March 31, 1982

Hugh L. Clark, Esq., Chairman
Administrative Judge
P.O. Box 127A
Kennedyville, Maryland 21645

Dr. George A. Ferguson
Administrative Judge
School of Engineering
Howard University
2300 Sixth Street, N.W.
Washington, D.C. 20059

Dr. Oscar H. Paris
Administrative Judge
Atomic Safety and Licensing Board
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

In the Matter of
Illinois Power Company, et al.
(Clinton Power Station, Unit 1)
Docket No. 50-461 OL

Dear Administrative Judges:

On this date, the undersigned has notified all parties to the captioned proceeding of the Nuclear Regulatory Commission's final rule (10 C.F.R. § 51.53(c), enclosure 1) precluding contentions on need for power or alternative energy sources in operating license hearings.

Subsequent to notifying all parties of the above rule, the undersigned received notice of the Nuclear Regulatory Commission's issuance of a final rule eliminating requirements for financial qualifications review and findings. (Enclosure 2). This rule, which will be published in the Federal Register, should serve as a basis for the Licensing Board's sua sponte dismissal of Intervenor's Admitted Contention 3.

Sincerely,

Richard J. Goddard
Counsel for NRC Staff

Enclosures: As Stated

cc: (w/enclosures)
Prairie Alliance
Philip L. Willman, Esq.
Jeff Urish
Atomic Safety and Licensing Board Panel
Gary N. Wright
William van Susteren, Esq. (PDR/LPDR)
Mr. Herbert H. Livermore
Reed Neuman, Esq.
Docketing and Service Section
Jan L. Kodner, Esq.
Atomic Safety and Licensing Appeal Board Panel

DISTRIBUTION
Goddard
Gutierrez
Reis
J.Miller/ 340
J.H.Williams
C.Grimes 340
Cunningham/Murray
Christenbury/Scinto
FF (2)
NRC Docket File:

OFC	:OELD	:OELD	:	:	:	:
NAME	:Goddard/dkw	:EJReis	:	:	:	:
DATE	:03/30/82	:03/30/82	:	:	:	:

DS07

SUPPLEMENTARY INFORMATION: Notice is hereby given of the amendment of the Nuclear Regulatory Commission's regulation, "Human Uses of Byproduct Material," 10 CFR Part 35.

Section 35.100 of 10 CFR Part 35 lists groups of medical uses of byproduct material that have similar requirements for user training and experience, facilities and equipment, and radiation safety procedures. The purpose of this grouping is to reduce administrative costs by eliminating the need for licensees to seek an amendment to their license each time they wish to use an additional radiopharmaceutical in a group for which they are licensed. As new radiopharmaceuticals, sources, devices, and uses are developed and approved by FDA, they are added to the appropriate group in § 35.100. The FDA has recently approved a "New Drug Application" for a reagent kit that is used to prepare the radiopharmaceutical, technetium-99m labeled disofenin, and the use of this reagent kit is hereby added to Group III.

As described in NRC's medical policy statement that was published in the Federal Register on February 9, 1979 (44 FR 8242), the NRC relies on FDA for approval of safety and effectiveness of radioactive drugs. The Commission has found that good cause exists for omitting notice of proposed rulemaking and public procedure thereon, because it would be contrary to the public interest to delay the use of this FDA-approved product by group medical licensees. Since the amendment relieves licensees from restrictions under regulations currently in effect, it may become effective without the customary 30-day notice.

Pursuant to the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, and section 553 of Title 5 of the United States Code, the following amendments to Title 10 Chapter I, Code of Federal Regulations, Part 35 are published as a document subject to codification.

PART 35—HUMAN USES OF BYPRODUCT MATERIAL

1. The authority citation for Part 35 is revised to read as follows:

Authority: Secs. 81, 161, 182, 183, 68 Stat. 935, 948, 953, 954, as amended (42 U.S.C. 2111, 2201, 2232, 2233); sec. 201, 88 Stat. 1242, as amended by Pub. L. 94-79, 89 Stat. 413 (42 U.S.C. 5841).

For the purposes of sec. 223, 68 Stat. 958, as amended (42 U.S.C. 2273); §§ 35.2, 35.14 (b), (e) and (f), 35.21(a), 35.22(a), 35.24, and 35.31 (b) and (c) are issued under sec. 161b, 68 Stat. 948, as amended (42 U.S.C. 2201(b)); and §§ 35.14(b)(5)(ii), (iii) and (v) and (f)(2), 35.25 and 35.31(d) are issued under sec. 161o, 68 Stat. 950, as amended (42 U.S.C. 2201(o)).

