

1 leave that.

2 Again, I'm sorry. So, in Appendix A you
3 will see both. Appendix A is reliance on a bond
4 rating.

5 Appendix Dis an equivalent use of self-
6 guarantee with no bond rating.

7 So, in a sense, Appendix C could be
8 supplanted with Appendix D.

9 And then Appendix E on the next page,
10 again you'll see both, you'll see bond rating and then
11 a similar meeting the test would also be without a
12 bond rating for our criteria.

13 So, some of these criteria and some of the
14 concerns that we initially received in the last few
15 months has been about those criteria and the ability
16 of potentially some licensees meeting those. But we
17 may hear about that today from some of the folks who
18 are here or those on the line.

19 So, with that I would just want to -- I
20 will note that few licensees, in conclusion on Slide
21 10, so my last slide, I wanted to know that few
22 licensees rely on the parent company guarantee. The
23 current number is less than five such licensees. And
24 those currently are power reactors. And some power
25 reactors in the past that have been in operation have

1 relied on those for, I want to say short
2 periods of
3 time, but the majority of those relying the
4 majority of the small number that are relying on a
5 parent, on the parent company guarantee are in
6 decommissioning at this time.

7 And, again, most of these are power --
8 historically these have been power reactors, currently
9 the majority being in decommissioning. And it's been
10 for a relatively small portion that the guarantee
11 mechanism has been in place, put in place for a
12 relatively small portion of the overall funds required
13 to address radiological decommissioning.

14 So, in summary, we talked about Dodd-
15 Frank, the nexus to NRC regulations, specifically NRC
16 decommissioning financial assurance methods accepted
17 by NRC to assure funding, specifically parent
18 companies parent company and self-guarantee
19 mechanisms.

20 And last and finally, we presented staff's
21 analysis for how we were going to approach this
22 legislatively-mandated requirement.

23 With that said, I will turn it back over
24 to Greg Trussell, and I thank you.

25 MR. TRUSSELL: Thanks, Rich.

Again, this is Rich Trussell from

1 Rulemaking. The next slide, Slide 11, I'm going to do
2 an overview of where we are in terms of rulemaking
3 efforts and the alternatives to the use of credit
4 ratings.

5 So, the staff initial used the direct
6 final approach to this rulemaking since the removal of
7 the regulations regarding credit ratings have relied
8 on already existing alternative financial tests
9 considered non-controversial.

10 The direct final rule process allows an
11 agency to issue a proposed final rule in parallel.

12 If no significant and adverse comments are
13 received on the proposed rule, the final rule can
14 become effective without further formal action. As
15 such, the time and associated schedule to issue a
16 direct final rule is shorter than a standard rule.

17 Even though this rule is required by
18 statute, the staff's plan was to use a direct final
19 rule process rather than issuing a final rule to allow
20 for the public to provide comment on the specific
21 approach being taken to comply with the Dodd-Frank
22 Act.

23 Direct final rule was submitted to the
24 Commission in July, and became publicly available at
25 that time.

1 After the direct final rule became
2 publicly available, the NRC became aware of concerns
3 from the industry and potentially receiving adverse
4 comments if the direct final rule was published.
5 These concerns from industry was that some power
6 plants, specifically merchant licensees, may be unable
7 to pass the alternative financial test requirements
8 for use of the parent company guarantee as presented
9 and, thus, would submit adverse comments.

10 Based on these concerns, the staff in
11 September requested the direct final rule be withdrawn
12 and allow the staff to seek stakeholder input and
13 proceed with developing a proposed rule. The
14 Commission approved the staff's request.

15 So, this public meeting today is our
16 first time seeking public input on this rulemaking.
17 The staff is in the process of developing a proposed
18 rule. We'll use the input from this meeting in our
19 development of that proposed rule.

20 So, this ends the formal presentation
21 portion of our meeting. We'll move now into the
22 discussion piece.

23 Before we move to discussion, I want to
24 see if anybody in the room has any remarks that I can
25 make before we move to discussion? Any remarks?

1 (No response.)

2 MR. TRUSSELL: Anybody on the phone?

3 MR. MUSSATTI: Kelsey, is there anyone on
4 the phone that would like to make an opening comment
5 here?

6 THE OPERATOR: I'm showing no questions at
7 this time.

8 MR. MUSSATTI: Okay.

9 MR. BONANNO: Greg, I think -- This is
10 Jerry Bonanno from NEI. I think we'll get into a lot
11 of the specifics in the discussion. But I just wanted
12 to start off by saying we appreciate the staff pulling
13 the paper back and going through the traditional
14 rulemaking process.

