



May 14, 2004

William D. Travers, Executive Director for Operations
U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001

SUBJECT: PETITION PURSUANT TO 10 CFR 2.206 – “COMMITMENT” TO SAFETY

Dear Dr. Travers:

On behalf of Greenpeace, the Nuclear Information and Resource Service (NIRS), and the Union of Concerned Scientists (UCS), I submit this petition pursuant to 10 CFR 2.206 seeking to provide the Nuclear Regulatory Commission (NRC) with the means for enforcing commitments made by owners of operating nuclear power reactors. We had been laboring under the impression that the NRC had this authority. Then Mr. James Riccio of Greenpeace received the Director’s Decision to another 2.206 petition via a letter dated April 22, 2004, from Mr. James Dyer of NRC. Mr. Dyer stated (or at least signed the letter which stated):

Reasonable assurance of adequate protection of public health and safety is, as a general matter, defined by the Commission’s health and safety regulations themselves. **In most cases, the agency cannot take formal enforcement action solely on the basis of whether licensees fulfill commitments, as failure to meet a commitment in itself does not constitute a violation of a legally binding requirement.** However, when failures to meet commitments result in violations of the Commission’s health and safety regulations, the staff will take the appropriate enforcement actions.¹ [*emphasis added*]

The NRC’s admission that “*failure to meet a commitment in itself does not constitute a violation of a legally binding requirement*” shocked us. We knew the history behind licensing commitments as articulated in NRC Regulatory Issue Summary 2000-17:

The NRC staff sees benefits in maintaining regulatory commitments as an integral part of control by licensees and the NRC staff of each facility’s licensing basis information. The staff has described, in various Commission papers and internal guidance documents, a hierarchal structure for the various elements of a facility’s licensing basis. ... The levels of hierarchy are (1) obligations or regulatory requirements that require prior NRC approval of proposed changes, (2) mandated licensing basis documents, such as the updated final safety analysis report, for which the NRC has established requirements for content, change control and reporting, and (3) **regulatory commitments controlled by licensee and NRC administrative processes.**² [*emphasis added*]

¹ Letter dated April 22, 2004, from J. E. Dyer, Director – Office of Nuclear Reactor Regulation, Nuclear Regulatory Commission, to James P. Riccio, Nuclear Policy Analyst, Greenpeace.

² Nuclear Regulatory Commission, Regulatory Issue Summary 2000-17, “Managing Regulatory Commitments Made by Power Reactor Licensees to the NRC Staff,” September 21, 2000.

We knew that “regulatory commitment” had specific meaning to the NRC and its power reactor licensees:

Regulatory Commitment means an explicit statement to take a specific action agreed to, or volunteered by, a licensee *and* submitted in writing on the docket to the NRC.³ [emphasis added]

We knew that the NRC staff formally reviewed and accepted the Nuclear Energy Institute’s (NEI’s) guidance document containing this definition for “regulatory commitment.”⁴ We knew that the NRC’s Office of Nuclear Reactor Regulation (NRR) developed an internal procedure for handling “regulatory commitments:”

Regulatory commitments are appropriate for matters in which the staff has significant interest but which do not warrant either legally binding requirements or inclusion in Updated Final Safety Analysis Reports (UFSARs) or programs subject to a formal regulatory change control mechanism. **Nevertheless, the regulatory process appropriately relies on commitments in many instances and the NRC expects licensees to honor, in good faith, commitments that have a safety or regulatory purpose.**⁵ [emphasis added]

We had, and still have, concerns about reliance upon “good faith,” but we knew that the NRC’s internal procedure required the NRR Project Managers to formally audit the commitment management processes used by plant owners – in other words, to follow-up on “good faith” with President Reagan’s “trust, but verify” approach:

According to LIC-105, a “regulatory commitment” as defined in NEI 99-04 and also for the NRC staff, is an explicit statement to take a specific action agreed to, or volunteered by, a licensee and submitted in writing on the docket to the NRC. LIC-105 further directs the NRR Project Manager to “audit the licensee’s commitment management program by assessing the adequacy of the licensee’s implementation of a sample of commitments made to the NRC in past licensing actions (amendments, reliefs, exemptions, etc.) and activities (bulletins, generic letters, etc.)” The audit is to be performed every 3 years.⁶ [emphasis added]

And we have long known that Title 10, Energy, of the *Code of Federal Regulations* contained these requirements:

§ 50.9 Completeness and accuracy of information.