§§ 35.4, 35.12, 35.14, 35.31 and 35.100 [Amended]

2. Remove the authority citations following §§ 35.4, 35.12, 35.14, 35.31, 35.100, the authority citation following the undesignated center heading reading "Special Requirements for Teletherapy Licensees," and the authority citation following the undesignated center heading reading "Misadministration Reports and Records."

3. Section 35.100 is amended by removing the word "and" following paragraph (c)(4)(xi), and adding a new paragraph (c)(4)(xii) to read as follows:

§ 35.100 Schedule A—Groups of medical uses of byproduct material.

* * * * *

(c) * * *

(4) * * *

(xii) Disofenin; and

* * * * *

Dated at Bethesda, MD, this 8th day of February 1981.

For the Nuclear Regulatory Commission.

William J. Dircks,

Executive Director for Operations.

[FR Doc. 82-8215 Filed 3-25-82; 8:45 am]

BILLING CODE 7590-01-M

---

10 CFR Part 51

Need for Power and Alternative Energy Issues in Operating License Proceedings

AGENCY: Nuclear Regulatory Commission.

ACTION: Final rule.

SUMMARY: The Commission is amending its regulations in 10 CFR Part 51, "Licensing and Regulatory Policy and Procedures for Environmental Protection," to provide that, for National Environmental Policy Act (NEPA) purposes, need for power and alternative energy source issues will not be considered in operating license proceedings for nuclear power plants. In addition, these issues need not be addressed by operating license applicants in environmental reports to the NRC, nor by the staff in environmental impact statements (EIS), in operating license proceedings. The purpose of these amendments is to avoid unnecessary consideration of issues that are not likely to tilt the cost-benefit balance. This rule affects applicants for operating licenses for nuclear power plants.

EFFECTIVE DATE: April 26, 1982.

FOR FURTHER INFORMATION CONTACT: Darrel A. Nash, Office of State Programs, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. Telephone: (301) 492-9882.

SUPPLEMENTARY INFORMATION:

Background of the Rule

On August 3, 1981, the Commission published in the Federal Register (46 FR 39440) for public comment, proposed amendments to 10 CFR Part 51 of its regulations. As discussed in the statement of considerations which accompanied the proposed rule, the purpose of these amendments is to avoid unnecessary consideration of issues that are not likely to tilt the cost-benefit balance by effectively eliminating need for power and alternative energy source issues from consideration at the operating license stage. In accordance with the Commission's NEPA responsibilities, the need for power and alternative energy sources are resolved in the construction permit proceeding. The Commission stated its tentative conclusion that while there is no diminution of the importance of these issues at the construction permit stage, the situation is such that at the time of the operating license proceeding the plant would be needed to either meet increased energy needs or replace older less economical generating capacity and that no viable alternatives to the completed nuclear plant are likely to exist which could tip the NEPA cost-benefit balance against issuance of the operating license. Past experience has shown this to be the case. In addition, this conclusion is unlikely to change even if an alternative is shown to be marginally environmentally superior in comparison to operation of a nuclear facility because of the economic advantage which operation of nuclear power plants has over available fossil generating plants. An exception to the rule would be made if, in a particular case, special circumstances are shown in accordance with 10 CFR 2.758 of the Commission's regulations.

Comments were invited particularly on the following issues:

(1) Whether two articles, one by Amory and Hunter Lovins and the other by Amory Lovins, Hunter Lovins, and Leonard Ross, correctly state that a mixture of conservation and alternative sources would usually cost less than operating a nuclear plant, and therefore a newly completed nuclear plant should be written off; and

ENCLOSURE 1

NOS - 3-31-82

(2) Whether the rule, if adopted, should be applied to ongoing licensing proceedings.

Fifty-three letters of public comment were received on the proposed rule. Twenty-nine commenters supported the proposed rule change, and twenty-four were opposed. There were a few relatively minor modifications proposed for the promulgation of the final rule. The more significant comments and the Commission responses are given below.

