



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

OFFICE OF THE  
SECRETARY

May 10, 2002

COMMISSION VOTING RECORD

DECISION ITEM: SECY-02-0068

TITLE: PROPOSED RULE ON FINANCIAL  
INFORMATION REQUIREMENTS FOR  
APPLICATIONS TO RENEW OR EXTEND THE  
TERM OF AN OPERATING LICENSE FOR A  
POWER REACTOR

The Commission (with all Commissioners agreeing) approved the subject paper as recorded in the Staff Requirements Memorandum (SRM) of May 10, 2002.

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

A handwritten signature in black ink, reading "Annette Vietti-Cook", is written over a horizontal line.

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-02-0068

RECORDED VOTES

	APRVD	DISAPRVD	ABSTAIN	NOT PARTICIP	COMMENTS	DATE
CHRM. MESERVE	X				X	5/7/02
COMR. DICUS	X					5/2/02
COMR. DIAZ	X					4/30/02
COMR. McGAFFIGAN	X				X	5/6/02
COMR. MERRIFIELD	X					5/6/02

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 May 10, 2002.

NOTATION VOTE

RESPONSE SHEET

TO: Annette Vietti-Cook, Secretary

FROM: CHAIRMAN MESERVE

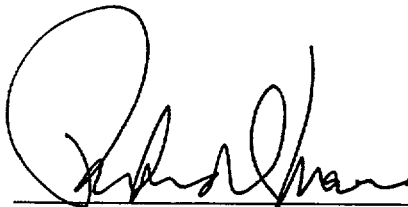
SUBJECT: **SECY-02-0068 - PROPOSED RULE ON FINANCIAL  
INFORMATION REQUIREMENTS FOR APPLICATIONS TO  
RENEW OR EXTEND THE TERM OF AN OPERATING  
LICENSE FOR A POWER REACTOR**

Approved XX Disapproved \_\_\_\_\_ Abstain \_\_\_\_\_

Not Participating \_\_\_\_\_

COMMENTS:

*Approved with minor edits as shown in the attachment*



SIGNATURE

*May 7, 2002*

DATE

Entered on "STARS" Yes ✓ No \_\_\_\_\_

2. In §50.33, paragraph (f)(2) is revised to read as follows:

§ 50.33 Contents of applications; general information.

\* \* \* \*

(f) \* \* \*

(2) If the application is for an operating license, the applicant shall submit information that demonstrates the applicant possesses or has reasonable assurance of obtaining the funds necessary to cover estimated operation costs for the period of the license. The applicant shall submit estimates for total annual operating costs for each of the first five years of operation of the facility. The applicant shall also indicate the source(s) of funds to cover these costs. An applicant seeking to renew or extend the term of an operating license for a power reactor need not submit financial information <sup>in</sup> ~~as~~ <sup>that</sup> is required in an application for an initial license. Applicants to renew or extend the term of an operating license for a nonpower reactor shall include the financial information that is required in an application for an initial license.

\* \* \* \*

3. Section 50.76 is added to read as follows:

§ 50.76 Licensee's change of status; financial qualifications.

An electric utility licensee holding an operating license (including a renewed license) for a nuclear power reactor, no later than 75 days prior to ceasing to be an electric utility in any manner not involving a license transfer under § 50.80 of this part, shall provide the NRC with the financial qualifications information that would be required for obtaining an initial operating

NOTATION VOTE

RESPONSE SHEET

TO: Annette Vietti-Cook, Secretary

FROM: COMMISSIONER DICUS

SUBJECT: **SECY-02-0068 - PROPOSED RULE ON FINANCIAL  
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Approved   x   Disapproved        Abstain       

Not Participating       

COMMENTS: *none*

*Debra Joy Dicus*  
\_\_\_\_\_  
SIGNATURE

*May 2, 2002*  
\_\_\_\_\_  
DATE

Entered on "STARS" Yes   x   No

NOTATION VOTE

RESPONSE SHEET

TO: Annette Vietti-Cook, Secretary

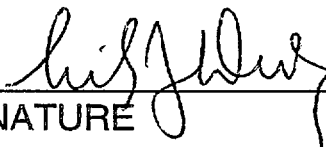
FROM: COMMISSIONER DIAZ

SUBJECT: **SECY-02-0068 - PROPOSED RULE ON FINANCIAL  
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Approved XX  Disapproved \_\_\_\_\_ Abstain \_\_\_\_\_

Not Participating \_\_\_\_\_

COMMENTS:

  
\_\_\_\_\_  
SIGNATURE

4/30/02  
\_\_\_\_\_  
DATE

Entered on "STARS" Yes XX No \_\_\_\_\_

NOTATION VOTE

RESPONSE SHEET

TO: Annette Vietti-Cook, Secretary

FROM: COMMISSIONER MCGAFFIGAN

SUBJECT: **SECY-02-0068 - PROPOSED RULE ON FINANCIAL  
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Approved X <sup>w/attached edits</sup> Disapproved \_\_\_\_\_ Abstain \_\_\_\_\_

Not Participating \_\_\_\_\_

COMMENTS:

Approved with edits to the Federal Register Notice.

  
\_\_\_\_\_  
SIGNATURE

  
\_\_\_\_\_  
DATE

Entered on "STARS" Yes X No \_\_\_\_\_

gap in the financial qualifications regulation for non-electric-utility entities when a licensee transitions from an electric utility to an entity other than an electric utility without transferring its license. Although almost all utilities transfer to non-utility status with a license transfer, this regulatory gap, if not closed, would prevent the NRC from making a generic determination that financial qualifications review is unnecessary at license renewal. Therefore, the staff proposes to adopt a provision to close the gap in this proposed rule.