15 We think there's -- I think we agree on a
16 high level that Dodd-Frank requires the NRC to address
17 the references to credit ratings in the appendices for
18 Part 30. I think where we're, where we're coming at
19 this from a little different perspective is how you go
20 about doing that, so, the specific approach to how you
21 comply with Dodd-Frank.

22 So, we can, you know, I don't want to take
23 up too much time at the front end of the discussion,
24 but I think we're going to be able to address some of
25 these questions today. I think if we need further

1 interaction, I think the staff should be open to that
2 and provide for that.

3 One of the things that was mentioned in
4 the presentation which was some very good overview of
5 the current state of play is, you know, other agencies
6 have done a lot of work to implement Section 939(a) of
7 Dodd-Frank. And there's been a number of different
8 approaches. You can kind of read forever on, you
9 know, how the other agencies have addressed this.

10 But I think when we reviewed that
11 rulemaking record -- and we haven't gotten through,
12 you know, all of it -- but I think a few things became
13 apparent to us as kind of baseline or foundational
14 considerations when going forward with this.

15 The first one was that it looked pretty
16 it was pretty clear to us that Section 939(a) itself
17 didn't require the agencies to change the degree of
18 credit worthiness that their rules currently required
19 or resulted in.

20 So, what I mean by that is other agencies
21 have pursued solutions that really seek to replace the
22 credit ratings with an approach that's roughly, that
23 results in roughly the same amount of credit quality.
24 So, for us when we, when we look at that what we would
25 be after would be something that wouldn't

1 substantially impact the availability of these
2 decommissioning funding methods to existing licensees.

3 So that's kind of the first foundational
4 principle that we pulled out.

5 Second is that 939(a) itself doesn't
6 prohibit the regulated entities from relying on credit
7 ratings. So, a number of regulators, you know, SEC,
8 the Office of the Comptroller, and a few other,
9 National Credit Union Administration, devised
10 solutions where they replaced the credit ratings with
11 kind of a narrative explanation of what they were
12 after through the credit rating, and then made clear
13 that the regulated entity could continue to rely on
14 the credit ratings in part to meet that standard. And
15 that was particularly true where there were kind of
16 multi-factor tests that were involved in assessing
17 credit quality.

18 So that, I think, is something else that
19 we should keep in mind as we move forward.

20 And then the third, the third piece that
21 I thought was just useful to lay out going forward
22 from industry's perspective is, like was mentioned, I
23 think the underlying concern with 939(a) was to avoid
24 an over-reliance on credit ratings. And Congress
25 decided that the way to do that was to strike all the

1 references to credit ratings in the regulations.

2 But I think it's important to keep in mind
3 that, you know, the NRC has been pretty careful with
4 bond ratings. And if you look at the 2011
5 decommissioning planning rulemaking, I think the
6 Agency did a good job of exercising some caution with
7 the use of bond ratings. So, and they did that
8 through a couple means.

9 One was at least in most of these
10 appendices coupling reliance on the bond ratings with
11 the minimum tangible net worth requirement, and then
12 also limiting the reliance on bond ratings for bonds
13 that are uninsured, uncollateralized, and unsecured.
14 So, that was meant, I think, to make sure that the
15 bond ratings were actually reflecting the credit
16 worthiness of the bond issuer and not the insurer or
17 the guarantor.

18 So, I think those are just three
19 foundational principles that we kind of pulled from
20 the other regulations that we reviewed. So, I'll stop
21 there.

22 MR. TURTIL: Okay. In terms of process,
23 if I could just add. So, this public meeting we're
24 inviting, we want to hear comment. This is very
25 helpful. It's being transcribed. Staff will review

1 that.

2 What is envisioned is this will go out as
3 a proposed rule. So whatever you speak to, whatever
4 comment you make here, I will encourage everyone on
5 the phone itself, everyone, please put these in
6 writing to the NRC as well. So, they will certainly
7 be part of our transcribed meeting minutes. And,
8 again, staff will look at that.

9 But we're going to want on the official
10 record as well response to the proposed rulemaking.
11 I hope everyone recognizes that's what we

12 MR. BONANNO: I'm sure, yes.

13 MR. TURTIL: Thank you. Great.

14 One minute. So, I just wanted to make
15 sure that was clear to everyone. So, we're listening,
16 we're taking comments. We'll see if we can answer
17 some. If we're unable to at this time, that's all,
18 this is all for just public and put in dialog. And
19 the proposed rule will be really the ultimate place
20 for comments to come in. So, thank you for that.