Comments and Responses

Comment—Eight commenters, all of whom favored the rule change, expressed views on the articles by Lovins and Ross which state that conservation plus other energy forms usually result in lower cost than operation of a nuclear plant.[1] The comments were directed to various aspects of these articles which in the commenters views contain errors and omissions. Significant deficiencies mentioned were that the analysis is far from complete, it contains questionable costs figures, fails to discuss the rate at which conservation and alternative energy sources could be employed, fails to discuss the institutional measures that might be necessary to implement these changes, and fails to discuss the environmental consequences and societal costs of these actions. Some commenters stated that the approach in these articles would require coercion of utilities or final customers to achieve the energy use mix advocated. Mr. Amory Lovins was a commenter on the proposed rule and reiterated the conclusions stated in the two articles. He stated that the details of his argument had not been worked out, but that his engineering/economic analyses made him confident this finding would be supported.

Response—The Commission has evaluated these comments and further reviewed the two articles. The Commission does not necessarily agree with the varied comments on these articles. However, the Commission finds the articles lack sufficient analysis and documentation to support the arguments made. Moreover, the Commission is not aware of any other reliable and documented information which confirms that the Lovins-Ross conclusions are valid. On the other hand substantial information exists, such as that cited in the Supplementary Information of the proposed rule, which shows that nuclear plants are lower cost to operate than fossil plants.[2] If conservation lowers demand, then utility companies take the most expensive operating plants off-line first. Thus a completed nuclear plant would be used as a substitute for less economical generating capacity. Therefore, the Commission concludes that studies such as those cited in the proposed rule should be relied on to reach conclusions on comparative energy costs, rather than the Lovins-Ross articles.

Comments—Ten commenters addressed the issue of whether the rule change, if adopted, should apply to ongoing licensing proceedings then pending and to issues or contentions therein. Three commenters who opposed the rule commented that changing conditions since the CP should warrant not making the rule applicable to pending OL proceedings. The commenters who favor the proposed rule made comments which can be summarized as arguing that the reasons for eliminating the review at the OL stage were no less valid for ongoing cases than for future proceedings.

Response—The Commission believes that there is no compelling reason why pending operating license proceedings should be treated differently than future proceedings. Since need for power and alternative energy source issues were considered at the CP stage for all pending OL proceedings, in the absence of special circumstances, there is no more reason to believe that these issues would tip the NEPA cost-benefit balance against issuance of the operating license in pending cases than in future cases. Accordingly, the rule, when effective, will apply to pending operating license proceedings.

Comments—Three comments were made on the provision allowing need for power and alternative energy sources to be raised under 10 CFR 2.758. An example of how § 2.758 could be used to raise need for power and alternative energy source issues was given in the Supplementary Information to the proposed rule: "* * * special circumstances could exist if for example, it could be shown that nuclear plant operations would entail unexpected and significant adverse environmental impacts or that an environmentally and economically superior alternative existed." The commenters stated that the requirements for raising these issues under § 2.758 as written in the Supplementary Information should be modified because they believe the example would defeat the purpose of the rulemaking by making it as easy to require these issues to be treated as is the case under current rules.

Response—The Commission does not agree. Section 2.758(c) requires the petitioning party to make a prima facie showing that application of the regulation to a particular aspect of the proceeding would not serve the purposes for which the rule was adopted. This is a much stricter standard then the current requirements for raising need for power and alternative energy sources in OL proceedings.

Comments—Four commenters noted that no mention was made of whether need for power and alternative energy sources needed to be addressed in NRC's operating license environmental impact statements (EIS's). The expressed concern was that silence on these issues may be interpreted to mean that they must still be treated in EIS's.

Response—The Commission does not intend that these issues be reexamined in every environmental impact statement prepared at the operating license stage. Accordingly, to avoid possible confusion, the final rule has a conforming change to generally exclude treatment of these issues in the EIS by modifying § 51.23. However, in very unusual cases, such as where it appears that an alternative exists that is clearly and substantially environmentally superior, the Commission would be obligated under NEPA to address these issues in its environmental impact statement. In such cases the Commission would address the issues in the environmental impact statement and would require the license applicant to address these issues in its environmental report as well. Accordingly, §§ 51.21 and 51.23 have been revised to make clear that while discussion of need for power and alternative energy source issues is generally not needed in environmental statements and reports at the operating license stage, discussion may be required by the Commission. The purpose of this change is to give the Commission the same latitude to consider environmental issues in special circumstances where no hearing is involved or before a hearing as it has under § 2.758 where a hearing is involved.

