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COMPTROLLER GENERAL OF THE UNITED STATES
WASHINGTON D.C. 20548

B-204678

October 14, 1981

The Honorable William V. Roth, Jr.
Chairman, Committee on Governmental Affairs
United States Senate

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Dear Mr. Chairman:

Subject: Proposed nuclear insurance and Three Mile Island cleanup assistance legislation (EMD-82-B1).

Your letter of August 5, 1981, requested our comments on S.1226, 97th Congress, a bill to provide for supplemental insurance to cover damages to nuclear powerplants, including certain remedial action at the Three Mile Island facility. Our comments rely principally on the results of our assessment of the current levels of property damage insurance coverage for nuclear powerplants and the need to provide funding to complete the cleanup of the damaged reactor at Three Mile Island. This assessment was included in our report "Greater Commitment Needed to Solve Continuing Problems at Three Mile Island" (EMD-81-106, August 26, 1981).

NEED FOR ADDITIONAL PROPERTY DAMAGE INSURANCE

The supplemental property damage insurance provided under Section 6 of the proposed Act is a much needed measure that has been made evident by the limited insurance proceeds available to cover cleanup costs at Three Mile Island. The $300 million available to the General Public Utilities Corp. for that purpose is less than one-third of the estimated total cost. The under-insured status of utilities with nuclear reactors has been recognized and available insurance coverage has been increased to $450 million. The electric utility industry and private insurance pools are currently in the process of arranging insurance coverage up to $1 billion. Once this program is in place, insurance company officials expect to consider ways to increase the amount even farther if determined to be necessary.

Insurance coverage under the proposed Act differs from the private sector offering in two major respects. Section 6 of the proposed Act would provide at least $2 billion of coverage, twice the amount presently planned for by the

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private sector. In addition, participation in the program offered by the National Nuclear Property Insurance Corporation --established under Section 3 of the proposed Act--would be a requirement of the nuclear reactor operating license whereas participation in the private sector program would be voluntary.

Even though it is generally agreed by all concerned that the present $450 million coverage is inadequate, there is a question as to what amount is adequate. In our August 26, 1981, report, we recommended that the Nuclear Regulatory Commission (NRC) address that question and report its findings on the insurance coverage issue to the Congress in early 1982. Consequently, we have some reservations about committing electric utilities to a larger insurance program than might be necessary. Furthermore, Section 7 of the proposed Act establishes a $750 million reserve with the remaining coverage being an obligation of the utility companies. This obligation will be met from additional assessments as needed and specified by the Corporation. If NRC determines that the private sector's $1 billion coverage is inadequate, we believe Congress should authorize the NRC to permit the primary insurance companies to levy and collect assessments from each insured utility on a pro-rata basis in the event damages exceed $1 billion. This would accomplish the objective of the proposed Act and negate the need for a quasi-governmental insurance corporation.

The mandatory insurance coverage provided under Section 6 includes amounts to rehabilitate the nuclear facility following the cleanup effort. This appears to account for the large amount of supplemental coverage. We question the propriety of including the rehabilitation costs in a mandatory insurance program because (1) the Federal Government's responsibility in the nuclear power area has been limited to protecting public health and safety and (2) utilities are already required to insure their assets under the terms of mortgage instruments. We believe it would be appropriate to make a distinction between decontamination/ cleanup insurance and rehabilitation insurance.

CLEANUP FUNDING FOR THREE MILE ISLAND UNIT 2

The concept of sharing the cost of cleaning up the damaged reactor at Three Mile Island is incorporated in our August 26, 1981, report and in the Pennsylvania Governor's funding proposal of July 9, 1981; it has also been endorsed by representatives of the investor-owned electric utility companies. Section 8 of the proposed Act would implement this concept by providing the General Public Utilities Corp. 75 percent of the uninsured cleanup costs remaining when S.1226 is enacted. Section 8 makes this contribution from insurance premiums contingent on the development of a plan established jointly by the

Pennsylvania and New Jersey Commissions; we endorse this pre-condition as a necessary part of any external contribution of funds.

We do question, however, the relatively large percentage of cleanup funding that would be contributed by other utilities --and presumably by their ratepayers--on a grant basis. Not only is the commitment open-ended in amount, but it relieves General Public Utilities Corp. customers from most of the responsibility of supporting a System that has provided them with large amounts of low-cost nuclear energy in the past and will do so in the future. While we firmly believe in sharing the cleanup costs, we also believe the provision in Section 8 is inequitable to customers of non-General Public Utilities Corp. companies.

The use of S.1226 to provide for cleanup costs limits the utility industry's contribution to companies with nuclear reactor generating units, because they would be the only companies buying insurance coverage from the Corporation. The investor-owned utilities have recently agreed to a $190 million, 6 year contribution towards the cleanup costs, but they envision this contribution being spread among all utilities rather than just those with nuclear reactors. Requiring industry participation through S.1226 could complicate, if not negate, the present industry agreement for sharing the cost.

CONCLUSIONS

The proposed Act incorporates solutions to two basic problems arising from the Three Mile Island accident. While we agree with the principles encompassed in the solutions, we think methodologies other than those proposed could be developed. As stated earlier, we believe the insurance issue can be best handled by the private sector, or at least operated through its institutional framework, and therefore decoupled from the proposed Act. This would require, however, that a separate mechanism be developed by which the cleanup contribution agreed to by the investor-owned utilities could be collected and transmitted to the General Public Utilities Corp. We have not explored the viability of possible alternative solutions but believe that this should be done before final action is taken on the proposed Act.

Although we believe that congressional approval of S.1226 at this time would be premature and reliance on the private sector for providing both additional insurance coverage and cleanup funding is preferable to Federal Government involvement, we recognize the possibility of congressional action being required to resolve the dilemma at Three Mile Island. We would suggest, therefore, that in lieu of a Government corporation being established to manage the insurance and cleanup effort,

the resources of an existing Federal agency be used to perform these functions. The relatively short-term nature of the proposed corporation would appear to favor this approach.

If the use of an existing agency is not acceptable and a corporation were established, then we would suggest that the legislation place the corporation under the purview of the Government Corporation Control Act. This would assure proper oversight of the corporation's activities.

PAPERWORK BURDEN IMPOSED BY S.1226

As agreed with your Office, our assessment of the paperwork and regulatory burden imposed by S.1226 has been limited to identifying those sections of the proposed Act that would appear to require some data submissions by the affected utility companies and/or agencies. With one exception, they do not appear to be very extensive. Anticipated paperwork burdens generated by the proposed Act are as follows:

--Section 5 would increase the paperwork for Treasury staff although it appears that most of the added functions would simply be an extension of routine Treasury activities.

--Section 6 would appear to add a minimal amount of paperwork to the insured utility companies, probably no more than would be required by a private sector insurance company.

--Section 7 data requirements appear to be the kind that would be readily available from existing agencies such as the Nuclear Regulatory Commission. The additional work required to provide the data to the Corporation appears to be minimal.

--Section 8 appears to have the potential for the most extensive paperwork requirement. The development of the contingency plan required by (a)(2) and the plans required by (b)(2)(A) and (b)(2)(B)(v) could impose a considerable paperwork burden on both Federal and State agencies.

Sincerely yours,

Milton J. Socolar

For the Comptroller General
of the United States

bc: Mr. Peach
Mr. McCullough
Mr. Boland
Mr. Elsken
Mr. Gardner
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