(a) **Information provided to the Commission by an applicant for a license or by a licensee or information required by statute or by the Commission’s regulations, orders, or license conditions to be maintained by the applicant or the licensee shall be complete and accurate in all material respects.** [emphasis added]

and

§ 54.3 Definitions

³ Nuclear Energy Institute, NEI-99-04 Rev. 0, “Guidelines for Managing NRC Commitment Changes,” July 1999.

⁴ NRC Memo dated February 22, 2000, from William D. Travers, Executive Director for Operations, to Chairman and Commissioners, SECY-00-0045, “Acceptance of NEI 99-04, “Guidelines for Managing NRC Commitments.””

⁵ Nuclear Regulatory Commission, NRR Office Instruction LIC-105, “Managing Regulatory Commitments Made by Licensees to the NRC,” May 27, 2003.

⁶ Letter dated December 10, 2003, from Peter S. Tam, Senior Project Manager, Nuclear Regulatory Commission to Peter E. Katz, Vice President Nine Mile Point, “Audit of the Licensee’s Management of Regulatory Commitments.”

Current licensing basis (CLB) is the set of NRC requirements applicable to a specific plant and a licensee's written commitments for ensuring compliance with and operation within applicable NRC requirements and the plant-specific design basis (***including all modifications and additions to such commitments over the life of the license***) that are docketed and in effect. The CLB includes the NRC regulations contained in 10 CFR Parts 2, 19, 20, 21, 26, 30, 40, 50, 51, 54, 55, 70, 72, 73, 100 and appendices thereto; orders; license conditions; exemptions; and technical specifications. It also includes the plant-specific design-basis information defined in 10 CFR 50.2 as documented in the most recent final safety analysis report (FSAR) as required by 10 CFR 50.71 and ***the licensee's commitments remaining in effect that were made in docketed licensing correspondence*** such as licensee responses to NRC bulletins, generic letters, and enforcement actions, ***as well as licensee commitments documented in NRC safety evaluations or licensee event reports.*** [*emphasis added*]

Armed with knowledge of these undeniable facts, we cannot fathom any possible basis for the NRC's professed belief that "*failure to meet a commitment in itself does not constitute a violation of a legally binding requirement.*" After all, the aforementioned facts establish that both the nuclear industry and the NRC view "regulatory commitments" as explicit statements to take specific actions made in writing and provided to the NRC on the docket. Therefore, if any plant owner failed to meet a commitment (i.e., did not take the specific action as described in an explicit, written statement placed on the docket), it seems plain beyond any reasonable doubt that the owner, as a minimum, violated the legally binding requirement under 10 CFR 50.9 to provide the NRC with information that is "*complete and accurate in all material respects.*" It seems equally plain from 10 CFR 54.3 that NRC requirements include rather than exclude "*licensee's commitments.*"

But it matters little what the regulations say or what we understand the regulations to say. What matters most is what the NRC staff believes the regulations to say. And the NRC staff explicitly stated in writing that that "*failure to meet a commitment in itself does not constitute a violation of a legally binding requirement.*" Shocking!

This petition seeks to correct the NRC staff's misconception regarding commitments and their enforceability. And we thank the NRC staff for outlining the measures it feels it needs to be able to make "*failure to meet a commitment*" a "*violation of a legally binding requirement.*" In recent years, the NRC staff has issued several Confirmatory Orders to plant owners who had committed to take specific actions, in writing. For example:

On October 3, 2002, ***an Immediately Effective Confirmatory Order was issued to Exelon and AmerGen in order to confirm certain commitments to assure the Licensee's compliance with the Commission's employee protection requirements.***⁷

On August 4, 2000, ***an immediately effective Confirmatory Order was issued to confirm commitments made by the licensee concerning the implementation of corrective actions for the physical security program at the Waterford 3 facility.***⁸

Apparently, the NRC staff issued these Confirmatory Orders so as to be able to treat "*failure to meet a commitment*" as a "*violation of a legally binding requirement.*" If Confirmatory Orders are what the NRC staff believes is necessary, it's the least the Petitioners can do to provide the NRC staff what it needs but currently lacks. Hence, the Petitioners request that the NRC issue Confirmatory Orders to licensees of all

⁷ Nuclear Regulatory Commission, "Office of Enforcement Annual Report: Fiscal Year 2003," EA 02-124 Exelon Generation Company, LLC and AmerGen Energy Company LLC Multiple Reactor Facilities.

