Congress of the United States

Washington, DC 20515

January 14, 2003

The Honorable Richard A. Meserve
Chairman
Nuclear Regulatory Commission
Washington, D.C. 20555

Dear Mr. Chairman:

We are writing to request information related to security at the Indian Point 2 nuclear reactor.

On January 25, 2002, Keith Logan, a former investigator with the NRC Office of Investigations and a licensed attorney, submitted a report on his investigation of security and guard force morale at Indian Point 2 to Entergy, which had commissioned the report in November 2001 in response to matters brought to the attention of the Employee Concerns Program. The report, which has since been reported on in the press, concluded that:

- Only 19% of the security officers interviewed believed they could adequately defend the plant against a terrorist attack.
- The guard forces do not believe that the Design Basis Threat security regulations apply any longer and that increased security is required.
- 59% of the security guard force believes that a "chilled environment" exists among the security forces, and only 42% of those who raised issues with their management believe that those issues were adequately addressed.

This "chilled environment" can only have increased in recent weeks with the possible retaliation by Entergy officials against Foster Zeh, a security officer at Indian Point 2 who has raised numerous security concerns with his managers, and who has recently been placed on indefinite administrative leave.

We are concerned that the guard forces at Indian Point 2 do not believe the plant could be adequately defended against a terrorist attack, and that they feel there is a "chilled environment" at the reactor. This may indicate that there are unacceptable risks to security at this facility. Consequently, we ask for your prompt responses to the following questions:

1) The Entergy report states that in March 2001, Wackenhut conducted a survey to determine whether a "chilling effect" existed or resulted from the termination of a security officer at Indian Point 2. Despite the fact that several security guards told Wackenhut investigators that a chilled environment did exist as a result of the investigation, the Wackenhut report concluded that none of the people they interviewed had voiced such concerns. The Entergy report concluded that false information was provided in the Wackenhut report.
    a) What have you done to determine whether Wackenhut falsified its report? What have you concluded? If the report was falsified, what action does the Commission intend to take against those responsible?

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b) Do you believe that such a falsification, if it occurred, would be likely to further undermine morale at Indian Point, and ensure that security officers would be less likely to bring security or other concerns to their management?
c) Do you believe that a company that would falsify a report intended to determine whether there was a "chilled environment" among the security guard forces at a nuclear reactor should be trusted and allowed to continue to provide security services to the licensee of that reactor? If so, why?
d) The Entergy report found that 12% of the officers interviewed believed they had been threatened, harassed, admonished, etc. after raising concerns about or making suggestions for improvements to security at Indian Point. Do you believe this number to be too high? What have you done to investigate and rectify the problem?
e) Why was Mr. Foster Zeh placed on administrative leave? Please fully describe and provide documentation for each step in the decision to suspend Mr. Zeh, including the decision to place him on administrative leave with pay on November 1, 2002, the decision to cease paying Mr. Zeh on November 25, 2002, and the decision to resume paying him on December 10, 2002, as well as any subsequent changes to his status. For each step, please provide a) the documentation provided to Mr. Zeh informing him of the change in status, b) the reason why the step was taken, c) whether NRC procedures were followed, and c) if NRC procedures were not followed, how the step differed from NRC policy. When will this matter be resolved?

2) We have been informed that a training coordinator employed by Wackenhut at Indian Point has downloaded a large amount of safeguards level information related to Indian Point onto his personal laptop, which he takes home every night.
   a) Are NRC, NRC licensee or contractor employees allowed to download safeguards or classified security information to their personal computers?
   b) Are NRC, NRC licensee or contractor employees allowed to take safeguards or classified security information out of the plant?
   c) Please fully describe NRC policy on the handling of safeguards and classified information, including the applicable penalties for mishandling such information.
   d) What has NRC done to determine whether individuals employed at Indian Point mishandled safeguards or classified information, and to impose appropriate penalties?

3) The Entergy report states that Entergy has retained consultants to review and improve security at Indian Point 2.
   a) Please identify these consultants and their expertise in these matters.
   b) What recommendations have these consultants made to Entergy?
   c) Which of these recommendations have been implemented?
   d) If any of these recommendations have not yet been implemented, when will they be implemented? If a decision has been made not to implement any of the recommendations, why not?

e) What confidence do the security guard forces at Indian Point 2 have in the ability of these consultants to identify problems and recommend changes? If Entergy has not attempted to discover whether the security guards have confidence in these consultants, why not, since they were hired to address the concerns raised by the security guards?