21 Any other?

22 MR. TRUSSELL: Thanks, Jerry.

23 Maybe we could get the discussion started.
24 We could maybe look at some of these questions that we
25 have here.

1 Question one, the answer to that may be
2 yes from the folks here in the room.

3 The first question is, Are there licensees
4 that meet the current financial test for a guarantee
5 that would no longer be able to meet the financial
6 tests proposed by this rulemaking?

7 Is there a response to that?

8 MR. GERLOFF: Yes.

9 MR. TRUSSELL: So if such is the case,
10 question two is, Would such licensees be able to meet
11 the decommissioning funding assurance requirements
12 using one or more other funding methods allowed by
13 regulation that Rich kind of pointed out earlier.

14 MR. TURTIL: Well, so these, so these
15 questions will be part of the proposal in one way or
16 another. And for the sake of this meeting, if it can
17 get our juices flowing, get us thinking about, you
18 know, why the proposal is, you know, will be difficult
19 or will be challenging, or what the concerns are of
20 industry or others, so that's kind of the objective of
21 these discussion questions.

22 MR. GERLOFF: This is Fred Gerloff from
23 Dominion Energy. And I appreciate the opportunity to
24 comment today. There's enough complexity in this
25 topic that it deserves a robust deliberative process.

1 Simple elimination of financial test two
2 from Appendix A to Part 30 will make parent company
3 guarantees largely unavailable to commercial power
4 reactors operating in merchant environments.

5 The impacts on reactor licensees is
6 predictable, given the regulatory history of the
7 financial tests provided in the appendices to Part 30.
8 Specifically, in its original 1988 decommissioning
9 funding rulemaking, the NRC pulled the financial test
10 used in Part 30 from the EPA's regulations.

11 In EPA's 1982 rulemaking adopting the two
12 tests, EPS -- EPA explained that financial test one is
13 useful for manufacturing businesses, but EPA noted
14 that the test is not appropriate for utility companies
15 that are credit worthy because they have different
16 financial characteristics. Thus, the EPA developed
17 financial two with minimum bond ratings that utilities
18 could satisfy.

19 We recognize the reason that this
20 rulemaking is being undertaken is to achieve
21 compliance with Dodd-Frank which requires that
22 agencies remove references to credit ratings in their
23 regulations and replace those with alternative
24 standards of credit-worthiness.

25 We ask that the staff take the time to

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1 develop a proposed rule that achieves this objective.

2 Staff should examine what other agencies have done in
3 formulating this rulemaking.

4 With respect to the discussion questions
5 on today's agenda, Are there licensees that meet the
6 current financial tests for a guarantee that would no
7 longer be able to meet the financial tests in the
8 proposed rulemaking? The answer is yes: Dominion
9 Energy, Kewaunee, for one.

10 Dominion Energy committed to demonstrate
11 its ability to meet the criteria in Appendix A as a
12 condition to use the decommissioning trust fund for
13 spent fuel management.

14 Second question, Would such licensees be
15 able to meet the decommissioning funding assurance
16 requirements using one or more other funding methods
17 allowed by regulation: prepayment, external, sinking
18 fund, et cetera?

19 In the case of Kewaunee, the Kewaunee
20 decommissioning trust is sufficiently funded.
21 Appendix A to Part 30 is used as a criteria to provide
22 additional funding assurance related to a commitment
23 and not to address a funding shortfall.

24 And then number three, Should the NRC
25 consider alternative financial criteria to assess an

1 applicant's or licensee's use of a
guarantee to
2 provide reasonable assurance for funds for
3 decommissioning?

4 The answer is yes, we ask that the staff
5 take the time to develop a proposed rule that doesn't
6 result in this type of unintended consequence.

7 Thank you.

8 MR. MUSSATTI: Response to that?

9 MR. TURTIL: No.

10 (Laughter.)

11 MR. MUSSATTI: Okay, then we'll move on.

12 MR. TURTIL: No, I appreciate it. No, I
13 really do. And I think Staff really appreciates the
14 detail and pointing to a current licensee.

15 And we could get into the specifics and
16 details, talking, you know, net working capital and
17 current I think that's part of the challenge.
18 Current assets, current liabilities, networking

capital,
positive

. GERLOFF: Well, what I'm saying **is**
~~working capital~~ that the parent company is creditworthy.

A

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1 MR. TURTIL: Yeah.

2 MR. GERLOFF: Kewaunee itself is not
3 generating revenue. But the parent company is
4 certainly creditworthy. But reliance on financial
5 test one, which is not designed for utilities, doesn't
6 help us. We need that financial test too.

