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U.S. HOUSE OF REPRESENTATIVES
SUBCOMMITTEE ON ENERGY CONSERVATION
AND POWER
OF THE
COMMITTEE ON ENERGY AND COMMERCE
WASHINGTON, DC 20515

November 27, 1985

Honorable Nunzio J. Palladino
Chairman
U.S. Nuclear Regulatory Commission
1717 H Street, N.W.
Washington, D.C. 20555

Dear Mr. Chairman:

Several recent Nuclear Regulatory Commission documents raise significant questions about the agency's position on the issue of the financial qualifications of nuclear utilities.

For example, in the Commission's July 17, 1985 letter to the Subcommittee regarding the recent loss of feedwater incident at Davis-Besse, the Commission stated that there were indications that the licensee's financial difficulties were a root cause of management problems at the plant. NRC's investigation of the Davis-Besse incident show it to be one of the most serious since Three Mile Island and attributable to management deficiencies.

Similarly, a July 22, 1985 memorandum from William J. Dircks, Executive Director for Operations, to the Commission appears to indicate that another nuclear utility company is experiencing financial difficulties that could potentially have an impact on safety. The memorandum states that because of "financial strain" on the resources of the Arkansas Power & Light Company, the NRC staff plans to monitor closely operation of the licensee's Arkansas Units 1 and 2 nuclear plants. Indeed, at the Subcommittee's October 2, 1985 hearing, Mr. Dircks reiterated his concern about the safety implications of financial strain on a number of nuclear utilities and that NRC policy in this area might need to be reconsidered. The recent trend toward substantial disallowances for imprudent expenditures and cost-overruns is likely to further tax the financial strength of some nuclear utilities.

The Subcommittee is also aware of information which appears to indicate that management problems at some nuclear power plants are attributable to actual or perceived limitations on financial resources. Financial problems are common to both operating utilities and those with nuclear plants under construction.

Finally, a July 26, 1985 memorandum from Mr. Dircks to the Commission (SECY-85-260) raises a related issue of whether performance incentives and other requirements established by public utility commissions (PUCs) may also serve to shortcircuit safety. The memorandum states: "The concern with incentive plans from a safety standpoint is that, in the interest of short-term economics, pressures may cause utilities to hurry work, take short cuts or delay action in order to meet a deadline, a cost limitation or other factor." The NRC has provided the Subcommittee with documents indicating that approximately 30 nuclear reactors are regulated by performance standards programs.

It is difficult to reconcile the above facts with the Commission's final rule, "Elimination of Review of Financial Qualifications of Electic Utilities in Operating License Review and Hearings for Nuclear Power Plants" (49 Fed. Reg. 35747). The rulemaking, among other things, eliminated financial reviews previously undertaken by NRC and precluded the public from raising finanical qualifications as a material issue in operating license proceedings. The final rule is based on the premise that the "rate process" assures that "...regulated utilities will have the financial resources needed to operate safely...."

The facts, as documented by the Commission, raise serious questions about the relationship of safety to finances. In this context I am interested in whether the Commission still adheres to its publicly stated position on the issue of financial qualifications in the final rule and elsewhere. Specifically, what technical basis does the Commission have for assuring that safety comes first and will not be undercut by financial pressures when it does not conduct financial qualification reviews and does not monitor the financial qualifications of its licensees.

My own view is that this problem has potential significance and warrants the Commission's attention. I firmly believe that a utility's financial situation should not be permitted to justify or excuse any threat to public health and safety. However, I also believe that regulatory devices to ensure cost-effective construction and operation--such as incentive rates and stringent prudency reviews--are essential to protecting the rights of consumers. The potential for economics undercutting safety could be effectively mitigated if both the NRC and state PUCs would adopt and enforce policies through which utilities would be severely fined or otherwise penalized for cutting corners on safety because of economic considerations. It would appear that the Commission should reconsider rulemaking in this area. If the Commission decides not to reconsider this matter, then please provide the Subcommittee with an explanation of why it believes further rulemaking is not necessary. Additionally, if the Commission continues to preclude consideration of financial

qualifications in the licensing process, then provide the Subcommittee with the specific process and criteria thereunder that will be available to the public to explore the adequacy of a licensee's financial qualifications.

I look forward to your response to the issues and questions raised in this letter. Please let me know if I can be of any assistance in this matter.

Sincerely,

Ed Markey

Edward J. Markey
Chairman

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