Commission expeditiously of any significant findings or obstacles to the completion of the described actions.

(EDO)

(SECY Suspense: 12/18/92)

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cc: The Chairman
Commissioner Rogers
Commissioner Curtiss
Commissioner Remick
Commissioner de Planque
OGC
OIG

cc: The Chairman
Commissioner Rogers
Commissioner Curtiss
Commissioner Remick
Commissioner de Planque
OGC
OIG