

MEMORANDUM TO: Chairman Merserve
Commissioner Dicus
Commissioner Diaz
Commissioner McGaffigan
Commissioner Merrifield

December 21, 2000

FROM: William D. Travers */RA/*
Executive Director for Operations

SUBJECT: STATUS OF EFFORT TO IDENTIFY AND ASSESS THE
IMPACTS OF ELECTRIC INDUSTRY CONSOLIDATION ON
NRC OVERSIGHT

In Staff Requirements Memorandum COMNJD-99-006, "The Effects of Industry Consolidation on NRC Oversight," dated February 10, 2000, the Commission tasked the staff to identify and report to the Commission on the policy implications of industry restructuring and on the need to consider policy changes in NRC's oversight of industry activities. This memorandum provides the Commission with the current status of the task and the staff's plans and schedule for completing the task.

Background

Economic deregulation of the electric utility industry has resulted in increased separation of the generation, transmission and distribution sectors, corporate mergers and asset transfers, and acquisitions by outright purchase. This transformation of the once strictly-regulated utility industry into a nationwide competitive market is ongoing. It has already resulted in an increase in license transfer applications, which must be reviewed by the NRC. To-date, all such license transfers have been approved. Applications for license transfers are likely to continue at a high level for the next several years.

The direction given by the Commission to the staff in COMNJD-99-006 is not limited to the license transfer process per se, but rather how the consolidated and restructured nuclear power industry will impact the NRC's regulatory oversight responsibilities and its established regulations, policies, processes and staff guidance, which evolved in a different environment. Specifically, COMNJD-99-006 directed the staff to consider financial, licensing, operational

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safety, and fee structure issues; other licensed activities such as fuel fabrication, transportation and spent fuel storage; and pertinent non-NRC regulatory issues. This is to be accomplished with stakeholder coordination and input.

An NRC Working Group was formed to do an assessment of the potential impact from industry consolidation. The Working Group comprises staff members from NRR, NMSS, RES, Region III, OGC, OSTP, and OCFO, the principal internal stakeholder offices.

Objective

The objective of this effort is to identify and do a preliminary assessment of the potential impacts of electric industry consolidation on the NRC's regulatory role and responsibilities and the need for possible changes to regulations, policies, processes, guidance and organizational structure. The Working Group has identified areas that need to be considered further, but does not recommend specific changes at this time.

Industry Consolidation Impact Assessment

The Working Group has identified about two dozen regulatory issues that could be impacted by industry consolidation, and has grouped the issues into categories. Attachment 1 lists the categories and issues that will be assessed. The Working Group's preliminary characterization of a few of the potentially more significant issues is briefly discussed below.

Cost-Cutting Incentives - Deregulation and market competition may provide incentives for licensees to increase efficiency of operation by eliminating and combining duplicative personnel and functions, standardizing best practices, and seeking to reduce regulatory burden. A possible example would be a licensee request to centralize emergency preparedness staffs, functions, and facilities remote from individual plant sites. This could present challenges to our licensing and inspection staffs to ensure that licensees are maintaining operational safety and may have NRC staff resource impacts. On the other hand, standardizing best practices can enhance the safety profile of the industry.

Waste Management - Consolidation may result in an increased number of applications for combined, centrally located high- and low-level waste storage facilities, either at reactor sites or at independent locations for reasons of efficiency and economy. Such applications would entail intrastate and/or interstate transportation of waste, with attendant public confidence and political implications.

New License Applications - A consolidated nuclear power industry consisting of larger, financially strong nuclear operators who are in the business for the long term is more likely to consider new plant applications and reactivation of deferred plants. Indeed, there is already consideration of a pebble bed-type standard design application submittal within the next few years. The staff must assure that the necessary technical expertise, processes, and budget resources are available to process such applications in an efficient, effective, and predictable manner.

License Renewal - For similar reasons, the number of license renewal applications will likely increase as a result of consolidation because large nuclear operators in the business for the long term will want to maximize the payoff on their investment. License renewal is a cost-effective means of adding generating capacity.

Decommissioning - Consolidation may impact decommissioning plans and schedules which, in turn, could affect funding considerations. For example, licensees with multiple reactors might seek funding alternatives not currently authorized. The staff must assure the adequacy of decommissioning funding regulations.

