

10 Cyril Gray / Burns / Chandler / Jila
T. Rothschild / Nordling / Kim / S. Beck /
Treby / Hassell

SECY (K)
1A-600



No objection, see attached comments.

[Signature]
Richard A. Meserve

11/13/01

POLICY ISSUE

(NEGATIVE CONSENT)

November 20, 2001

SECY-01-0207

FOR: The Commissioners

FROM: William D. Travers
Executive Director for Operations

SUBJECT: LEGAL AND FINANCIAL ISSUES RELATED TO EXELON'S PEBBLE BED
MODULAR REACTOR (PBMR)

PURPOSE:

To inform the Commission of preliminary staff positions related to the staff's assessment of the Exelon Generation (Exelon) proposals on legal and financial issues and additional staff-identified licensing-related issues that may affect the Exelon application. Staff also requests Commission approval, by negative consent, to publish the preliminary staff positions so that the staff can engage stakeholders on these preliminary positions prior to providing the Commission with policy recommendations in June 2002.

BACKGROUND:

Exelon is considering pursuing a combined license (COL) and a design certification for the Pebble Bed Modular Reactor (PBMR) design pursuant to 10 CFR Part 52. The PBMR is a set of modular, high temperature, helium-cooled reactors. Each PBMR module contains its own reactor and power conversion system and produces 100 – 140 MWe. Exelon defines a PBMR "facility" as up to 10 reactors or modules operated from one control room. Exelon plans to operate the PBMR as a merchant plant.. Merchant plants are owned and operated by independent power producers and generate electricity expressly for sale on the open, wholesale electricity market at market price.

DISCUSSION:

In a letter dated December 5, 2000, Exelon expressed interest in pre-application activities. The staff began its pre-application review at a meeting with Exelon on April 30, 2001. As a part of the meeting, Exelon discussed legal and financial issues that Exelon believes merit special consideration due to the unique features of the modular facility, the gas-cooled reactor

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(12)
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Chairman Meserve's Comments on Secy-01-0207

I have no objection to the Staff publishing its preliminary positions on the legal and financial issues related to Exelon's pebble bed modular reactor (PMBR) prior to providing the Commission with its policy recommendations. When publishing its positions, the Staff should make it clear that these positions are preliminary and do not have Commission approval.

In addition, staff should revise the text at page 23 stating that the Federal Government will pay all public liability claims above the liability ceiling. In fact, the Price-Anderson Act provides only that Congress will "take whatever action is determined to be necessary" in this circumstance. Atomic Energy Act of 1954, as amended, §170e (2). This does not necessarily mean that additional funds would be provided or, if they were, that the Federal Government would be the source of such funds.