Comments—The Natural Resources Defense Council, Inc. (NRDC) stated

[1] Amory and Hunter Lovins, *Energy/War: Breaking the Nuclear Link*, Friends of the Earth, 1980, pp. 48–49 and footnotes 109–111, and Amory B. Lovins, L. Hunter Lovins, and Leonard Ross, "Nuclear Power and Nuclear Bombs", Foreign Affairs 58–1137–77, (Summer, 1980).

[2] *See Steam-Electric Plant Construction Cost & Annual Production Expenses—1978*, December 1980, DOE/EIA-0033(78); *Draft Environmental Statement Relating to the Operation of Grand Gulf Nuclear Station Units 1 and 2*, NUREG-0777, May 1981, pp. 2–1 to 3–1; *Cost & Quality of Fuels for Electric Utility Plants*—December 1980, DOE/EIA-0075(80/12).

that the proposed rule is legally impermissible under NEPA. NRDC's belief that the proposed rule is legally impermissible under NEPA is grounded on its assertion that the Commission's interpretation of *Calvert Cliffs Coordinating Committee, Inc., v. A.E.C.*, 449 F.2d 1109 (D.C. Cir. 1971) and *Union of Concerned Scientists v. A.E.C.*, 499 F.2d 1069 (D.C. Cir. 1974) in the Supplementary Information which accompanied the proposed rule is overly broad. In addition, NRDC asserts the rule does not comply with the Commission's duty under NEPA to consider alternatives at the operating license stage.

Response—The Commission disagrees and continues to believe that those cases support the proposition that NEPA does not require the Commission to duplicate at the operating license stage its review of alternatives absent new information or new developments. This is made clear in *Union of Concerned Scientists* wherein the Court explicitly stated "we expressly said in that opinion (referring to *Calvert Cliffs*) that full NEPA consideration 'need not be duplicated absent new information or new developments, at the operating license stage.' "[3] *UCS* at 1079. Alternative energy source issues receive and will continue to receive extensive consideration at the CP stage. However, judicial precedent makes clear that NEPA requires agency decisionmakers to only consider reasonable alternatives. *Friends of the Earth v. Coleman*, 513 F.2d 295 (9th Cir. 1975); *Natural Resources Defense Council v. Morton*, 458 F.2d 827 (D.C. Cir. 1972). Moreover, it is well settled that environmental issues need not be continually relitigated in individual adjudicatory proceedings, but may be resolved on a generic basis through rulemaking without violating NEPA. See *Ecology Action v. A.E.C.*, 492 F.2d 998, 1002 (2nd Cir. 1974), *Union of Concerned Scientists v. A.E.C.*, 499 F.2d 1069 (D.C. Cir. 1974) and *Natural Resources Defense Council v. N.R.C.*, 547 F.2d 633, 641 (D.C. Cir. 1976), *rev'd on other grounds and remanded sub nom. Vermont Yankee Nuclear Power Corp. v. NRDC*, 435 U.S. 519 (1978). This rule, in the absence of a showing of special circumstances, resolves need for power and alternative energy source issues in OL proceedings on a generic basis. Accordingly, the Commission believes that the rule complies with the requirements in NEPA.

Comment—Four commenters noted that the proposed rule change did not mention the elimination of alternative site analysis at the OL stage, even though this has already been eliminated by rule change (46 FR 28830).

Response—The omission in the proposed rule of the language in 10 CFR 51.21 which eliminates the consideration of alternative sites at the OL stage has been reflected in the final rule. In addition, a reference to the elimination of consideration of alternative sites in environmental impact statements has been added to § 51.23(e). 10 CFR 51.53(b) which eliminates consideration of alternative sites at the OL hearing process is already a part of the Commission's rules.

Comments—Three commenters who favored the rule change stated that Atomic Safety and Licensing Boards may be able to initiate consideration of need for power and alternative energy sources, (*sua sponte*) even though parties to the proceeding may not.

Response—The Commission does not believe that it is necessary to prohibit licensing boards from bringing up issues on their own initiative, since 10 CFR 2.760a limits this action to serious safety, environmental or common defense and security matters.

