

REQUEST REPLY BY 2/11/00



UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D.C. 20555

COMNJD-99-006

COMMISSIONER

December 23, 1999

RELEASED TO THE PDR	
<u>2/11/00</u>	<u>DKL</u>
date	Initials

MEMORANDUM TO: Chairman Meserve
Commissioner Dicus
Commissioner McGaffigan
Commissioner Merrifield

FROM: Commissioner Diaz *[Signature]*

SUBJECT: THE EFFECTS OF INDUSTRY CONSOLIDATION ON NRC OVERSIGHT

The staff response to my November 9, 1999 memorandum regarding the effects of industry consolidation on NRC oversight (attached) describes the staff's general awareness and the existing foundation for addressing future challenges in this area. However, no specific analyses and plans exist to address today's scenarios. Currently, 60 of the 103 nuclear power plants operate in states that have restructured their electric power industries. Mergers and consolidations of various sizes are happening throughout the country. For example, the merged UNICOM and PECO will control at least 16 reactors, Entergy already controls 6 reactors, and Carolina Power and Light is expanding into Florida. The pace of consolidation is accelerating, and the agency needs to have firmly established plans to effectively carry out its mission in this changed environment.

I recommend that the Commission task the staff to develop a plan to address the areas of oversight that would change under industry consolidation. The plan should be developed with industry and stakeholder participation from the very beginning, in much the same manner the reactor oversight process was developed after the IRAP.

The above task should be done expeditiously so that the staff could then provide the Commission with draft budget assumptions to accommodate NRC preparations for industry consolidation. This should also enable the staff to incorporate performance measures of the consistency of application of the reactor oversight process into the agency's performance plan.

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UNITED STATES
NUCLEAR REGULATORY COMMISSION

WASHINGTON, D.C. 20555-0001

December 15, 1999

MEMORANDUM TO: Commissioner Diaz

FROM: William D. Travers 
Executive Director for Operations

SUBJECT: INFORMATION ON THE EFFECTS OF INDUSTRY
CONSOLIDATION ON NRC OVERSIGHT

In your memorandum dated November 9, 1999, you requested information on any early views the staff may have on the potential long-term effects of industry consolidation on NRC oversight. We agree that there is the potential for considerable change in the nuclear power industry. We also recognize that many of the potential mergers and other restructuring actions have not yet occurred. As such, the full impact of industry consolidation is still evolving; rapidly in some areas, slower in others. The outcome of industry consolidation on nuclear safety is unclear, but could result in improvements to safety through standardization of best practices, maintenance of the status quo, or degradation of safety through efforts to excessively reduce costs. Nevertheless, it continues to reinforce the need for NRC actions, decisions, and processes to be timely, objective, consistent, and transparent. Many of our recent successes involving inspection, assessment, enforcement, and licensing have focused on meeting these needs.

With respect to the restructuring and economic deregulation of the electric utility industry, we believe existing Commission policy and recent Commission direction with respect to strategic planning, along with the objective nature of the new reactor oversight process and other efforts provide a solid foundation for future challenges associated with industry consolidation. Any needs for modifications to our organizational structure will be pursued when the external factors warrant, and in consultation with the Commission.

Commission Policy and Direction

The Commission issued the "Final Policy Statement on the Restructuring and Economic Deregulation of the Electric Utility Industry" (62 FR 44071) on August 19, 1997. The policy statement established the NRC's expectations for, and intended approach to, power reactor licensees as the electric utility industry moves from an environment of rate regulation toward greater competition. In addition, the policy statement discusses NRC's concerns about the possible effects that rate deregulation and disaggregation resulting from various restructuring actions involving power reactor licensees could have on the protection of public health and safety. With respect to safety implications, the policy statement reaffirmed NRC's view that the primary tool for evaluating and ensuring safe operations at its licensed facilities is through its inspection and enforcement programs. As part of carrying out this mission, the NRC will monitor licensee activities and any changes in licensee activities, as well as external factors that may affect the ability of individual licensees to safely operate and decommission licensed power production facilities.

