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Public Workshop Pre-meeting

Purpose: Discuss March 27 Public workshop on SECY-01-0207

Success: Understanding of workshop format and role of NRC staff, finalize agenda

Discussion Time: 60 minutes

- Issues:**
- Background
 - Exelon pre-application (April 30, 2001)
 - Exelon White papers (May 10, 2001)
 - SECY-01-0207 dated November 20, 2001
(SRM and public release 1/15/02)
 - Workshop Agenda (attached)
 - Workshop format
 - Set up
 - Facilitation
 - Participants
 - Presentation materials
 - Response to Questions/Comments
 - Resolution of Stakeholder Feedback
 - Comments from Workshop
 - Written comments
 - Revision to SECY-01-0207
 - Part 52 Rulemaking/Fee Rulemaking
 - TAC MB4469

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DRAFT AGENDA FOR MARCH 27, 2002 PUBLIC WORKSHOP

1:00 - 1:05 AGENDA OVERVIEW/WORKSHOP FORMAT (F. Cameron)

1:05 -1:10 OPENING REMARKS (M. Gamberoni)

1:10 -1:20 BACKGROUND/PBMR PRE-APPLICATION (A. Cubbage)

1:20 - 2:45 ISSUES/DISCUSSION

- NUMBER OF LICENSES (J. Moore/J. Wilson)*

Number of licenses for a facility with multiple reactors
License duration of one combined license for multiple reactors
Duration of design approval under a combined license for multiple reactors

- ANNUAL FEES: (G. Jackson/D. Dandois)*

Annual fee requirements in 10 CFR Part 171
Commencement of annual fee in 10 CFR Part 52

- TESTING OF NEW DESIGN FEATURES FOR COL (J. Wilson)*

2:45 - 3:00 BREAK

3:00 - 5:00 ISSUES/DISCUSSION (CONTINUED)

- FINANCIAL ISSUES:*

Financial protection requirements in 10 CFR Part 140 (J. Moore)
Antitrust review requirements in 10 CFR 50.33a (J. Moore)
Financial qualifications in 10 CFR 50.33(f) (M. Dusaniwskyj)

- FUEL CYCLE ISSUES:*

Tables S3 and S4 in 10 CFR 51.51 and 51.52 (D. Allison)
Waste Confidence Rule in 10 CFR 51.23 (T. Harris)

- OPERATOR STAFFING REQUIREMENTS IN 10 CFR 50.54(m) (D. Trimble)*

- DECOMMISSIONING FUNDING (M. Dusaniwskyj)*

Decommissioning funding requirements in 10 CFR 50.75
Minimum decommissioning cost estimates in 10 CFR 50.75(c)

5:00 ADJOURN

* NRC staff will provide brief presentation followed by an open discussion and opportunity for stakeholder comments.

Background:

- Pre-application review of Exelon's PBMR started in April 2001
- Monthly meetings held with Exelon and other Stakeholders to discuss:
 - Legal and Financial Issues (SECY-01-0207)
 - Licensing Approach (Response to Exelon in concurrence)
 - Technology and Policy Issues (SECY planned in June 2003)

Issues Addressed in the SECY paper: The paper informs the Commission of the preliminary staff positions related to Exelon's proposals on legal and financial issues related to modular gas-cooled reactors and merchant plant applicants. These issues were discussed in 9 white papers submitted by Exelon on May 10, 2001:

- Operator Staffing
- Fuel Cycle Impacts
- Financial Qualifications
- decommission funding
- minimum decommissioning costs
- antitrust review
- number of licenses
- annual fees
- financial protection (Price-Anderson)

In addition, the staff provided preliminary positions on the following staff identified issues:

- license life for one combined license for multiple reactors
- duration of design approval under a combined license for multiple reactors
- commencement of annual fees
- testing of new design features for a combined license

OVERVIEW OF LEGAL/FINANCIAL ISSUES AND PRELIMINARY STAFF POSITIONS:

1. OPERATOR STAFFING

- The regulations do not address operating more than 2 reactors per control room
- Exelon proposes to operate up to 10 reactors from one control room
- Exelon proposes reduced operator staffing levels

Staff position:

- Exelon must address the safety implications of operating more than 2 reactors from one control room
- An exemption is required for an alternate level of staffing, adequate justification must be provided

2. ENVIRONMENTAL IMPACTS OF FUEL CYCLE

- Tables S-3 and S-4 (10 CFR 51.51 & 51.52) do not address the environmental impacts of non-LWR fuel
- Exelon will address design specific environmental impacts for the first PBMR application
- Exelon proposes that the NRC initiate rulemaking to create tables for PBMR-specific environmental impacts

Staff position:

- Independent of the issues raised by Exelon, the staff has identified the need to update tables S-3 and S-4
- It is premature to undertake rulemaking on the PBMR-specific environmental impacts
- Without rulemaking to address Non-LWRs, the staff must review design-specific environmental impacts for each application

3. WASTE CONFIDENCE DECISION

- Waste Confidence Rule is a generic determination that, if necessary, spent fuel can be stored on site for at least 30 years beyond the license life for operation
- Does PBMR spent fuel fall within waste confidence rule?