7 MR. TURTIL: And I didn't write that -- I
8 didn't provide that to myself. What is the credit
9 rating of the parent?

10 MR. GERLOFF: It's triple-B with plus or
11 minus adjustments from Standard Poor. And I don't
12 recall the Moody equivalent. But it includes the plus
13 or minus adjustments.

14 MR. TURTIL: Okay. Thank you.

15 MR. SLY: And we're required by, not
16 license condition but by commitment, to renew
17 submittal letter basically confirming that we have
18 this commitment in place and basically renew the
19 financial test each time we do that.

20 So, this change, as proposed, would put us
21 in a hard spot with respect to meeting this commitment
22 in the future.

23 In other words, being able to show that,
24 for a parent company guarantee that we don't have in
25 place but that we promised to put in place if we

1 become underfunded, that we couldn't write that letter
2 every year and meet the financial test.

3 So, it puts us -- it would put us in a
4 hard spot in that respect.

5 MR. TURTIL: Very good. Thank you for
6 that.

7 MR. MUSSATTI: Okay, is there anybody else
8 in the room that would like to speak? Remember, if
9 you're seated in the audience out there, that the
10 microphones aren't probably going to be able to reach
11 that far out into the room.

12 It would be better if you were to walk up
13 to this gap that's right here in front of me, so that
14 the microphones can hear you. Anyone? Kelsey, has
15 anybody on the phone indicated they'd like to speak?

16 THE OPERATOR: Yes, we do have one
17 question on the phone. Your mike is now open, you
18 may speak.

19 MR. MATTHEWS: Hi. Yeah, this is John
20 Matthews from Morgan Lewis. And I just wanted to add,
21 going back to the financial tests and how they apply
22 with respect to utilities.

23 In 1982, when the EPA did the rulemaking,
24 there were no merchant plants. And the EPA recognized
25 in their rulemaking that financial test one was a

1 viable way for assessing the credibility, the
2 financial creditworthiness, rather, of manufacturing
3 companies, but was not a viable way of measuring the
4 financial capability of companies in other industries,
5 such as utilities. There were no merchant plants in
6 1982.

7 So, when we say financial test one doesn't
8 work for utilities, it's across the industry. We have
9 not been able to identify a single utility, cost of
10 service merchant of any kind that can meet financial
11 test one across the industry.

12 I've been doing this for 20-plus years, of
13 working on parent guarantees from time to time for
14 conventional reactors that are owned and operated by
15 utilities, have never encountered a utility that could
16 meet financial test one.

17 So, by eliminating financial test two, you
18 eliminate the capability of utilities to use the
19 parent guarantee as their method.

20 And I think it's very important to
21 understand the history here. In 1998 -- you know,
22 years leading up to 1998 the NRC conducted a
23 rulemaking to address the merchant world.

24 And there were lots of arguments going
25 around in the industry of what the standard should be

1 for the merchant world, in terms of financial
2 assurance or decommissioning and whatnot, and
3 ultimately, the NRC staff landed on, hey, you're going
4 to have to provide 100 percent financial assurance.

5 When you're using the prepayment method,
6 you can get credit for earnings and all that, but
7 you're going to have to provide 100 percent. And at
8 that time, the regulations said you use the parent
9 guarantee method in combination with other methods of
10 decommissioning financial assurance.

11 And so, industry went and argued and said,
12 well look, we may come in and, you know, we need
13 \$330 million in prepayment method to meet the formula
14 amount fine, but gee, something could turn in the
15 marketplace in a given year.

16 The market gets down and suddenly I got
17 \$300 million and I have a \$30 million gap. And the
18 only way I can fix that is put \$30 million in the
19 trust -- which I'm not going to necessarily need to do
20 because in a couple of years the market might come
21 back -- or give a parent guarantee for \$330 million,
22 which seems like a big burden and I may or may not
23 have the capacity to do that.

24 So, let me give the parent guarantee
25 method in combination with the prepayment method. And

1 so the rules were changed in 1998 specifically to
2 facilitate the ability of utilities to use the parent
3 guarantee in combination when needed.

4 And that goes to a more important point,
5 which is that the need to use the parent guarantee can
6 be episodic, and over time. So, you can't just look
7 at what the industry's doing today and say, well, this
8 is only a problem for one or two utilities.

9 When we had the financial crisis back in
10 2008 and 2009, funds were down. There were a number
11 of utilities that used the parent guarantee as a
12 stopgap measure, and then were able to either -- you
13 know, either their funds were covered in value, or
14 they were able to do analyses using tech-specific
15 studies and the safe-store method.