### Regulatory Oversight of Licensees' Financial Qualifications and Discussion of Proposed Rule

With one exception, the NRC has provisions in its regulations to evaluate an nuclear power reactor applicant's or licensee's financial qualifications at several points - at initial licensing, before license transfers, and when circumstances warrant an ad hoc request for additional financial information. In addition, the NRC staff informally monitors the financial trade press for information on its licensees' financial situations. The one exception relates to a situation when a licensee transitions from an electric utility to an entity other than an electric utility without transferring its license. This rule would rectify the regulatory gap by imposing a request for financial qualifications information from the licensee. With the addition of this provision, the Commission believes it has a basis for concluding that it is unnecessary to review financial qualifications information explicitly during the license renewal process for holders of operating licenses for nuclear power reactors. The NRC does not believe that the license renewal process, in and of itself, is sufficiently unique to warrant a concomitant financial review.

The staff relies on the requirement in 10 CFR 50.33(f)(2) to obtain financial qualifications information on applicants seeking renewal of nonpower reactor operating



licenses. The license renewal process for nonpower reactors, unlike the license renewal process for power reactors, includes a financial qualifications review. The staff does not propose to amend this requirement since the <sup>NATURE OF</sup> ~~regulatory oversight~~ of nonpower reactor <sup>OPERATIONS</sup> ~~licensees~~ <sup>THE SAME LEVEL OF</sup> does not permit ongoing oversight, thus necessitating a review of financial <sup>FINANCIAL QUALIFICATIONS</sup> qualifications for nonpower reactor licensees at renewal.

### Initial Licensing Reviews

The NRC performs financial qualifications reviews during initial licensing. These reviews form part of the licensing basis that the licensee must maintain for the 40-year term of the initial license and for any license renewal period. Financial qualifications reviews at the operating license stage distinguish between license applicants that are electric utilities as defined in 10 CFR 50.2 and those that are not. Applicants other than electric utilities are required to submit estimates for total annual operating costs for each of the first five years of operation of the facility, and indicate the sources of funds to cover these costs. The NRC evaluation of the financial qualifications of an entity other than an electric utility applicant is based on the submitted 5-year projections of income and expenses and on current information from a number of major financial rating service publications. The NRC publishes the results of its evaluation in a safety evaluation report. The NRC's regulations do not require additional formal financial qualifications reviews at scheduled intervals.

by the license. Although the NRC expects that this type of transition will occur rarely, if at all, this requirement would ensure a financial qualifications review resulting from all relevant triggering events and, thereby, enhance public confidence while maintaining regulatory efficiency and effectiveness.

*THE PROPOSED NEW* Section 50.76 *will be* was created to provide a separation from § 50.33, since the latter section focuses on applicants rather than licensees. X

### Retention of Nonpower Reactor Financial Reviews at License Renewal

The NRC will retain the financial qualifications requirements in § 50.33(f)(2) for nonpower reactor (NPR) applicants that wish to renew or extend their licenses. Nonpower reactor licenses are generally renewed for 20 years. The NRC does not normally perform follow-up financial reviews after the initial 20-year license is issued. The NRC staff does not normally follow changes in NPR licensee financial qualifications because NPR owners are primarily financially stable nonprofit educational or research institutions, either privately, State, or Federally owned, and do not report financial information to sources readily available to the NRC. Additionally, license transfers for NPRs and the associated financial reviews are rare. A small number of NPRs are owned and operated by private companies. Therefore, financial qualification problems are not likely to become obvious, at least in part because of the unavailability of accessible information, as cited above. In some cases, the NRC has found financial weaknesses or ambiguities during NPR license renewals that it would not have discovered otherwise. As a result of the review, the NRC was able to require the licensee to take corrective action. Therefore, the NRC considers it appropriate to review NPR licensees' financial qualifications when they apply to renew their licenses. The burden on NPR licensees

22  
to demonstrate their financial qualifications every 20 years is offset by the assurance that licensee management is committed to continued operation.

## Conclusions on Eliminating Financial Qualifications Reviews for Power Reactor Licensees at License Renewal

Section 50.33(f) requires all applicants for initial and renewed operating licenses to submit financial qualifications information, except applicants for and holders of operating licenses for nuclear power reactors that are electric utilities. Section 50.33(f)(2) requires an entity other than an electric utility that seeks to renew its operating license for a nuclear power plant submit the same financial information in its application that is required for an application for an initial license.

X  
The NRC does not believe that there are any financial circumstances uniquely associated with the license renewal process, in and of itself, is that sufficiently unique to warrant a separate financial review. First, the NRC's regulatory processes for financial qualifications reviews adequately ensure that the NRC can take appropriate regulatory action when warranted by changes in a licensee's financial qualifications. Second, the submission of financial qualifications information and a finding of financial qualifications for a nuclear power plant licensee at the license renewal stage, by itself, is not likely to have any impact on a licensee's financial qualifications, and therefore should not be a factor in the renewal decision. In contrast, there are valid regulatory reasons for conducting specified financial qualifications reviews at other stages -- i.e., at initial licensing, when an applicant's financial qualifications need to be determined in accordance with the AEA's requirements; at the time of a license transfer, when deregulation initiatives are likely to affect an applicant's or

NOTATION VOTE

RESPONSE SHEET

TO: Annette Vietti-Cook, Secretary

FROM: COMMISSIONER MERRIFIELD

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Approved   x   Disapproved        Abstain       

Not Participating       

COMMENTS:

No comment.

  
SIGNATURE

5/6/03  
DATE

Entered on "STARS" Yes   ✓   No