External Regulatory Interfaces - A reassessment may be needed of the impact of continued and increasing industry consolidation on NRC's role in approving license transfers, and on NRC's interfaces with other regulatory bodies at the Federal and State levels. The Working Group will also consider the jurisdiction of these other regulatory bodies over electric industry restructuring, grid reliability, and other non-NRC regulatory issues.

Cross-Cutting Impacts - Some issues cut across many of the identified categories. One cross-cutting issue is the adequacy of NRC's regulations, policies, processes, and guidance for implementing our oversight responsibilities in an economically deregulated and consolidated industry. The effectiveness of the performance-based Reactor Oversight Process in addressing adverse performance trends that might result from consolidation-related cost cutting before they evolve into safety issues is also a cross-cutting issue. Another cross-cutting issue is the impact of consolidation on staff resource needs (both numbers and skills). The suitability of the current NRC organizational structure for regulating a restructured industry in which a single licensee might have to interact with as many as four regional offices and four headquarters project directorates is another cross-cutting issue. This situation will introduce challenges both for NRC staff and licensees, especially with respect to consistency, coordination, and efficiency of oversight.

The Working Group will develop these and the other issues identified in Attachment 1 more fully.

Schedule and Milestones

Attachment 2 shows the major milestones and target dates developed by the Working Group.

The Working Group's preliminary assessments of the identified potential impact issues will be completed by the end of January 2001. After internal stakeholder office-level concurrence, the draft assessments will be given to the Commission for information. In late February the proposed impact assessments are planned to be published in the *Federal Register* with a 30-day period for comments from external stakeholders, including the public. The Working Group would then plan to hold a public meeting with interested external stakeholders in early May to discuss the staff's impact assessment and disposition of comments received. The Working Group will also interact with specific external stakeholders, as necessary and appropriate, in developing the impact assessments. Finally, in late June, the staff will give the Commission a paper with its recommendations on the regulatory implications of industry consolidation. As requested in the staff requirements memorandum, this product will be coordinated with the separate staff assessment of the new Reactor Oversight Process.

Interoffice Coordination

This memorandum has been coordinated among all the office representatives on the Working Group.

Attachments: As stated

cc: SECY
OCA
OPA
OGC
CFO
CIO

Interoffice Coordination

This memorandum has been coordinated among all the office representatives on the Working Group.

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cc: SECY OCA OPA OGC CFO CIO

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*See previous concurrence

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Categorization of Industry Consolidation Issues

- **Plant Operational Safety**
 - competition-driven general cost-cutting incentives
 - licensee organizational and functional restructuring
 - RES-related issues
 - high-and-low-level waste management
 - emergency preparedness
 - reliable off-site power

- **Licensing**
 - license transfers
 - new license applications/reactivations of deferred plants
 - license renewal
 - NRC organizational structure
 - antitrust considerations for new facilities

- **Inspection, Enforcement and Assessment**
 - NRC Reactor Oversight Process
 - Other NRC inspection programs
 - NRC enforcement program
 - NRC allegation program
 - NRC organizational structure

- **Decommissioning**

- **External Regulatory Interfaces**
 - States
 - DOE
 - DOT
 - DOJ
 - EPA
 - FERC
 - FEMA
 - Foreign
 - Others (SEC, FCC, FTC)

- **Fuel Fabrication Facilities**

- **Financial**
 - foreign ownership
 - license fees
 - insurance/liability
 - bankruptcy

- **Non-NRC Regulatory Considerations**
 - grid stability/reliability
 - post-licensing antitrust considerations

- **Cross-Cutting Issues**
 - NRC regulations, policies, processes, guidance
 - NRC resources
 - NRC organizational structure*
 - Reactor Oversight Process*

*Also treated as stand-alone issues.

Milestones and Schedule

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| 1. Complete Draft Preliminary Assessment of Identified Potential Impacts | 1/31/01 |
| 2. Obtain Internal Office-Level Stakeholder Concurrence on Draft Assessment and Provide Information Copy to Commission | 2/15/01 |
| 3. Publish Proposed Impact Assessment in FR for Comment | 2/28/01 |
| 4. Receive Comments on FR Notice | 3/30/01 |
| 5. Hold Public Meeting With External Stakeholders to Discuss Impact Assessment and Comments | 5/04/01 |
| 6. Submit Final Commission Paper | 6/23/01 |