Comments—Seventeen of the commenters who were opposed to the rule change stated generally that changed conditions between the time of the construction permit proceeding (CP) and the operating license proceeding (OL) such as increased costs, lower demand, new information, and new technologies warranted a consideration of these issues at the OL stage and a new determination made on need for power and alternative energy sources.

Response—While it is true that certain factors may change between the CP and the OL proceeding, the notice of proposed rulemaking sets forth why it is unlikely that these changes would tip the NEPA cost-benefit balance against issuance of the operating license. As more fully set forth in the notice, experience shows that completed nuclear power plants are used to their maximum availability and that there has never been a finding in a Commission OL proceeding that a viable environmentally superior alternative to operation of the nuclear facility exists. The Commission expects this to be true for the foreseeable future and hence, in the absence of a showing of special circumstances, consideration of these issues in individual OL proceedings is not necessary.

Regulatory Flexibility Statement

In accordance with the Regulatory Flexibility Act of 1980, 5 U.S.C. 605(b), the Commission hereby certifies that this rule will not have a significant economic impact on a substantial number of small entities. The rule eliminates certain reporting requirements for owners of nuclear power plants licensed pursuant to sections 103 and 104b of the Atomic Energy Act, as amended, 42 U.S.C. 2133, 2134b. Owners of nuclear power plants are not within the definition of small business found in section 3 of the Small Business Act, 15 U.S.C. 632, or within the Small Business Size Standards set forth in 13 CFR Part 121.

Accordingly, the Commission is amending its regulations in 10 CFR Part 51 to provide that need for power and alternative energy source issues will not be considered in operating license proceedings for nuclear power plants and need not be addressed by operating license applicants in environmental reports submitted to the NRC nor by the staff in environmental impact statements (EIS's), at the operating license stage. An exception to or waiver of the rule will be permitted in particular cases if special circumstances are shown in accordance with 10 CFR 2.758 of the Commission's regulations, "Consideration of Commission rules and regulations in adjudicatory proceedings." The rule will be applied to ongoing licensing proceedings then pending on its effective date and to issues or contentions therein.

Pursuant to the Atomic Energy Act of 1954, as amended, the National Environmental Policy Act, of 1969, as amended, the Energy Reorganization Act of 1974, as amended, and section 553 of Title 5 of the United States Code, notice is hereby given of the adoption of the following amendments to 10 CFR Part 51.

PART 51—LICENSING AND REGULATORY POLICY AND PROCEDURES FOR ENVIRONMENTAL PROTECTION

1. The authority citation for Part 51 is revised to read as follows:

Authority: Sec. 161b., h, i and o. 68 Stat. 948, 949 and 950, as amended (42 U.S.C. 2201(b), (h), (i) and (o)); secs. 201, 202, 88 Stat. 1242–1244, as amended (42 U.S.C. 5841, 5842). National Environmental Policy Act of 1969, secs. 102, 104 and 105, 83 Stat. 853–854, as amended (42 U.S.C. 4332, 4334, 4335).

[3] See also 40 CFR § 1508.28 of the NEPA regulations of the Council of Environmental Quality. That regulation encourages agencies to "tier" environmental impact statements when it "helps the lead agency to focus on the issues ripe for decision and *exclude from consideration issues already decided* * * *" (emphasis added). This comment was also made by one of the commenters.

2. Section 51.21 is revised and reads as follows:

§ 51.21 Applicant's Environmental Report—Operating License Stage.

Each applicant for a license to operate a production or utilization facility covered by § 51.5(a) shall submit with its application the number of copies, as specified in § 51.40, of a separate document, to be entitled "Applicant's Environmental Report—Operating License Stage," which discusses the same matters described in § 51.20 but only to the extent that they differ from those discussed or reflect new information in addition to that discussed in the final environmental impact statement prepared by the Commission in connection with the construction permit. The "Applicant's Environmental Report—Operating License Stage" may incorporate by reference any information contained in the Applicant's Environmental Report or final environmental impact statement previously prepared in connection with the construction permit. With respect to the operation of nuclear reactors, the applicant, unless otherwise required by the Commission, shall submit the "Applicant's Environmental Report—Operating License Stage" only in connection with the first licensing action that would authorize full power operation of the facility. No discussion of need for power or alternative energy sources or alternative sites for the proposed plant is required in the report, unless otherwise required by the Commission.

3. Section 51.23 paragraph (e) is revised to read as follows:

§ 51.23 Contents of draft environmental statements.