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With respect to strategic planning, in the staff requirements memorandum resulting from COMSECY-99-024, the Commission recommended that the staff consider adding performance strategies and measures to the NRC Strategic Plan to ensure NRC's regulatory processes keep pace with the challenges associated with the economic deregulation of the electric power industry. The Commission also indicated that the staff should specifically consider strategies and measures related to license transfers. In addition, during the August 20, 1999 public workshop with stakeholders to discuss the draft Nuclear Reactor Safety Chapter of the Strategic Plan, the state of Vermont representative proposed that measures be provided within the Strategic Plan to monitor the effects of restructuring and prevent safety reductions due to cost cutting. The staff is proposing revisions to the strategic plan as a result of these comments to provide the strategic direction and guidance necessary to meet the challenges associated with industry consolidation.

As part of our planning process, the staff identifies budget assumptions for the Nuclear Reactor Safety Strategic Arena. In recent years, these budget assumptions reflected the potential for shutdown of reactors prior to the expiration of their operating license. As a result of deregulation and the potential for license renewal, the staff has seen this scenario recently change, plants that previously appeared to be candidates for shutdowns are now the subject of acquisition announcements. As such, the NRC's budget assumptions are in the process of being modified to accommodate this shift in planning due in part to industry consolidation.

New Reactor Oversight Process

The new reactor oversight process, which includes inspection, assessment, and enforcement, should be responsive to any licensee performance affects resulting from industry consolidation. The corporate structure, ownership, or location of a particular plant should not impact the effectiveness of the reactor oversight process. This process is performance-based; as a result those plants with improved performance have less NRC oversight than those with performance problems. Where industry consolidation results in improved plant performance, the NRC oversight process will respond accordingly. Measures have been developed to assure consistent application of the new reactor oversight process which include various periodic meetings with Regional and Headquarters management to assess performance, conducting annual self-assessments, development of metrics for inspection procedures, and following up on comments received from the industry.

Interactions with Licensees

The staff continues to have many successes in interfacing with licensees and other stakeholders to improve our regulatory programs, including licensing, inspection, performance assessment, enforcement, and rulemaking. These forums are meant to be responsive to industry and stakeholder issues including consideration of the effects of industry consolidation. These initiatives have involved working with diverse groups that transgress defined NRC Regional boundaries and formally established industry groups to discuss NRC programs including insights from industry consolidation. An example of this success resulted from a major workshop held in July 1998 to solicit views on possible problems and suggested improvements in a variety of licensing processes. As a follow-up to this workshop, the staff is holding approximately 15 licensing workshops over the next year. Each workshop is with a small group of utilities, that in several cases extend beyond NRC Regional boundaries, with the purpose to

discuss improvements in the effectiveness and efficiency of the licensing process. In addition, to address unique licensee challenges, the NRC has been successful in modifying its organization to meet the demands of external factors significantly affecting our mission. For example, the NRC established (1) the "Office of Special Projects" in 1987 to focus on the licensing of Comanche Peak and Watts Bar and the restart of the Tennessee Valley Authority operating reactors, (2) the "Millstone Special Projects Office" in 1996 to focus the combined NRC inspection and licensing resources on addressing the performance problems associated with the Millstone Station, and (3) corporate project managers for some licensees (e.g., Entergy and Commonwealth Edison), in addition to the assigned plant project managers, for situations involving significant interactions between a licensee's corporate offices and NRC headquarters affecting multiple sites. These efforts are reflective of our ability to adapt to external factors to achieve effective and efficient methods of pursuing our mission. As needed, and with appropriate Commission interaction, we will continue to monitor licensee performance for trends and modify our processes and organization to meet the demands of industry consolidation.

cc: Chairman Meserve
Commissioner Dicus
Commissioner McGaffigan
Commissioner Merrifield
SECY
OGC
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OPA
CFO
CIO