NOTATION VOTE

RESPONSE SHEET

TO: Annette Vietti-Cook, Secretary

FROM: Chairman Gregory B. Jaczko

SUBJECT: SECY-10-0084 – EXPLANATION OF CHANGES TO REVISION 2 TO REGULATORY GUIDE 1.159, "ASSURING THE AVAILABILITY OF FUNDS FOR DECOMMISSIONING NUCLEAR REACTORS"

Approved _X_ Disapproved _____ Abstain _____

Not Participating _____

COMMENTS: Below ___ Attached _X_ None ___

SIGNATURE

9/28/10

DATE

Entered on "STARS" Yes _X_ No ___

Chairman Jaczko's Comments on SECY-10-0084
Explanation of Changes to Revision 2 to Regulatory Guide 1.159, "Assuring the Availability of Funds for Decommissioning Nuclear Reactors"

I approve the changes to the regulatory guidance concerning the assurance of the availability of decommissioning funds for nuclear reactors. Also, I support the staff's position on the use of net present value method. The changes being made by the staff should enhance confidence that adequate decommissioning funding will be available for the safe and timely decommissioning of nuclear reactors.

The changes are consistent with the Commission's rationale for amending the decommissioning trust requirements in 2002 (67 FR 78350). Because of the economic deregulation of electric utilities, the Commission decided to take a more active oversight role of decommissioning funds to increase assurance that an adequate amount of funds will be available for their intended purpose.

The NRC's decommissioning fund requirements for nuclear power reactors afford licensees a variety of options for ensuring that adequate decommissioning funds are accumulated in a timely manner. It is clear from the material provided by the staff that licensees have readily available options at a reasonable cost (e.g., parent company guarantee) to comply with the decommissioning funding requirements without the need for the licensee to make imprudent adjustments in investment portfolios under challenging market conditions. I commend the staff for not letting concerns for market fluctuations and the possible overreliance of some licensees on one option for the accumulation of funds divert their focus from the protection of the public and the environment. The same way that market fluctuations would not relieve a licensee of its obligation to meet safety regulations, market fluctuations should not be used as a basis by licensees to avoid or delay their obligation to accumulate funds consistent with the regulations.

The changes are consistent with the requirements described in 10 CFR 50.75, which account for licensees that are not rate-regulated or do not have access to a non-bypassable charge for decommissioning. Licensees are required to annually estimate the amount of decommissioning funds needed and every two years report to the NRC the status of its decommissioning fund. The regulations are silent on how quickly a licensee should make up any shortfall that is identified during its annual estimation of the amount of funds needed for decommissioning. The changes are consistent with the timeframes in the requirements. If licensees would like to increase the duration to make up a shortfall beyond the timeframes in the current regulations for the accumulation of funds, then licensees should pursue a petition for rulemaking to avoid creating precedence where regulatory guidance is used as a substitute for regulations.

9/28/10

Gregory B. Jaczko Date