



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

December 18, 2003

SECRETARY

COMMISSION VOTING RECORD

DECISION ITEM: SECY-03-0195

TITLE: FINAL RULE, 10 CFR PART 50, "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 final rule as noted in an Affirmation Session and recorded in the Staff Requirements Memorandum (SRM) of December 18, 2003.

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, appearing to read "Annette Vietti-Cook", written over a horizontal line.

Annette L. Vietti-Cook  
Secretary of the Commission

Attachments:

1. Voting Summary
2. Commissioner Vote Sheets

cc: Chairman Diaz  
Commissioner McGaffigan  
Commissioner Merrifield  
OGC  
EDO  
PDR

VOTING SUMMARY - SECY-03-0195

RECORDED VOTES

	APRVD	DISAPRVD	ABSTAIN	NOT PARTICIP	COMMENTS	DATE
CHRM. DIAZ	X				X	11/24/03
COMR. McGAFFIGAN	X				X	12/16/03
COMR. MERRIFIELD	X				X	12/16/03

COMMENT RESOLUTION

In their vote sheets, all Commissioners approved the final rule as noted in an Affirmation Session and reflected in the SRM issued on December 18, 2003.

**AFFIRMATION ITEM**

**RESPONSE SHEET**

TO: Annette Vietti-Cook, Secretary  
FROM: Chairman Diaz  
SUBJECT: **SECY-03-0195 - FINAL RULE, 10 CFR PART 50,  
"FINANCIAL INFORMATION REQUIREMENTS FOR  
APPLICATIONS TO RENEW OR EXTEND THE TERM  
OF AN OPERATING LICENSE FOR A POWER  
REACTOR"**

Approved <sup>w/comment</sup> xx *lvj* Disapproved \_\_\_\_\_ Abstain \_\_\_\_\_  
Not Participating \_\_\_\_\_

**COMMENTS:**

I approve the notice of final rulemaking for publication in the *Federal Register*. The staff should update the information in the *Federal Register* notice to assure that the number of license renewal applications received and granted is up-to-date.

*lvj*  
SIGNATURE

Nov. 24, 03  
DATE

Entered on "STARS" Yes  No

**AFFIRMATION ITEM**

**RESPONSE SHEET**

TO: Annette Vietti-Cook, Secretary

FROM: Commissioner McGaffigan

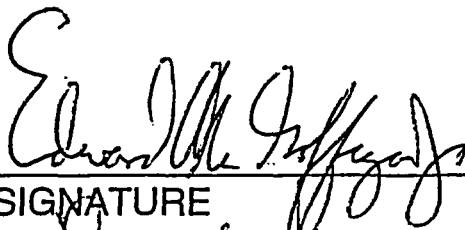
SUBJECT: **SECY-03-0195 - FINAL RULE, 10 CFR PART 50,  
"FINANCIAL INFORMATION REQUIREMENTS FOR  
APPLICATIONS TO RENEW OR EXTEND THE TERM  
OF AN OPERATING LICENSE FOR A POWER  
REACTOR"**

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

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

**COMMENTS:**

Approve subject to the Chairman's and Commissioner Merrifield's comments and one additional minor edit (attached).



SIGNATURE

December 16, 2003

DATE

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

renewals that it would not have discovered otherwise. Therefore, the NRC considers it appropriate to continue to review the financial qualifications of NPR licensees when they apply to renew their licenses.

## Conclusion

Section 50.33(f) requires all non-electric utility applicants for initial and renewed operating licenses, and § 50.80, in conjunction with § 50.33(f), requires all non-electric utility applicants for transferred licenses, to submit financial qualifications information. The NRC does not believe that there are any financial circumstances uniquely associated with license renewal that warrant a separate financial review. The NRC's regulatory processes for financial qualifications reviews adequately ensure that the NRC can take appropriate and timely regulatory action when warranted by changes in a licensee's financial qualifications. In contrast, there are valid regulatory reasons for conducting specified financial qualifications reviews at other license stages. The license stages are (1) at initial licensing, when an applicant's financial qualifications need to be determined in accordance with the AEA's requirements; (2) at the time of a license transfer, when new licensees need to be evaluated, or when deregulation initiatives may affect an applicant's or licensee's financial qualifications; or (3) during special circumstances, when ad hoc reviews under § 50.33(f)(4) may be warranted.

As a result, the NRC is promulgating a change in the requirement in the last sentence of § 50.33(f)(2) with respect to entities other than electric utilities seeking renewal of operating licenses for nuclear power reactors. The final rule (1) eliminates the need for such entities to provide financial qualifications information as part of the license renewal process, (2) retains the existing requirement in § 50.33(f) for nonpower reactors to provide financial qualifications information, and (3) adds a new § 50.76, "Licensee's change of status; financial qualifications." Section 50.76 will require that any electric utility power reactor licensee that becomes an entity

**AFFIRMATION ITEM**

**RESPONSE SHEET**


TO: Annette Vietti-Cook, Secretary  
FROM: Commissioner Merrifield  
SUBJECT: **SECY-03-0195 - FINAL RULE, 10 CFR PART 50,  
"FINANCIAL INFORMATION REQUIREMENTS FOR  
APPLICATIONS TO RENEW OR EXTEND THE TERM  
OF AN OPERATING LICENSE FOR A POWER  
REACTOR"**

Approved   x   Disapproved        Abstain       

Not Participating       

**COMMENTS:**

Approved subject to attached edits.

  
\_\_\_\_\_  
SIGNATURE  
  
12/16/03  
\_\_\_\_\_  
DATE

Entered on "STARS" Yes  No

## Comments of Commissioner Merrifield on SECY-03-0195

I approve the Final Rule subject to the following comments on the Federal Register Notice:

1. Comment 5 raises the issue of whether NRC has validated financial information adequately based on a GAO report concerning the Commonwealth Edison and PECO merger. While the reference to the NRC's response to the GAO is sufficient to cover the details of the specific issues in the GAO report, it is not intuitive why the comment itself is not relevant to the rulemaking as stated in the response. Staff should provide a slightly expanded explanation of why it is believed the comment is not relevant to this rulemaking.
2. The last paragraph in the response to Comment 9 should be revised. As written, the relevance of the second sentence, which discusses the ability to shut a plant down, is not clear. The last sentence may not be entirely accurate because the LLC organization might be of interest to the NRC if it was occurring simultaneous with the event triggering NRC review. We look at the LLC status at transfers. The following is a revised text for that paragraph:


~~The NRC does not agree with identified a basis for the commenter's view that the use of the LLC structure indicates licensees anticipate substantial changes in financial health and signals significant risk to the health and safety of the public. In any event, The Commission retains the same enforcement and inspection authority regardless of the corporate structure and can ultimately shut the reactors down if they are not operated safely. , regardless fo whether the licensee owner or operator is organized as an LLC or has another organizational structure. Furthermore, the use of LLC's by licensees is not relevant to the point in time that NRC reviews the financial qualifications of non-electric utilities, which include corporate forms other than LLCs:~~

3. Edit the second sentence in response to Comment 10 (adding the bolded language) so it reads in its entirety:

**"In this regard, the NRC has a full regulatory regime for licensing non-electric utilities that requires substantial financial information be submitted and reviewed, which is not the case for licensing reviews for electric utilities."**

4. Add to the last sentence of the response to Comment 16 the bolder language so it reads in its entirety:

**"Public health and safety are primarily protected through the NRC onsite inspection program, and the financial health of a licensee through NRC's monitoring of publically available financial information."**



12/16/03