

October 9, 2012

Statement of Friends of the Earth, Natural Resources Defense Council (NRDC), and Committee To Bridge The Gap on NRC Public Meeting for San Onofre Nuclear Reactors

The public meeting to be held by the NRC on October 9th, 2012 on the current shutdown of the San Onofre nuclear reactors is a disappointing effort to make a show of public participation, while denying the public its meaningful role in decision-making provided for under the Atomic Energy Act and the NRC's own rules.

On June 18, 2012, Friends of the Earth filed a petition requesting that the Nuclear Regulatory Commission (NRC or "Commission") hold an adjudicatory hearing on the issue of whether Southern California Edison (Edison) is entitled to a license amendment that would permit it to operate the San Onofre reactors Units 2 and 3 with replacement steam generators. NRDC responded in support of FOE's petition ten days later. Subsequent to that, Edison and NRC Staff urged that FOE's petition be denied and the public be provided no rights to a hearing on the matter. All responses and reply briefs in this matter were completed by July 20, 2012.

More than three months have now passed since Friends of the Earth requested that the Commission issue a stay of restart and commence a license amendment proceeding, including a public hearing process. In that time, the Commission has failed even to place the issue on its agenda, much less rule on Petitioner's request. In the extended interim, Edison has announced plans to restart one of the reactor units with no indication that it intends to seek a license amendment.

The irony here is that the inherent design flaws in the replacement steam generators went undetected precisely because the licensee and NRC Staff failed to subject them to the more exacting safety review that would have accompanied a license amendment proceeding. The NRC and Edison now propose to double-down on this original omission by again denying the public its rightful statutory role, this time in assessing the safety of a proposed San Onofre reactor restart. Edison now proposes to operate Unit 2 at what the licensee believes to be a new safe operating limit of 70% of its licensed power rating, to compensate for the impaired heat-removal capacity of the defective steam generators.

Like the unexamined changes to the design of the replacement steam generators, this significant change in the allowable conditions for safe operation of Unit 2 rises to the level of a license amendment proceeding in which, by law, the public is entitled to participate. This process is necessary for transparent, detailed, independent scrutiny of equipment and potential operating conditions that differ from those provided for in the existing license.

A public meeting simply talking about the fact of Edison and the NRC staff's private review of the safety of these replacement steam generators is not a substitute for the open license amendment process that permits testimony from independent experts and a decision by an independent panel with no previous involvement in the case.

For these reasons, we believe the October 9th meeting is but a reflection of a decision-making process that fails to include independent experts or even an impartial judge. It is an illusion of public participation that treats the public as a mere observer, and not as a participant as the Atomic Energy Act and NRC rules require. It is exactly this process – excluding the public and avoiding necessary independent review – that allowed the most defective steam generator design in the history of the U.S. nuclear industry to be approved. Continuing this private process only between Edison, who designed the crippled equipment, and NRC Region IV staff, who allowed for the flawed design in the first instance, does not meet the requirement of a regulatory process leading to high confidence that the statutory requirement for “adequate protection of the public health and safety” will be maintained.

Rather than limiting the public’s role to more such “informational” but ultimately disempowering informal meetings outside the license amendment process, the Commission should cease its unseemly “pocket-veto” of FOE’s pending petition and allow members of the public to exercise their statutory rights to an adjudicatory hearing on the relevant San Onofre nuclear safety issues outlined above.

Sincerely,

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