16 But the ability to use the parent
17 guarantee was a cost-effective for utilities to put
18 financial assurance in place, to give the agency the
19 comfort that it needed, and to comply with the
20 requirement for 100 percent financial assurance
21 consistently, but allow those utilities to then find
22 another way of satisfying the requirements.

23 That flexibility is extremely important to
24 the industry. And that policy decision was made in
25 1998 to allow utilities to use this method.

1 By eliminating financial test two, you're
2 reversing that major policy decision that's been very
3 important to the industry, and can have enormous
4 impact on utilities in given points in time and we've
5 experienced that multiple times over the last 20
6 years.

7 So, this not a trivial issue. It's not --
8 question two is, well, can utilities use another
9 method? Yes, they can. The other methods are much,
10 much more expensive.

11 And when you're dealing with the nuclear
12 industry that has lots of financial pressures
13 impacting that industry, imposing unnecessary
14 financial burdens just because it's convenient to just
15 eliminate financial test two and comply with Dodd-
16 Frank and, you know, a quick and easy fix is just not
17 the way to go here.

18 MR. TURTEL: Thank you, John, for your
19 comments. This is Rich Turtel. I will say that the
20 Staff didn't consider this, or wouldn't characterize
21 this, as a quick and easy fix without believing its
22 equivalency in terms of test criteria, as well as
23 being -- considering the risk of funds that may or may
24 not be available.

25 So, I appreciate your comments. You did

1 say -- you did make
reference to question two. We're
2 talking about cost of other alternative methods and I
3 think it's on Slide 6 that I identify some of those
4 other methods.

5 But they're all here prepayment,
6 external, surety bond, letters of credit, insurance.
7 I would encourage, when comments are made going
8 forward, that if you could provide if you could
9 consider providing -- and I know that's detail. It's
10 detail maybe about your relationships with the
11 financial institutions you all interact with.

12 But if so, what would the cost of those
13 methods be? Again, that may be proprietary, I'm not
14 sure. But that would be helpful for the NRC Staff to
15 understand what are those potential costs.

16 Certainly, a bond rating, there's no cost.
17 Well, no significant cost, of course, other than
18 issuing bonds and engaging with Moody's or Standard &
19 Poor's.

20 But in terms of assuring to these other
21 methods prepayment being cash, surety bonds,
22 etc. we would like to understand that if it's
23 possible that you could provide that in your response
24 as we go forward with a proposal.

25 MR. MATTHEWS: And, Rich, so let's say I

1 have a \$20 million shortfall. Well, prepayment method
2 that costs me \$20 million. The only other viable
3 methods are surety bond, or a letter of credit can be
4 the same thing. But financially, they're going to be
5 the same cost.

6 And the problem there, with respect to
7 cost, is its tenets. If I don't need it, if
8 everything is -- you know, the world's awash with
9 cash, the market's doing great and I probably don't
10 need it, it's probably one percent of the value, so
11 \$200,000 a year.

12 But after the financial crisis, (a) there
13 was a period of time you couldn't get a letter of
14 credit. I mean, a letter of credit for \$20 million
15 costs \$20 million.

16 When letters of credit started being
17 written, I know for a fact that one letter of credit
18 in the industry that was used cost five percent per
19 year. So, on a \$200 million letter of credit, that's
20 \$10 million a year, which is an enormous cost.

21 MR. TURTIL: Yeah. So, I'm hearing

22 MR. MATTHEWS: The problem is, is when you
23 need it. When the market has dipped and trust funds
24 are short, that's precisely the time when these other
25 mechanisms are going to be the most expensive that

1 they can be.

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When you don't need it, the market's doing swimmingly, then they can be not that expensive, but still one percent a year versus, if I do a parent guarantee, I may assign an internal cost within the company to the nuclear I'm aware of some companies and actually, they've stated in public meetings with the NRC years ago, that they assigned a one percent per year cost to the parent guarantee to the nuclear budget.

11

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And so it impacted the nuclear budget but it didn't cost the shareholders anything. It's just the matter of an accounting thing within the company.

16

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MR. MUSSATTI: Next speaker in the room here?

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21

22

MR. KLINE: Kenneth Kline. I've worked on a number of the requirements here. I've worked on the 2011 decommissioning planning rule NEI referred to earlier.

23

24

25

A small clarification. We certainly appreciate all your comments and encourage you to submit them.

One area that we're not hearing from right now in the room is we're not hearing from any of our materials licensees. Our Part 70s licensees would use

1 these wholly. They wouldn't have a sinking fund
2 coupled with it.

3 So, we would certainly just encourage
4 more -- or NEI, to seek out comments from those folks.
5 Because a lot of those have used those for many years.
6 Some of them are no longer qualified to use those,
7 based on current financial positions.

