

September 22, 1983

Hellis
McKenna

Note to Jim Cummings, OIA

Enclosed is a memorandum from our office to IE enclosing a letter from GAP to the Commission which has been referred to the Staff for treatment as a petition under 10 CFR 2.206. GAP's letter (pages 28-34) alleges improper conduct by Region II personnel which may be the subject of a pending OIA injury. Please note that the draft acknowledgment letter to GAP attached to our memorandum states that a copy of GAP's letter has been forwarded to your office. I can provide a copy of the attachments to the petition if you need a copy.

*Put
some
info
in
the
file*

Steve Burns

Steve Burns, OELD

Enclosure: as stated

*See
Catalina*

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(OIA an C-6)

formal contacts between commissioners and any party to the formal licensing hearings during a temporary license proceeding. The commission originally proposed no contacts be barred (Inside NRC, 18 April, 5). The final rule, in an apparent compromise, bans private contacts between commissioners and officials of utilities applying for operating licenses or intervenors in licensing hearings, but the rule allows commissioners to meet behind closed doors with NRC staffers as long as a summary of the meeting is placed in the record.

In a memo to the commissioners, NRC Executive Director for Operations William Dircks said the staff still believed no restrictions were legally necessary, but recognized, "as a practical matter (that) the commission's proposed position would have presented a substantial risk of its informal actions in the temporary operating licensing proceeding contaminating the formal, on-the-record licensing proceeding."

Asselstine wrote in his dissent, "Even though a written summary of these private contacts would be made, I believe that this approach with respect to the NRC staff has the real potential to create at least the appearance of unfairness in the commission's role as ultimate judge on the contested issues in the operating license proceeding." That perception, he wrote, is likely to lead to more court challenges to NRC decisions, bringing "a new source of uncertainty and unpredictability" to licensing. Gilinsky said he believes changes are needed in the current rules governing commission contacts in all adjudicatory proceedings, but he thinks the rules, whatever they are, should be applied uniformly to all licensing proceedings.

Dircks said many of those commenting on the proposed rule objected that no specific mention was made of emergency planning that would be required for a temporary license. Dircks said the staff believes that, since the law allowing temporary licenses requires the commission to make a finding that the licensed operation won't harm public health, review of emergency planning is already covered.

The rule cannot take effect until 30 days after it is published in the Federal Register, and that publication was not expected until late last week. NRC cannot formally process any application for a temporary license until the 30 days expire, according to Dircks's memo, and any petition for an operating license must itself be noticed in the Federal Register and the public given 30 days to comment before the commission can vote. Before publishing a petition, NRC must determine that it meets the rule's requirements. As a result, the earliest any temporary license could come to the commission for a vote is late December, right before the commission's current authority to grant a temporary license expires.

Extension of that authority for one year has been narrowly approved by a Senate subcommittee but its fate is considered uncertain in the Senate Environment & Public Works Committee where no vote has yet been scheduled (Nucleonics Week, 29 Sept., 2). One of the House committees overseeing NRC has approved a 21-month extension of that authority but another passed out an authorization bill without the language because neither NRC nor industry had asked for an extension at that time. A compromise is considered possible in the package being put together by two committees to go to the House Rules Committee, but there is some doubt. Capitol Hill sources say industry lobbyists are now behind the provision and it will not die without a fight, but some environmental groups are uncomfortable with the idea of temporary licensing and some members of Congress and their staffs feel they were "duped" by industry on the provision last time around. Industry speakers argued that a dozen plants were ready for licensing and hearings were delaying them, but so far no plant has been ready for a temporary license.

Possible applicants, according to the latest count on Capitol Hill, include Duke Power's Catawba-1, Philadelphia Electric's Limerick-1, Texas Utilities Generating Co.'s Comanche Peak-1, and Long Island Lighting Co.'s Shoreham, though diesel generator problems at Shoreham may well delay fuel loading there beyond the time the licensing board concludes its hearing. — Margaret Ryan

CATAWBA BOARD WILL KEEP WORKERS ALLEGATIONS CONFIDENTIAL

Workers at Duke Power's Catawba-1 can report safety concerns in confidence to the Atomic Safety & Licensing Board, the board has ruled. In an unprecedented ruling fought both by the NRC staff and Duke Power, the licensing board said it will consider statements from workers delivered by Oct. 21 and could hold a closed hearing to take confidential worker testimony if serious problems are uncovered. No board has ever solicited worker testimony directly before, though workers have been witnesses for intervenors.

The ruling, issued last week, was a victory for intervenor Palmetto Alliance and the Government Accountability Project (GAP) who have been claiming workers have told them of construction practices amounting to coverup of unsafe conditions, charges Duke has been denying. The board required Duke to post notice of the ruling at the Catawba site.

GAP has been maintaining that workers with complaints can't trust NRC Region II inspectors not to violate confidences, and wants a special investigator assigned to hear their complaints. GAP made the request in an Oct. 6 letter to NRC Chairman Nunzio Palladino, asking that he either name a special investigator to conduct or supervise the investigation of worker allegations or find some way of insuring workers that their allegations will remain confidential. GAP has also asked Rep. Morris Udall (D-Ariz.), chairman of the House

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11 PM

TELEPHONE OR VERBAL CONVERSATION RECORD

☐ INCOMING CALL

☒ OUTGOING CALL

☐ VISIT

PERSON CALLING

PM

OFFICE/ADDRESS

OTK

PHONE NUMBER

EXTENSION

PERSON CALLED

B P Gude

OFFICE ADDRESS

(H)

PHONE NUMBER

EXTENSION

CONVERSATION

SUBJECT

83 74 (with number) - Cuba

SUMMARY

once out of line with this SM -
left msg to call - Pat

REFERRED TO:

ACTION REQUESTED

ACTION TAKEN

11 / REVISION OF
ACTION TAKEN

INITIALS

DATE

INITIALS

DATE

W-2