NOTATION VOTE

RESPONSE SHEET

TO: Annette Vietti-Cook, Secretary

FROM: COMMISSIONER MCGAFFIGAN

SUBJECT: **SECY-01-0070 – PLAN FOR PREAPPLICATION ACTIVITES ON THE PEBBLE BED MODULAR REACTOR (PBMR)**

W/comments

Approved __X__   Disapproved _____   Abstain _____

Not Participating _____

COMMENTS:

See attached comments.

SIGNATURE

June 6, 2001

DATE

Entered on "STARS" Yes __X__ No ____

J-12

Commissioner McGaffigan's Comments on SECY-01-0070

I would urge the staff to bring policy issues to the Commission's attention promptly, particularly issues which may require legislative resolution. For example, Exelon apparently would like to pay one amount for Price-Anderson primary insurance for an entire site and not ˙separate amounts for each unit. I believe that will require an amendment to the Atomic Energy Act. Similarly, Exelon apparently would like its license application to be exempt from antitrust review. The Commission has been requesting a statutory change that would end our role in antitrust reviews of new license applications, but until the Commission's request is approved by Congress and enacted into law, section 105 of the Atomic Energy Act clearly requires the Commission, after receiving the advice of the Attorney General, to make an antitrust finding on. each application. I do not believe that the Commission has the authority to exempt Exelon from this antitrust review.   A statutory change would also be needed, in my view, if Exelon does not want to file a separate license application for each unit or to establish a decommissioning trust fund for each unit. If I am correct that numerous statutory changes would be required to implement Exelon's desired licensing approach, the sooner that is brought to the Commission's and Congress' attention, the more likely it will be that Congress will consider the resolution of these matters in the context of the overall energy policy debate. If statutory changes are necessary to implement Exelon's desired licensing approach, the staff should recommend whether or not the Commission should support each such change.