⁸ Nuclear Regulatory Commission, "Office of Enforcement Annual Report: Fiscal Year 2000," EA 00-093 Entergy Operations, Inc. Waterford.

operating power reactor for all “regulatory commitments” placed on the dockets between January 1, 2000, and June 30, 2004, inclusive. To restate for the record:

Requested Actions: The Petitioners request that the NRC issue Confirmatory Orders to the licensees of all operating nuclear power reactors for all “regulatory commitments” placed on dockets between January 1, 2000, and June 30, 2004, inclusive.

Now, the nuclear industry and perhaps even the NRC may argue that it’s an unnecessary burden for regulatory commitments to be backed up by Confirmatory Orders. The Petitioners would, in fact, share that opinion if the NRC staff viewed “*failure to meet a commitment*” as a “*violation of a legally binding requirement*” at least with respect to 10 CFR 50.9. But the NRC staff, by its words to Mr. Riccio and its actions in Enforcement Actions 02-124 and 00-093, clearly demonstrate that it lacks this view and for some reason feels its hands are tied with respect to enforcing commitments. Thus, the requested actions in this petition become a necessary burden if the NRC staff is to satisfy its other goal to “maintain safety.”

The very same logic that NRC applied in Enforcement Actions 02-124 and 00-093 to avoid the “unnecessary burden” waters and ride the “maintain safety” horse to issuance of Confirmatory Orders also applies to other regulatory commitments. The NRC’s granting of Notices of Enforcement Discretion (NOEDs) to plant owners may be the quintessential example. The NRC staff often grants NOEDs that allow power reactors to continue operating in violation of their Technical Specifications (i.e., with a known and documented “*violation of a legally binding requirement*”). As reflected in the sampling of NOEDs below, the NRC almost always bases its grants on compensatory measures committed to by the plant owners. In other words, the NRC permits legally binding Technical Specification requirements to be violated based on compensatory measures that, in its view, are not “*legally binding requirements.*”

St. Lucie Unit 2 NOED:

These compensatory measures included:

1. No Unit 2 safety-related equipment will be removed from service for planned maintenance.
2. No work will be performed on or in the vicinity of the 2A startup transformer.
3. No work will be performed on 4160v switchgear except that required to return the 2B startup transformer to service.
4. No work will be performed which will potentially jeopardize either unit operation (i.e., waterbox flushing, pump swaps, etc.).
5. With the exception of work related to restoration of the 2B startup transformer, no switchyard work will be performed.
6. **The 2AB bus will remain aligned to the “A” side.**
7. No EDG (on either unit) or station blackout bus tie work will be performed.
8. There will be senior management oversight to ensure timely restoration of the 2B startup transformer.
9. The system dispatcher was contacted to confirm that in the event system degradation or perturbation were to occur, the control room will be notified.
10. **Administrative controls will be put in place to limit access to equipment such as: 2A and 2B auxiliary transformers, 2A startup transformer, 2A and 2B EDG, and switchyard.**
11. **Any forecast of severe weather will be evaluated by the Shift Manager for potential impact on offsite power sources. If such as impact is identified, then with concurrence of the Manager of Operations or Supervisor of Operations, the**

NRC Senior Resident Inspector will be notified, and Unit 2 will be shut down in an orderly manner.⁹ [*emphasis added*]

Calvert Cliffs NOED:

As compensatory measures during the period of the NOED, your staff committed to: (1) not performing elective maintenance on the No. 2B EDG, (2) maintaining the station blackout OC EDG aligned to the affected bus, (3) not performing any discretionary maintenance or testing on any power block equipment that would contribute an increase to Calvert Cliffs probabilistic risk assessment (PRA) risk, (4) reviewing with control room operators the actions to be taken should a loss of offsite power occur, (5) **shutting down Unit 2 if the plant is threatened by tornado or hurricane warning**, and (6) not conducting maintenance or testing on the offsite power system (which had all four offsite power lines available).¹⁰ [*emphasis added*]

Perry NOED:

For compensatory measures, during the additional time that the ESW pump was inoperable, your staff committed to the following: (1) alternate trains of AC/DC electrical systems, ESW, residual heat removal, high pressure core spray, the motor feed pump, the diesel fire pump, Bus L 10, and the reactor core isolation cooling system would be posted as protected in the plant and control room; (2) all scheduled work would be reviewed for current plant risk; (3) **access to risk sensitive areas would be restricted**; (4) all Division 2 and 3 equipment would be maintained operable; (5) your staff would notify the load dispatcher to suspend work that could affect the stability of offsite power to the Perry switchyard; and (6) shiftly briefs of the operators would be conducted on the enforcement discretion, ESW system status, and contingency requirements.¹¹ [*emphasis added*]

