June 30, 1997

MEMORANDUM TO: L. Joseph Callan
Executive Director for Operations

FROM: John C. Hoyle, Secretary /s/

SUBJECT: STAFF REQUIREMENTS - SECY-97-102 - PROPOSED RULE ON FINANCIAL ASSURANCE REQUIREMENTS FOR DECOMMISSIONING NUCLEAR POWER REACTORS

The Commission has approved publication of the proposed rule on financial assurance requirements in the Federal Register subject to the following comments.

1. The staff should consider whether the term "bench marking" should be replaced with more suitable language that more accurately reflects the amount of funding for decommissioning that NRC believes a licensee should possess at given points in a plant's operating life.

2. The initial reporting period should be set no later than 9 months after the effective date of the rule. Thereafter, the reporting period should be every two years. Revisions to the Federal Register notice (FRN) are provided in the attachment.

3. The proposed rule and supplemental information should state that the Commission reserves the flexibility to take the following steps in order to assure a licensee's adequate accumulation of decommissioning funds: (1) review, as needed, the rate of accumulation of decommissioning funds; and (2) either independently or in cooperation with either the FERC and the state PUCs, take additional actions as appropriate on a case-by-case basis, including modification of a licensee's schedule for accumulation of decommissioning funds.

SECY NOTE: THIS SRM, SECY-97-102, AND THE COMMISSION VOTING RECORD CONTAINING THE VOTE SHEETS OF ALL COMMISSIONERS WILL BE MADE PUBLICLY AVAILABLE 5 WORKING DAYS FROM THE DATE OF THIS SRM.

4. After reviewing the initial reports from licensees on the status of decommissioning funds, the staff should advise the Commission on the need for further rulemaking. In making a recommendation, the staff should consult with the National Association of Regulatory Utility Commissioners, the Federal Energy Regulatory Commission, and the Securities and Exchange Commission.

5. The statements of consideration regarding stranded costs should discuss that securitization of utility stranded assets is being considered as a financial recovery tool and as a non-bypassable charge mechanism. Revisions to the FRN are provided in the attachment

6. A copy of the draft Financial Accounting Standards Board (FASB) standard No. 158-B should be made available in the public document room.

(EDO) (SECY Suspense: 8/29/97)

Conforming changes described in this SRM should be included in the policy statement in SECY-97-117.

Attachment:
As stated

cc: Chairman Jackson
Commissioner Rogers
Commissioner Dicus
Commissioner Diaz
Commissioner McGaffigan
OGC
CIO
CFO
OCA
OIG
Office Directors, Regions, ACRS, ACNW, ASLBP (via E-Mail)
PDR
DCS

I. Reporting Requirement

On page 55, FRN, "Response" at top of page:
The Commission is proposing that every licensee submit its initial report on the status of decommissioning funds to the NRC within 9 months after the effective date of this rule, and at least once every 2 years thereafter...

Page 79, FRN:
(f)(1) Each power reactor licensee shall report to the NRC within 9 months after [the effective date of this rule], and at least once every 2 years thereafter on the status of its decommissioning funding for each reactor facility or part of a reactor facility that it owns...

III. Securitization

Page 10, FRN, in second line from the bottom of the page:
These mechanisms (e.g., wire charges, non-bypassable customer fees, including securitization, exit fees)...

Page 15 of FRN, "Response" insert after the second sentence of the second paragraph:
"Further, States are considering a number of options for assessing non-bypassable charges to recover decommissioning costs, as well as other stranded costs. One such option is "securitization," which entails financing the recovery of stranded costs through issuance of bonds whose principal and interest would be repaid by an irrevocable, non-bypassable charge set by State statute on an electric utility's distribution customers. Because the income stream to repay the bonds would be securitized by the irrevocable, non-bypassable charge, the bonds would be highly rated and would thus require a lower interest rate than riskier debt. Also, these securitized bonds would not be part of the utility's capital structure, and so would not reflect the higher cost of equity capital. The spread in interest cost between highly rated securitized debt and lower rated utility capital that includes both debt and equity makes securitization attractive to many States. The NRC believes that securitization has the potential to provide an acceptable method of decommissioning funding assurance, although other mechanisms that involve non-bypassable charges may provide comparable levels of assurance and should not be excluded from consideration by State authorities."

Last paragraph would then begin: "As stated in the NRC's..."

In the last line on page 20 (response), after the words: "...through other non-bypassable mechanisms," insert: "such as wire charges, non-bypassable customer fees, including securitization, or exit fees,"

Lastly, the third sentence from the end of the last paragraph in the response on page 19 should have the word "some" inserted between the words "that" and "plants."