4) The Entergy report concluded that only 19% of the security officers interviewed stated that they could adequately defend the plant against a terrorist attack.
   a) Do you believe that the opinions of the individuals charged with defending the plant regarding their ability to perform their jobs are a good indicator of security at the plant? Why or why not?
   b) Have similar studies or surveys been performed by this or other NRC (or Agreement State) licensees for other reactors? If so, what were the results? Please provide a copy of each such study or survey. For each such study or survey, please list the measures taken by the licensee to improve both security and the confidence levels of the guard forces.

5) The Entergy report found that most of the individuals interviewed believe that the Design Basis Threat security regulations do not apply any longer and that increased security is required in order to ensure that the reactor could be defended against a terrorist attack.
   a) Do you still agree that the Design Basis Threat security regulations need to be changed in light of the events of September 11, as you have stated in the past[1]?
   b) Why has it taken so long to make any of the necessary revisions?
   c) When will the revisions be announced?
   d) Will the revisions come in the form of a public rulemaking? If not, why not?

6) The Entergy report stated that Entergy has spent $2.4 million on improving security at Indian Point 2 since September 11.
   a) How much of these funds were used to comply with the security regulations that were in place prior to September 11? Please list each sum of money spent and specify the purpose for which it was used.

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[1] See for example: "As part of the top-to-bottom review the Commission is reexamining the Design Basis Threat and will modify it, as appropriate." A Review of security Issues at Nuclear Power Plants, Meserve testimony, House Committee on Energy and Commerce, Subcommittee on Oversight and Investigations December 5, 2001; "The NRC continually assesses the threat environment and regularly reviews the adequacy of the DBT in close coordination with the national intelligence and law enforcement community. In the past, the NRC has revised the requirements to meet the evolving threat. Further revision will be necessary." A Review of Enhanced Security Requirements at NRC Licensed Facilities, Meserve testimony, House Committee on Energy and Commerce, Subcommittee on Oversight and Investigations, April 11, 2002; "Longer term revisions to the DBTs are now needed to reflect changes in the threat environment. The Commission is currently developing specific guidance to the NRC staff for revising the DBTs. Any final decision on the DBTs will be considered with appropriate stakeholders and federal and state agencies. These revisions will lead to changes in the security requirements for licensed facilities and activities." Meserve testimony, Senate Committee on Environment and Public Works, June 5, 2002.

b) How much of these funds were used to comply with NRC security Orders issued since September 11? Please list each sum of money spent and specify the purpose for which it was used.
c) How much of these funds were used to hire new security guards?
d) How much of these funds were used to train security guards hired prior to September 11?
e) How much of these funds were used to train security guards hired after September 11?
f) How much of these funds were used to pay overtime to security guards?
g) For the funds not accounted for in any of the questions 7 a)-f), please list each sum of money spent and specify the purpose for which it was used.

7) The Entergy report states that an alleger believed that 15-20% of the Indian Point security guard force would not be able to defend the plant even though they passed their weapons qualification, and that the training and qualification plans were being revised. Additionally, the re-qualification tests (which consist of physical, agility, tactical, Watch person challenge and 5 different firing range re-qualification tests) were stated to be lax in that "people get chance after chance to qualify."
   a) Have the training and qualification plans for Indian Point been revised yet? If so, please list each revision as well as the rationale for undertaking the revision. If not, why not, and when will the revisions be completed?
   b) Please describe the elements of the security training at Indian Point that train the guard forces in tactical counter-terrorism matters. If there are no such elements, why not?
   c) The Entergy report stated that certain elements of the Tactical training at Indian Point 2 is not being completed as part of the annual re-qualification 9 out of 10 times. Is this true? If so, what penalties do you plan to impose, and how do you plan to ensure that such training is appropriately completed both at Indian Point and all other reactors in the future?
   d) The report alleged that individuals were being given repeated chances to pass their re-qualification tests. How many chances do you believe security guards at nuclear reactors should have to pass each component of these tests? How many chances were available to the security guard forces at Indian Point?
   e) For each operating nuclear reactor in the U.S., please list and briefly describe each component of the re-qualification tests, as well as the number of chances available to the guard forces to pass each component.