Catawba NOED:

The interim compensatory measures you put in place until the 1A CCS heat exchanger can be returned to service are integral to your no net increase in risk determination. These interim compensatory measures include: (1) **mitigating the dominant risk of turbine building flood by controlling work on associated systems and increasing turbine building rounds by plant operators**; (2) precluding discretionary maintenance or testing on the offsite power system and maintaining operability of required offsite circuit; (3) precluding discretionary maintenance on the Unit 1 and Unit 2 emergency diesel generators and nuclear service water system; (4) precluding discretionary maintenance on the Unit 1 standby shutdown system, instrument air system, emergency core cooling systems, and hydrogen igniters; and (5) precluding maintenance on CSS train 1B, which was re-tested satisfactorily on May 10, 2003.¹² [*emphasis added*]

⁹ Letter dated November 25, 2003, from Luis A. Reyes, Regional Administrator, Nuclear Regulatory Commission, to J. A. Stall, Senior Vice President Nuclear and Chief Nuclear Officer, Florida Power and Light Company, "Notice of Enforcement Discretion (NOED) for Florida Power and Light Regarding St. Lucie Unit 2."

¹⁰ Letter dated October 16, 2003, from A. Randolph Blough, Director – Division of Reactor Projects, Nuclear Regulatory Commission, to George Vanderheyden, Vice President – Calvert Cliffs Nuclear Power Plant, Constellation Generation Group LLC, "Notice of Enforcement Discretion for Constellation Nuclear Regarding Calvert Cliffs Unit 2."

¹¹ Letter dated September 10, 2003, from Geoffrey E. Grant, Director – Division of Reactor Projects, Nuclear Regulatory Commission, to William R. Kanda, Vice President – Nuclear Perry, FirstEnergy Nuclear Operating Company, "Notice of Enforcement Discretion for FirstEnergy Nuclear Operating Company Regarding Perry (NOED 03-006)."

¹² Letter dated May 13, 2003, from Luis A. Reyes, Regional Administrator, Nuclear Regulatory Commission, to G. R. Peterson, Site Vice President – Catawba Nuclear Station, Duke Energy Corporation, "Notice of Enforcement Discretion (NOED) for Duke Energy Corporation Regarding Catawba Unit 1."

Columbia Generating Station (formerly known as Washington Nuclear Plant Unit 2) NOED:

The safety basis submitted by Energy Northwest included compensatory measures and an evaluation of the potential impact on public health and safety and the environment. The safety basis submitted indicated that the proposed enforcement discretion did not involve a net increase in radiological risk and would not be a potential detriment to public health and safety and that no significant hazard consideration was involved. This assessment was based on your implementation of the proposed compensatory measures, and other qualitative arguments involving challenges to plant systems, such as increased potential for plant transients or disturbances, which can occur during shutdown evolutions, with DG-1 inoperable. Among the compensatory measures, the most significant improvements to plant risk are: (1) no elective maintenance on risk significant systems and equipment; (2) **the staging of a portable diesel generator capable of powering battery chargers for establishing the ability to maintain battery voltages necessary for reactor core isolation cooling system and the automatic depressurization system to function for a longer period during a station blackout condition**; (3) restriction of the performance of elective work on offsite sources; and (4) the deferral of additional surveillance tests that can be performed after February 27, 2003.¹³ [*emphasis added*]

D. C. Cook NOED:

“...an Exercise of Enforcement Discretion letter was issued ...due to I&M’s commitment (MC-0350 restart check list item (6) to address MOV issues prior to plant restart...”¹⁴

Clinton Power Station NOED:

“...the NRC exercised discretion ... and refrained from issuing a civil penalty of a Notice of Violation for violations that could be classified at Severity Level III concerning the failure to take adequate corrective actions for a long-standing, nonconforming conditions involving excessive service water flow to the residual heat removal heat exchanger bypass line.... Additional enforcement action was not considered necessary to achieve remedial action for the violations due to Clinton Power Station’s commitments in its Plan for Excellence to take actions to address the corrective action program issues prior to restart...”¹⁵

The compensatory measures were explicitly stated specific actions submitted in writing to the NRC by the plant owners. They were essentially conditions under which NRC granted the NOEDs and thus very material to the regulatory decision-making process. They were, therefore, regulatory commitments. But if Columbia Generating Station’s owner had failed to stage the portable diesel generator or if Perry’s owner had failed to restrict access to risk sensitive areas or if Calvert Cliffs’ owner had not shut down Unit 2 after the National Weather Service issued a tornado warning for the area, that “*failure to meet a commitment in itself does not constitute a violation of a legally binding requirement,*” at least in the NRC’s view. The NRC cannot “maintain safety” by swapping what it perceives to be non-binding requirements for known non-compliances with Technical Specifications. Our petition corrects that problem for the NRC staff.