8 But some of those are \$600 million or so
9 that -- in the past that they've used. So, we would
10 certainly appreciate any input from those folks as
11 well.

12 MR. BONANNO: Yeah, thank you for that.
13 This is Jerry from NEI. So, we have a tight tie with
14 our fuel cycle group on this. So, we're going to
15 follow up with them after the meeting so we'll be able
16 to get some more input from that.

17 MR. KLINE: Appreciate that.

18 MR. BONANNO: I mean, we've heard from
19 them that there's definitely concerns, but I think
20 we're tied in tightly with them.

21 MR. KLINE: I think probably a lot of the
22 comments will be similar, but we certainly appreciate
23 that and we -- to get everybody's -- as Rich mentioned
24 earlier, it affects those Part 30, 40, 70, 72 and the
25 50. So, if we can get everybody's, that would be --

1 we can fully consider everybody's at one time, that
2 would help.

3 MR. MUSSATTI: Any more comments in the
4 room?

5 MR. TURTIL: I'll make another comment.
6 Or maybe I should wait until closing. I'll wait until
7 closing if there are other comments.

8 MR. MUSSATTI: Okay.

9 MR. BONANNO: I have one comment.

10 MR. MUSSATTI: go for it.

11 MR. BONANNO: So, this is Jerry Bonanno
12 again from NEI. So, I think the discussion with John
13 provided a lot of detail. I'll just pull back a little
14 bit.

15 So, I think I understand why the answer to
16 question two would be useful in assessing the burden
17 associated with folks losing accessing to the parent
18 company guarantee method.

19 I guess on a higher level where I am is,
20 I think kind of embedded in your Slide 9 criteria for
21 the Staff should be not to have that happen with this
22 rule change. Not to have folks lose access to that
23 funding method, to the extent you avoid that.

24 And I think that would be consistent with
25 the fact that, the Dodd-Frank requirements aside, I

1 think this structure has worked pretty well over the
2 years. It's been looked at and revised several times.

3 I mentioned the 2011 rulemaking. I think
4 the agency was -- had its eyes wide open with respect
5 to the limitation of bond ratings in that rulemaking.
6 They didn't address this specific statutory
7 requirement in that rulemaking.

8 But I think if we step back, I think doing
9 as little damage to the folks' access to these
10 different funding methods should be part of what the
11 staff is concerned about, because you can certainly
12 eliminate financial test two and still have a level of
13 assurance that you would want but you have much less
14 flexibility, as we've been discussing. So, just
15 another comment from a little bit of a higher level.

16 MR. MUSSATTI: Okay, anybody else in the
17 room?

18 MR. SLY: Yeah, I'd like to I'm a
19 licensing guy, not a finance guy. So, focus on the
20 words here.

21 MR. MUSSATTI: Your name and affiliation?

22 MR. SLY: Craig Sly, Dominion Energy. I
23 couldn't help but notice on Slide 5, item number 2, it
24 says, modify regulation and remove reference to a
25 requirement of reliance on credit ratings.

1 So, to me -- and I don't want to put words
2 in you all's mouth, but to me the word reliance means
3 that you're -- and maybe I'm misinterpreting it --
4 you're solely relying on the bond rating.

5 But I don't think you're solely relying on
6 the bond rating. You're relying on the bond rating
7 plus some other information. So, I don't know if that
8 makes a difference on whether you feel the need to
9 pull this stuff out of the regulation, but I just
10 thought I'd throw that out that it's --

11 The other thing I would note that it says,
12 substitute a standard of creditworthiness. And **in**
13 this particular case I think what folks are telling
14 you is that we don't think that you're substituting an
15 adequate standard that we could meet for the company
16 parent guarantees.

17 MR. MUSSATTI: Okay. Kelsey, is there
18 anyone on the phone?

19 THE OPERATOR: Yes. Our next question
20 comes from Jeff. Jeff, your line is now open.

21 MR. DUNLAP: All right. This is Jeff
22 Dunlap from Exelon. First, I'd like to say that I
23 agree with the comments provided by Jerry and Fred and
24 John. And I'd just like to add a couple of more
25 things if I could.

1 First for Exelon, while we don't currently
2 have any parent guarantees used for decommissioning
3 funding assurance, we have used them in the past and
4 I don't think it's out of the question that we'll use
5 them in the future.

6 It has been, as John said, a very flexible
7 way for us to address temporary shortfalls. There
8 could be other cases, as you've already mentioned, for
9 utilities that are in decommissioning that may want to
10 use these.

11 As far as the second question about the
12 cost, yes, we could get a letter of credit for
13 instance. There is definitely a cost to that.

