RESPONSE SHEET

TO: Annette Vietti-Cook, Secretary

FROM: Chairman Gregory B. Jaczko

SUBJECT: COMWCO-10-0001 – REGULATION OF CYBER SECURITY AT NUCLEAR POWER PLANTS

Approved __X__ Disapproved _____ Abstain _____

Not Participating _____

COMMENTS: Below ___ Attached __X__ None ___

SIGNATURE

6/7/10

DATE

Entered on "STARS" Yes __x__ No ___

Chairman Jaczko's Comments on COMWCO-10-0001
"Regulation of Cyber Security at Nuclear Power Plants"

I appreciate and approve the detailed and comprehensive COM provided by Commissioner Ostendorff outlining the important policy issues focused on cyber security and related to regulation of structures, systems and components in the Balance of Plant at NRC-licensed nuclear power plants. Commissioner Ostendorff's distinguished career at the National Academies, the DOE/NNSA and as well as on the Hill have given him a unique perspective on the critically important issue of cyber security.

Recent discussions with FERC and NERC have clarified some implementation issues and have helped identify a potential path forward. This will ensure an effective and seamless regulatory framework for FERC/NERC and NRC to work within. It is incumbent for us to move forward in partnership with NERC/FERC because they are voluntarily agreeing not to exercise their statutory responsibility in this area. NERC has clarified that the October 15 deadline is simply to provide a status report to FERC which means there is more time to work through the various issues. NERC has also indicated that it is their view that any systems identified as important to safety would also be important for grid reliability. That would mean that inspections by NRC could serve to cover both areas of responsibility. NERC also indicated that they would want inspections to be conducted in at least the FY2012 timeframe to meet their current expectations. In addition, FERC stated that our requirements would need to be at least as stringent as theirs.

Going forward, a potential path for us to follow is:

1) Chairman Wellinghoff would receive informal agreement from the FERC Commission by early October 2010 that the NRC should pursue taking over inspection of Balance of Plant at NRC-licensed nuclear power plants.
2) The Commission would then issue its SRM with a level of confidence that FERC is supportive of this.
3) The Commission would then send a publically available letter to FERC that would describe its proposed approach. NERC would then be able to include the status in its October 15th status report.
4) Finally NRC will work with FERC to jointly provide public notice and opportunity to comment on the vehicle that is developed to effectuate the proposed respective roles of the two agencies relative to regulation of cyber security at NRC-licensed nuclear power plants.
5) The NRC staff, working with FERC, will then resolve the public comments and develop an implementation schedule for an oversight and inspection regime that would be fully implemented by 2012.
6) Subsequently, NRC and FERC will revise our current MOU to reflect the changes in authorities and responsibilities, as warranted.

Finally, I offer for consideration the following SRM language:

The Commission believes the NRC should assume regulatory responsibility for cyber security for those systems that are important to safety in the Balance of Plant at nuclear power plants. The NRC has statutory authority to assume this responsibility and the Commission has concluded that doing so would enhance nuclear safety and regulatory efficiency. Accordingly, the NRC staff should work with FERC to jointly solicit public comments on the proposed approach, and establish an oversight and inspection regime that would be fully implemented by 2012.

I am sure that as this important effort goes forward both agencies may identify issues that will need further coordination, but I am confident that we are moving in the right direction. Again, I thank Commissioner Ostendorff for his proactive stance to develop this policy proposal.

10/7/10

Gregory B. Jaczko Date