UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D.C. 20555-0001

SECRETARY

June 19, 2001

COMMISSION VOTING RECORD

DECISION ITEM: SECY-01-0070

TITLE: PLAN FOR PREAPPLICATION ACTIVITIES ON THE PEBBLE BED MODULAR REACTOR (PBMR)

The Commission (with all Commissioners agreeing) approved the subject paper as recorded in the Staff Requirements Memorandum (SRM) of June 19, 2001.

This Record contains a summary of voting on this matter together with the individual vote sheets, views and comments of the Commission.

Annette L. Vietti-Cook
Secretary of the Commission

Attachments:
1. Voting Summary
2. Commissioner Vote Sheets

cc: Chairman Meserve
Commissioner Dicus
Commissioner Diaz
Commissioner McGaffigan
Commissioner Merrifield
OGC
EDO
PDR

VOTING SUMMARY - SECY-01-0070

RECORDED VOTES

	APRVD	DISAPRVD	ABSTAIN	NOT PARTICIP	COMMENTS	DATE
CHRM. MESERVE	X				X	5/16/01
COMR. DICUS	X					6/4/01
COMR. DIAZ	X					5/22/01
COMR. McGAFFIGAN	X				X	6/6/01
COMR. MERRIFIELD	X				X	5/31/01

COMMENT RESOLUTION

In their vote sheets, all Commissioners approved the staff's recommendation and some provided additional comments. Subsequently, the comments of the Commission were incorporated into the guidance to staff as reflected in the SRM issued on June 19, 2001.

NOTATION VOTE

RESPONSE SHEET

TO: Annette Vietti-Cook
Secretary of the Commission

FROM: CHAIRMAN MESERVE

SUBJECT: SECY-01-0070 - PLAN FOR PREAPPLICATION ACTIVITIES ON THE PEBBLE BED MODULAR REACTOR (PBMR)

Approved X/w comments **Disapproved** _____ **Abstain** _____

Not Participating _____ **Request Discussion** _____

COMMENTS:

See attached comments

SIGNATURE

May 16, 2001
DATE

Entered on "STARS" Yes X No ____

COMMENTS OF CHAIRMAN MESERVE ON SECY-01-0070

I approve the staff's plan for preapplication activities on the pebble bed modular reactor (PBMR). I encourage the staff to keep the Commission informed as to its progress on these activities, and to seek Commission guidance promptly when policy issues are identified for resolution. In its development of a regulatory framework and approach to licensing, the staff should also clearly identify policy issues that the NRC is not able to resolve without Congressional action to modify provisions in the NRC's governing statutes.

I understand that Exelon may rely in part on the results of a test program using a South African prototype plant in order to demonstrate compliance with U.S. requirements. Experience with the design certification of the passive light-water reactors indicates that the scope and content of a testing and analysis program may take considerable time to resolve. In light of the unique features of the PBMR and the fact that the tests will be conducted outside the U. S., the staff should include consideration of the prototype test program and associated activities within the scope of its preapplication activities.

NOTATION VOTE

RESPONSE SHEET

TO: Annette Vietti-Cook, Secretary

FROM: COMMISSIONER DICUS

SUBJECT: **SECY-01-0070 - PLAN FOR PREAPPLICATION ACTIVITES ON THE PEBBLE BED MODULAR REACTOR (PBMR)**

Approved XX Disapproved _____ Abstain _____

Not Participating _____

COMMENTS:

None.

Greta Joy Dicus
SIGNATURE

June 4, 2001
DATE

Entered on "STARS" Yes XX No ____

26 APR 01 3:26

NOTATION VOTE

RESPONSE SHEET

TO: Annette Vietti-Cook, Secretary

FROM: COMMISSIONER DIAZ

SUBJECT: **SECY-01-0070 - PLAN FOR PREAPPLICATION ACTIVITES ON THE PEBBLE BED MODULAR REACTOR (PBMR)**

Approved X Disapproved _____ Abstain _____

Not Participating _____

COMMENTS:

Without comment.

SIGNATURE

5.22.01

DATE

Entered on "STARS" Yes X No ____

NOTATION VOTE

RESPONSE SHEET

TO: Annette Vietti-Cook, Secretary

FROM: COMMISSIONER MCGAFFIGAN

SUBJECT: **SECY-01-0070 - PLAN FOR PREAPPLICATION ACTIVITES ON THE PEBBLE BED MODULAR REACTOR (PBMR)**

Approved W/comments X Disapproved _____ Abstain _____

Not Participating _____

COMMENTS:

See attached comments.

Edward McGaffigan Jr.
SIGNATURE

June 6, 2001
DATE

Entered on "STARS" Yes X No ____

Commissioner McGaffigan's Comments on SECY-01-0070

I would urge the staff to bring policy issues to the Commission's attention promptly, particularly issues which may require legislative resolution. For example, Exelon apparently would like to pay one amount for Price-Anderson primary insurance for an entire site and not separate amounts for each unit. I believe that will require an amendment to the Atomic Energy Act. Similarly, Exelon apparently would like its license application to be exempt from antitrust review. The Commission has been requesting a statutory change that would end our role in antitrust reviews of new license applications, but until the Commission's request is approved by Congress and enacted into law, section 105 of the Atomic Energy Act clearly requires the Commission, after receiving the advice of the Attorney General, to make an antitrust finding on each application. I do not believe that the Commission has the authority to exempt Exelon from this antitrust review. A statutory change would also be needed, in my view, if Exelon does not want to file a separate license application for each unit or to establish a decommissioning trust fund for each unit. If I am correct that numerous statutory changes would be required to implement Exelon's desired licensing approach, the sooner that is brought to the Commission's and Congress' attention, the more likely it will be that Congress will consider the resolution of these matters in the context of the overall energy policy debate. If statutory changes are necessary to implement Exelon's desired licensing approach, the staff should recommend whether or not the Commission should support each such change.

NOTATION VOTE

RESPONSE SHEET

TO: Annette Vietti-Cook, Secretary

FROM: COMMISSIONER MERRIFIELD

SUBJECT: **SECY-01-0070 - PLAN FOR PREAPPLICATION ACTIVITES ON THE PEBBLE BED MODULAR REACTOR (PBMR)**

Approved X Disapproved _____ Abstain _____

Not Participating _____

COMMENTS:

See attached comments.

SIGNATURE

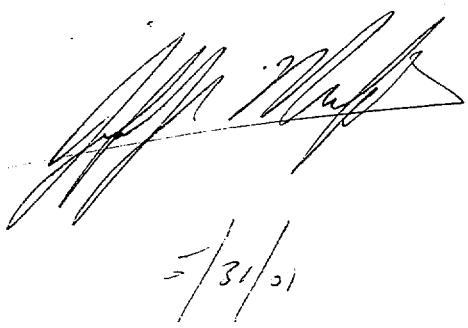
5/31/01

DATE

Entered on "STARS" Yes ✓ No ____

COMMISSIONER MERRIFIELD'S COMMENTS ON SECY-01-0070

I approve the staff's recommendation to proceed with preapplication activities on the pebble bed modular reactor (PBMR), including the DOE-sponsored high-temperature gas-cooled reactor (HTGR) technology assessment and transfer activities, described in Attachment 2 of SECY-01-0070.

I commend the staff for its efforts associated with developing a plan for preapplication activities on the PBMR. I believe the staff's plan is consistent with the Commission's Policy Statement on the Regulation of Advanced Nuclear Power Plants and the Commission's SRM associated with COMJSM-00-0003.

I encourage the staff to keep the Commission informed of its progress on preapplication activities and to promptly notify the Commission when policy issues are identified for resolution.