In fact, our petition solves other problems for the NRC staff as it “maintains safety.” One of the many lessons learned from the most recent debacle at Davis-Besse is that the plant owner failed to abide by its regulatory commitments to the NRC. For example, the owner committed to measures within a boric acid

¹³ Letter dated February 21, 2003, from Ellis W. Merschoff, Regional Administrator, Nuclear Regulatory Commission, to J. V. Parrish, Chief Executive Officer, Energy Northwest, “Notice of Enforcement Discretion (NOED) for Energy Northwest Regarding Columbia Generating Station.”

¹⁴ Nuclear Regulatory Commission, “Office of Enforcement Annual Report: Fiscal Year 1999,” EA 98-509 Indiana and Michigan Power, D.C. Cook.

¹⁵ Nuclear Regulatory Commission, “Office of Enforcement Annual Report: Fiscal Year 1998,” EA 98-103, Illinois Power Company, Clinton Power Station.

control program, but failed to take many of those steps. As a result, they operated Davis-Besse to within two to thirteen months of a very serious loss-of-coolant accident. Since it is the NRC's view that "failure to meet a commitment in itself does not constitute a violation of a legally binding requirement," our petition helps the NRC staff by converting unenforceable into enforceable. Some examples of "non-binding" commitments made by plant owners in response to NRC's safety concerns:

Commitments About Service Water Safety Concerns (Generic Letter 89-13):

The revised commitment states that Byron's Generic Letter 89-13 program will include trending of heat exchanger performance testing and inspections so that the optimal testing or inspection interval can be determined but not longer than once every five years (subject to a +/- 25% grace period) for each heat exchanger.¹⁶

Commitments About Control Room Habitability Safety Concerns (Generic Letter 2003-01):

Commitment ¹⁷	Duane Arnold	Monticello	Kewaunee	Palisades
Perform the ASTM E741 testing (T) and provide the requested response to GL 2003-01 Item 1(a)	September 2004 T + 90 days	August 2004 T + 90 days	December 2004 T + 90 days	November 2004 T + 90 days
Verify by ASTM E741 testing that the most limiting inleakage had been incorporated into the hazardous chemical assessment	T + 90 days	T + 90 days	T + 90 days	T + 90 days
Perform a smoke assessment	T + 90 days	February 23, 2004	May 1, 2004	T + 90 days
Develop technical specification changes (and any associated plant modifications)	T + 120 days	T + 120 days	T + 120 days	T + 120 days

Commitments About PWR Mid-Loop Operation Safety Concerns (Generic Letter 88-17):

In accordance with the NEI Commitment Change process (NEI 99-04), a commitment contained in the BVPS response to NRC Generic Letter 88-17 issued on January 13, 1989 to maintain a self-study guide available for appropriate plant personnel as a training method to be used shortly before entering a reduced RCS inventory condition is being modified to use "Just-In-Time" training and the Infrequently Performed Task for Evolution (IPTE) program in place of a self-study guide.¹⁸

Commitments About Instrument Air System Safety Concerns (Generic Letter 88-14):

In accordance with the NEI Commitment Change process (NEI 99-04), a commitment contained in the BVPS response to NRC Generic Letter 88-14 issued on February 17, 1989 that instrument air systems should maintain a dew point under 35°F is being modified to indicate that the dew points on indoor installation may exceed 35°F provided the dew point at line pressure is at least

¹⁶ Letter dated April 1, 2004, from Stephen E. Kuczynski, Site Vice President – Byron Station, Exelon Corporation, to Nuclear Regulatory Commission, "Regulatory Commitment Change Summary Report."

¹⁷ Letter dated November 25, 2003, from Edward J. Weinkam, Director – Regulatory Services, Nuclear Management Company LLC, to Nuclear Regulatory Commission, "Generic Letter 2003-01: Control Room Habitability – Response to Commitments."