* * * * *

(e) Other considerations. A draft environmental impact statement prepared in connection with the issuance of an operating license will cover only matters which differ from, or which reflect new information in addition to, those matters discussed in the final environmental impact statement prepared in connection with the issuance of the construction permit. The draft statement may incorporate by reference any information contained in that final environmental statement. With respect to the operation of nuclear reactors, unless otherwise determined by the Commission, the draft statement will be prepared only in connection with the first licensing action that authorizes full power operation of the facility. In the case of environmental impact statements prepared in connection with operating licenses for nuclear reactors no discussion of need for power or alternative energy sources or alternative sites is required, unless otherwise required by the Commission.

* * * * *

4. Section 51.53 is amended by adding a new paragraph (c) to read as follows:

§ 51.53 Hearings—Operating licenses.

* * * * *

(c) Presiding officers shall not admit contentions proffered by any party concerning need for power or alternative energy sources for the proposed plant in operating license hearings.

Dated at Washington D.C. this 22nd day of March, 1982.

For the Nuclear Regulatory Commission.

Samuel J. Chilk,

Secretary of the Commission.

[FR Doc. 82-8286 Filed 3-25-82; 8:45 am]

BILLING CODE 7590-01-M

FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Part 303

Director, Division of Bank Supervision and Regional Directors; Delegation of Authority to Approve Applications for Deposit Insurance

AGENCY: Federal Deposit Insurance Corporation.

ACTION: Final rule.

SUMMARY: FDIC's Board of Directors is delegating to the Director of its Division of Bank Supervision and to its regional directors authority, if delineated criteria are met, to approve, but not to deny, deposit insurance applications. FDIC expects this action will shorten the processing time for routine applications and will reduce FDIC's costs for processing applications.

DATE: Effective on March 26, 1982.

FOR FURTHER INFORMATION CONTACT: Ken A. Quincy, (202) 389-4141.

SUPPLEMENTARY INFORMATION: Under section 5 of the Federal Deposit Insurance Act (the "FDI Act," 12 U.S.C. 1815), any State-chartered bank that is not a member of the Federal Reserve System ("State nonmember bank") and any branch of a foreign bank must apply to the FDIC to obtain Federal deposit insurance. In the past, all final determinations on applications for deposit insurance have been made by FDIC's Board of Directors.

FDIC is now delegating greater responsibility for the approval of applications. In doing so, it expects to shorten the processing time for routine applications and to reduce FDIC's costs for processing applications.

FDIC is delegating to the Director of its Division of Bank Supervision ("DBS") and, where confirmed in writing by the Director, to the regional director of the FDIC region in which the applicant bank is located, authority to approve, but not to deny, applications for deposit insurance submitted by proposed or newly organized State nonmember banks. This delegation, however, is effective only when (1) a favorable determination is made by the delegate with respect to each of the six statutory factors contained in section 6 of the FDI Act (12 U.S.C. 1816) and (2) the guidelines established in FDIC's policy statement on "Applications for Deposit Insurance" are satisfied. (Copies of FDIC's policy statement on "Applications for Deposit Insurance" are available from FDIC's Executive Secretary or any of FDIC's regional offices.) Among the criteria that the delegate must determine exist before an application may be approved under delegated authority are the following:

(1) Equity capital is not less than $750,000;

(2) Legal fees and other expenses incurred in connection with the proposed new bank are determined to be reasonable;

(3) No unresolved "management interlocks," as defined by the Depository Institution Management Interlocks Act (12 U.S.C. 3201), exist;

(4) The projected ratio of equity capital and reserves to assets, including projected profits and losses, is at least 10 percent at the end of the third year of operation;

(5) Profitable operations are projected at least for the third year of operation;

(6) The proposed aggregate direct and indirect investment in fixed assets is determined to be reasonable relative to the applicant's proposed equity capitalization, projected earnings capacity, and other pertinent bases of consideration;

(7) Any financial arrangements made or proposed in connection with the proposed bank involving the applicant's directors, officers, 5 percent shareholders or their interests are determined to be fair and made on substantially the same terms as those prevailing at the time for comparable transactions with noninsiders and do not involve more than normal risk or present other unfavorable features. The applicant also must have fully disclosed, or agree to disclose fully, any such arrangement to all of its proposed directors and shareholders prior to the opening of the bank;