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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.