

## **Open Items Related to Exelon's Nine White Papers**

Staff members from NRR, NMSS, OCFO and OGC provided preliminary feedback to Exelon on the nine white papers regarding legal and financial issues. Exelon submitted the white papers in a letter dated May 10, 2001. The white papers addressed requirements on: licenses; financial protection; decommission funding; antitrust review; annual fees; operator staffing; minimum decommissioning costs; fuel cycle impacts; and financial qualifications. For each white paper, actions necessary to further the staff's response to the white paper was determined. Exelon requested that a status of the ongoing issues be provided at the planned meetings in July and August. To respond to the white papers, the staff expects to complete discussions with Exelon by mid-August and provide the Commission with a paper in early November.

Operator Staffing: The staff is open to an exemption on the minimum staffing requirements and location of operators. The staff explained the necessary regulations and guidance to justify an exemption. Exelon will review this information and ask for additional staff guidance if necessary.

Environmental Impacts of the Fuel Cycle and Transportation: The staff agreed that the current regulations found in 10 CFR 51.51 and 51.52 only address light water reactors (LWRs). The staff's position is that the environmental report should provide information similar to the environmental impacts discussed in Tables S-3 and S-4 in Sections 51.51 and 51.52 in the current regulations and should include sufficient information to allow the staff to address the environmental, socioeconomic, and human health impacts of the pebble bed modular reactor fuel cycle. The staff also explained that a rulemaking to revise Tables S-3 and S-4 is currently in progress. The staff informed Exelon that it is still reviewing the Waste Confidence Rule. The staff requested additional information to assist in their determination, including: if the waste would be stored in water, dry cask storage, or other means; what type of container would be used; and the nature of the waste. The staff also asked if the fuel fabrication would be domestic or foreign. Given a timely response by Exelon, the staff expects to provide an answer by the end of summer.

Financial Qualifications: The staff explained the four options available to provide financial qualification information. The staff discussed various scenarios for supplying financial qualification information depending on how many licenses a multi-reactor facility would be issued.

Decommissioning Funding: The staff explained the reasoning that allows utilities to use a sinking fund for decommissioning, and the difference for non-utilities. As a result, the staff explained it could not support Exelon's proposal for partial pre-payment and installments over several following years. The staff discussed several options for funding, as well as expressing openness to discuss alternative methods. Exelon will determine if they would like to discuss other alternative methods.



Decommissioning Cost Estimate: Exelon clarified that the submittal with costs on a per module basis would also address the cost of decommissioning the whole site. The staff explained that a site-specific estimate would be acceptable. Exelon may request further feedback on a preliminary estimate for decommissioning costs.

Antitrust Review Authority: The staff needs additional internal discussion which may involve the Department of Justice. Exelon will provide additional information to justify why merchant plants should be designated as an excepted class. Given a timely response by Exelon, the staff expects to provide an answer by the end of summer.

Number of Licenses: The staff stated that additional internal discussion was needed; however, one license for a multi-reactor facility may be a possibility. The staff informed Exelon that if one license was issued for all of the modules, then the life all of the reactors would begin from the date of issuance, regardless of when they became operational. Exelon also requested that the staff inform them of any changes to the definitions of module or modular, if any occurred. The staff expects to provide an answer in approximately September.

Annual Fees: The staff explained the regulations and guidance to determine annual fees. Exelon was informed that an estimate for annual fees could not be provided since it is determined on a yearly basis primarily on the budget, the number of licenses issued and sufficient information about staff effort associated with the PBMR that is currently not available. The staff also informed Exelon that fees require public notice and comment. Exelon requested that the staff provide a few annual fee cost estimates using assumptions; explain the circumstances for which a new class for fees would be established; and inform them when the annual fees would begin for a Part 52 license.

Financial Protection: The staff informed Exelon that additional review of the Price-Anderson Act was needed, however, it appeared that the Act was not as broad as Exelon described in their white paper. The staff expects to provide an answer by the end of summer.