8) The Entergy report states that it was alleged that some security guard forces at Indian Point did not carry ammunition rounds chambered in their firearms. Clearly, this would limit the speed at which they were able to respond to a terrorist attack.
   a) What is the NRC policy regarding the arming of firearms? If NRC does not require ammunition rounds to be chambered in the firearms carried by the guard forces, why not?
   b) Did the Indian Point weapons and the manner in which they were carried conform with NRC policy? If not, what penalties have been imposed?

c) The Entergy report stated that the firearm policy was under review and would be modified. Has it been modified, and if so how? Have the modifications (i.e. purchase of sufficient firearms and/or ammunition) been completed? If not, when will they be?

9) The Entergy report states that communication related to security matters was not occurring in a timely manner, and that security staff were not being informed of potential security concerns. For example, security personnel found out about two incidents (one involving a package that appeared to have white powder on its wrapping, and one involving a car with illegal tags that approached the facility) from workers in other areas of the plant rather than being officially informed by their management. What has Entergy done to ensure better communication of security information to the security guard forces in the future?

10) Pages 12 to 14 of the Entergy report contain a list of security improvements suggested by the security guard forces interviewed. For each such suggested improvement, please indicate a) whether Entergy has taken steps to implement the suggestion, and if not, why not, and b) whether the NRC has taken steps to ensure that such measures are taken at all reactors, and if not, why not.

11) The Entergy report states that most of the security forces believe that the guard forces need to improve their physical conditioning, and some believe that as many as 50% of the guard forces may not be physically able to defend the plant. Additionally, an individual who was acting as the Wackenhut Project Manager reportedly told an applicant for a security officer proceeding that the physical fitness test was easy.
   a) Please fully describe the physical fitness test used to evaluate new applicants and re-evaluate existing security guards at Indian Point.
   b) Has this test been altered since a) September 11 or b) since the publication of the Entergy report? If so, how?
   c) How does Entergy's fitness test differ from other licensees'? Please fully describe the physical fitness test used to evaluate new applicants and re-evaluate existing security guards at each nuclear reactor in the U.S.
   d) Does NRC have to approve these physical fitness tests? If so, please describe the standard used to evaluate them. If not, then how can the Commission be certain that they are adequate?

12) The Entergy report also states that a September 6, 1994 document listed the minimum qualifications for security guard forces for Indian Point 2 to be that the applicant must be at least 21 years old, and must have 24 months experience as a Law Enforcement Agent, Watchperson, Armed Security Guard or Member of the Armed Forces, or have an A.A.S. degree in Police Science or Criminal Justice. However, evidently a waiver process exists whereby these qualifications would not have to be met for some applicants.
   a) Are these qualifications still in force at Indian Point? If they have been changed, how?

b) How many (and what % of the total force) of the security guards at Indian Point did not meet these qualifications when they were first hired?
c) Please fully describe the waiver process associated with hiring a security guard who does not meet the minimum requirements at Indian Point 2.
d) For each nuclear reactor in the U.S., please list i) the minimum qualifications for new security guards, ii) the process, if any, by which these requirements can be waived, and iii) the number and % of security guard forces at the reactor who did not meet the minimum requirements when they were first hired.

13) The Entergy report states that the attrition rate for security guards at Indian Point was 18.39% as of November 2001. Is this attrition rate typical for security guards at NRC-licensed nuclear power plants? For each nuclear reactor, please indicate a) the annual attrition rate of the guard forces as of September 11, 2001 and b) the annual attrition rate of the guard forces as of January 1, 2003.

14) We have learned that the firing range used for training by the security guard forces is owned by a private citizen who has access to the training and qualification documents, some of which may be safeguards level. This individual also regularly views the training sessions and would therefore be aware of the security guards' weapons, physical fitness levels, and skills.
a) Have this individual and his employees undergone security and criminal background checks? If not, why not?
b) Is it NRC policy that licensees may disclose safeguards level information to private sector entities without first ensuring that these entities are subjected to criminal and security background checks? If so, why? If not, and if Entergy violated NRC policy, what penalties have you imposed on Entergy?

15) For each of the currently NRC-licensed power reactors, please provide a list of any outside security companies engaged by the licensee to provide security services at the licensed facility.

Thank you very much for your attention to this important matter. Please provide your response no later than Friday, February 7, 2003. If you have any questions or concerns, please have your staff contact Dr. Michal Freedhoff (Rep. Markey's office, 202-225-2836).

Sincerely,

Ed Markey

Edward J. Markey

Rita Lowey

Nita M. Lowey