14 And the comment I guess I would like to
15 make about that is, we can find some more details if
16 that is helpful, and it sounds like it would be, on
17 what that cost might be.

18 But what I'm a little concerned about here
19 is that we're introducing additional costs and
20 utilities. And we're not really -- at least for a
21 creditworthy company we're not providing any
22 additional assurance on the amount of funding provided
23 over and above a parent guarantee, which is the method
24 we would have used.

25 And I guess the final point I'd like to

1 make is -- and this goes to Jerry's point about maybe
2 we should consider not completely removing reliance on
3 these credit ratings is that there is actually
4 additional information embedded in a credit rating,
5 that is not necessarily something that you can get
6 from a static metric.

7 So, especially when you do have other
8 metrics, which we do here already in the existing
9 regulations, I think we could be more -- the NRC could
10 be losing some valuable information on things like
11 expected growth and profitability, some qualitative
12 factors that may not be inherent in a ratio, like
13 industry characteristics, country risk, things like
14 that.

15 There are a lot of additional information
16 that really does go into there that's hard to get from
17 one particular metric. So, I think there is some
18 benefit to having that kind of test in addition to the
19 right metrics, which I think are already in existence.
20 And that was it, thank you.

21 MR. TURTIL: Thank you.

22 MR. MUSSATTI: All right, thank you, Jeff.
23 We have one more in the room?

24 MR. HARWELL: Hi. This is Shawn Harwell,
25 NRC. And actually, this is to Jeff. If you -- thank

1 you for that, first of all.

2 If you could provide some of that in
3 detail in writing, what you're considering are the
4 good metrics, or the valuable information you're
5 talking about, if you could provide that to us, that'd
6 be a great help.

7 MR. DUNLAP: Yes, we can do that in our
8 written comments. No problem.

9 MR. HARWELL: Thanks, Jeff.

10 MR. MUSSATTI: Okay, and I'd like to
11 reiterate one more time that whatever you say here is
12 probably not everything you did want to say and you
13 might not have said what you did say as clearly as you
14 wanted to.

15 So, I recommend that everybody take time
16 to transcribe what you thought you said and what we
17 think we heard, and any other additional comments that
18 you have.

19 And you can send those to
20 gregory.trussell@nrc.gov. And we will get those into
21 the appropriate place. You don't have a government
22 regs address or anything at this time, do you?

23 MR. TRUSSELL: Not at this time, no.

24 MR. MUSSATTI: Okay. But yes, please take
25 the time to send your comments in in writing. They

1 are much more accurate than us listening to them.
And
2 anybody else?

3 MR. TURTIL: So, I would just state the
4 following, because I was thinking this. And then, I
5 got a lot of comments from other Staff as I've walked
6 around the room a little bit here.

7 And what Shawn Harwell indicated, I just
8 want to emphasize that as well. We hear a lot of,
9 certainly hesitancy, resistance, concern, about the
10 proposal.

11 We would seek out -- and I'd have to look
12 at which one of our questions -- I think it's number
13 three probably of alternative financial test
14 criteria.

15 So, maybe you've got to turn to your
16 financial folks. John Matthews, I think you may have
17 had some suggestions. I'm not inviting those now at
18 this time, but the commenter we just heard before from
19 Exelon, get in.

20 Get into the weeds with us and suggest
21 what you think might be equivalent, or what might be
22 lost, in your view, from reliance on a credit rating.
23 What financial metrics, what consideration, what
24 alternatives, that you could find.

25 And that's the key noun there, if you

1 will -- alternative financial test criteria. How
2 would you propose if an agency has been tasked to, we
3 don't want to rely on the double A or the single A or
4 the triple B or the trip -- what other criteria would
5 you envision?

6 And take a look at what we currently have
7 and please provide -- if you can provide that kind of
8 detail to the NRC, that would be helpful.

9 MR. TRUSSELL: And this is Greg Trussell
10 from Rulemaking. As I believe it was Craig earlier
11 pointed out, we will go look at what other agencies
12 have done, in terms of their reaction, how they
13 changed the regulations to be compliant with Dodd-
14 Frank.

15 So, we'll definitely go back and do
16 analysis of that as well.

17 MR. MUSSATTI: Okay. More comments?

18 MR. BONANNO: I just had one closing
19 comment, if I could.

20 MR. MUSSATTI: Close quickly.

21 MR. BONANNO: Yeah, more of a comment. I
22 won't commit to being the last one, but this is Jerry
23 Bonanno from NEI again.

24 And again, we haven't discussed this in
25 any detail. So, this is just me thinking out loud,

1 which is always dangerous.