¹⁸ Letter dated October 29, 2003, from L. William Pearce, Site Vice President – Beaver Valley Power Station, FirstEnergy Nuclear Operating Company, to Nuclear Regulatory Commission, "Commitment Changes and Report of Facility Changes, Tests and Experiments."

18°F below the minimum temperature to which any part of the instrument air system is exposed at any season of the year.¹⁹

Commitments About BWR Vessel Internals Aging Concerns (Generic Letter 88-01):

We shall perform an inspection of the drywell each refueling outage. We shall perform an inspection of the wetwell periodically to coincide with ASME Section XI, Subsection IWE containment inspections.²⁰

and also

Inspections of IGSCC susceptible welds will be done in accordance with BWRVIP-75 guidance for normal water chemistry, and Risk-Informed Inservice Inspections.²¹

These examples, and many more like them from Licensee Event Reports, responses to Notices of Violations, etc., involve plant owners resolving safety concerns through regulatory commitments to the NRC. But the NRC feels that “*failure to meet a commitment in itself does not constitute a violation of a legally binding requirement.*” Thus, the agency lacks reasonable assurance that measures promised to mitigate safety concerns will, in fact, be taken. Furthermore, if the NRC discovers that a commitment has not been met, it lacks the wherewithal to compel compliance because it views commitments as not being legally binding requirements. That’s where the Confirmatory Orders requested by this petition come to the aid of the beleaguered staff. By converting all these non-binding requirements into Confirmatory Orders, the NRC staff will “maintain safety” by imposing a “necessary burden” on its licensees.

But this petition helps the NRC staff in even additional ways. The agency is very keen lately for voluntary industry initiatives. There have been workshops and meetings and Commission briefings and such all devoted to nothing other than voluntary industry initiatives. Quoting from a SECY paper on the subject:

The most likely voluntary industry initiative is the second type described above: one that is undertaken by the industry in lieu of a regulatory action to ensure that compliance continues to be maintained or corrective actions will be taken to achieve compliance. The Boiling Water Reactor Vessel Internals Project (BWRVIP) is an example of such a program. This proactive program was instituted to address the potential for intergranular stress corrosion cracking of austenitic stainless steel and Alloy 600 safety-related components. The staff and industry agreed that a voluntary program in lieu of a regulatory action would be advantageous for addressing long-term aging concerns. All BWR licensees participate in the BWRVIP. The program entails developing generic industry guidelines for inspection scope and frequency, flaw evaluation, and repair of BWR internal components. The schedule for completing the program addressed the most important components from a safety perspective first. **The program was implemented by commitments from all BWR owners to adhere to the program or inform the staff of any plant-specific deviations.**²² [emphasis added]

Once again, the petition helps the NRC staff by converting non-binding and therefore unenforceable commitments made by plant owners in voluntary industry initiatives into genuine, bonafide, legally binding requirements. Absent this conversion, the NRC staff gets “commitments” from plant owners to “to adhere to the program.”

¹⁹ Letter dated October 29, 2003, from L. William Pearce, Site Vice President – Beaver Valley Power Station, FirstEnergy Nuclear Operating Company, to Nuclear Regulatory Commission, “Commitment Changes and Report of Facility Changes, Tests and Experiments.”

²⁰ Letter dated August 12, 2003, from Susan R. Landahl, Plant Manager – LaSalle County Station, Exelon Corporation, to Nuclear Regulatory Commission, “2002 Regulatory Commitment Change Summary Report.”

²¹ Letter dated August 12, 2003, from Susan R. Landahl, Plant Manager – LaSalle County Station, Exelon Corporation, to Nuclear Regulatory Commission, “2002 Regulatory Commitment Change Summary Report.”

²² NRC Memo dated March 2, 1999, from William D. Travers, Executive Director for Operations, to Chairman and Commissioners, SECY-99-063, “The Use By Industry of Voluntary Initiatives in the Regulatory Process.”

In summary, the petitioners neither agree with nor understand the basis for the NRC staff's feeling that *"failure to meet a commitment in itself does not constitute a violation of a legally binding requirement."* To protect public health and safety from this NRC staff viewpoint, the Petitioners request that the NRC issue Confirmatory Orders to licensees of all operating power reactor for all "regulatory commitments" placed on the dockets between January 1, 2000, and June 30, 2004, inclusive.

Sincerely,

<ORIGINAL SIGNED BY>

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