Staff position:

- It appears that PBMR spent fuel falls within the scope of the generic determination of the waste confidence rule.
- Exelon should discuss the acceptance of PBMR spent fuel with DOE.

4. FINANCIAL QUALIFICATIONS

- Non-utilities are required to submit financial qualifications information
- Exelon will submit financial qualification for the first PBMR application
- Exelon proposes that the NRC should exempt merchant generating companies from supplying financial qualifications information

Staff position:

- The Commission has the authority to create a new class of applicants that would not be required to submit financial qualification information
- Exelon has not provided sufficient information to support establishment of a such a new class of applicants

5. DECOMMISSIONING FUNDING

- Non-utilities are not allowed to use the sinking fund option to fund decommissioning costs
- Exelon is considering an alternate payment scheme which is a form of a sinking fund

Staff position:

- Exelon's proposed alternate payment scheme does not provide the same assurance of adequate decommissioning funding as other funding options available to Exelon

6. MINIMUM DECOMMISSIONING COST ESTIMATE

- The regulations for decommissioning cost estimates are specific to LWRs
- Exelon proposes to provide a site-specific decommissioning cost estimate for the first PBMR application and apply the estimate to single modules since construction will be staggered

Staff Position:

- The staff could accept a site-specific cost estimate provided there is adequate justification and the estimate includes the costs associated with decommissioning any common elements and structures of the facility

7. ANTITRUST REVIEW AUTHORITY

- Non-utility applicants are required to submit antitrust information 9 months prior to submittal of an application for a combined license.
- Exelon proposes that the NRC should make a determination that merchant plant applicants are exempted from NRC antitrust review.

Staff position:

- This issue is being addressed separately by OGC

8. NUMBER OF LICENSES

- Exelon proposed to apply for a single combined license for up to 10 PBMR modules

Staff position:

- There appears to be no legal restriction that would prevent the Commission from issuing one combined license for multiple reactor modules
- If a single COL is considered by the Commission, rulemaking should be considered to clarify the regulations
- It is not clear that issuing a single license will provide all of the benefits anticipated by Exelon (e.g., annual fees and Price-Anderson)
- The term of operation for all modules would be limited to 40 years from the issuance of the combined license
- The license should be conditioned so that the design can be reviewed every 5 years without the constraints of the backfit rule consistent with the 5 year interval for reevaluating the design that was envisioned for design approvals

9. ANNUAL FEES

- Exelon proposed that the NRC initiate Rulemaking to specify that one annual fee will be required per facility or set of modules

Staff position:

- The CFO plans to include, in the FY 2002 fee rulemaking, revisions to Part 171 that would specifically authorize annual fees to be charged to facilities licensed under Part 52; clarify that the NRC annual fee is charged per license, not per unit; and establish when NRC will begin to charge an annual fee to a holder of a Part 52 combined license.
- For Part 52 licenses, the staff proposed to assess the annual fees after construction is completed and the Commission has granted the authority to operate the reactor(s)

10. FINANCIAL PROTECTION

- Exelon proposes that the Price-Anderson financial protection requirements be applied per facility and not per reactor

Staff position:

- As stated in letters to Congress, there are substantial doubts that the Commission has the authority to treat multiple reactors as one facility for the purposes of the retroactive assessment
- Congress should amend the AEA if it seeks to assure that multiple modules at a single site are treated as one facility

11. TESTING NEW SAFETY FEATURES

- Part 52 requires testing necessary to demonstrate new safety features be completed prior to issuance of a design certification
- This requirement does not apply to applicants for combined license referencing custom designs
- Exelon proposes to complete testing on the South African demonstration unit after issuance of the COL

Staff Position:

- Necessary testing to demonstrate new safety features should be completed prior to issuance of a COL
- As part of the Part 52 update rulemaking, the staff has drafted language to require custom plants to complete necessary testing prior to issuance of a COL.