2 I mean, I realize you all started with a
3 direct final rule on this. But as opposed to
4 publishing a proposed rule with this option in it, and
5 then asking questions in the proposed rule, I mean,
6 these questions look like they're shaping up to be the
7 kind of questions you would ask in an advanced notice
8 of proposed rulemaking to gather information, and then
9 do a proposed rule that's closer to, quote unquote,
10 correct or right.

11 Just a thought. I know it's a little more
12 time and maybe some more work, but I know you all need
13 specifics and you hear a lot of anecdotal responses.
14 And maybe a good vehicle to use to get some written
15 responses that could help shape a proposed rule, as
16 opposed to going out with a proposed rule and getting
17 that feedback in response to it.

18 MR. MUSSATTI: Okay, thank you.

19 MR. TRUSSELL: Thanks, Jerry.

20 MR. MUSSATTI: Anybody in the room?
21 Kelsey, is there anyone else who wants to speak on the
22 phones?

23 THE OPERATOR: Yes. Our next question
24 comes from Steven. Steven, your line is now open.

25 MR. HAMRICK: Yes, thank you. This is

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1 Steven Hamrick from Florida Power & Light Company, and
2 also speaking for its affiliates at NextEra Energy
3 Resources.

4 And I think Mr. Bonanno just covered what
5 I was going to mention. And it was, you have
6 discussed the desire for people to submit written
7 comments.

8 And I was just going to ask procedurally,
9 does that just mean sending a letter at some point in
10 the next month or two? Is there a deadline? Are you
11 going to publish something requesting comments?

12 I just want to make sure that we can give
13 you comments that are helpful and on a time frame
14 that's helpful. And just wanted to make sure I knew
15 the best way to do that.

16 MR. TRUSSELL: Thanks, Steve. This is
17 Greg Trussell from Rulemaking. The presentation does
18 provide my email address. You can provide us
19 comments. There's no time frame on that. Please use
20 that email if you can to provide those comments.

21 And as I mentioned earlier, we are in the
22 process of doing a proposed rule. And so, we are
23 going to be melding the criteria that we have and what
24 we're hearing today, we'll take that into
25 consideration, as well as anything that I may receive

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1 after this meeting via email. So, thanks, Steve, for
2 that.

3 MR. HAMRICK: Thank you.

4 MR. MUSSATTI: Okay, one more time around
5 the room. Well, you may have been very pressured
6 about what's going on here. We seem to be slowing
7 down in the comments. Is there anybody on the phone?
8 Kelsey?

9 THE OPERATOR: I'm sorry. No more
10 questions at this time.

11 MR. MUSSATTI: Okay, thank you. Sensing
12 a lull in the enthusiasm in here, I think it's
13 probably time for us to come to an end. Does that
14 sound right to you?

15 (Off-microphone comment.)

16 MR. MUSSATTI: Okay. Since we've come to
17 the end here, I'd just like to say thank you. I
18 appreciate the decorum in the forum today. It's been
19 a good group of folks.

20 Remember, you can put things in in writing
21 and send them in to us at gregory.trussell@nrc.gov.
22 I don't think there's anything else here I need to ask
23 of you, except for one thing.

24 This room is a food-and-drink-free room.
25 So, unless I get in trouble, I would like to ask

1 everybody to take their evidence with them when they
2 leave. And just try not to leave any trash behind.

3 They're trying to make fancier rooms and
4 better rooms for us. And I'd like to show them we
5 appreciate that.

6 Other than that, I think we're -- one last
7 comment from Greg.

8 MR. TRUSSELL: Just, it's gregory.trussell.

9 MR. MUSSATTI: Gregory?

10 MR. TRUSSELL: Yeah.

11 MR. MUSSATTI: I'm sorry. G-R-E-G-O-R-Y.

12 MR. TURTIL: Two S's, two L's, Gregory.
13 Right?

14 MR. TRUSSELL: Yes.

15 MR. MUSSATTI: Yeah. And it's in the
16 slides. It's on our screen right now if you could
17 actually see it on Skype. And at this time I think
18 we're done. Be safe on your travels back to where you
19 came from. And, Kelsey, you can end the call at this
20 time.

21 THE OPERATOR: This concludes today's
22 conference. All participants may disconnect at this
23 time.

24 (Whereupon, the above-entitled matter went
25 off the record at 11:17 a.m.)

CERTIFICATE

This is to certify that the attached proceedings
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Commission

Proceeding: Public Meeting for Alternatives to Use
of Credit Ratings Proposed Rulemaking

Docket Number: (n/a)

Location: Rockville, Maryland

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