

AFFIRMATION VOTE 12/22/93 J
date initials

RESPONSE SHEET

TO: SAMUEL J. CHILK, SECRETARY OF THE COMMISSION
FROM: COMMISSIONER DE PLANQUE
SUBJECT: SECY-93-284 - FINAL RULE, 10 CFR PARTS 30, 40, 50, 70, AND 72, "SELF-GUARANTEED AS AN ADDITIONAL FINANCIAL ASSURANCE MECHANISM"

APPROVED (w/comments) DISAPPROVED _____ ABSTAIN _____
NOT PARTICIPATING _____ REQUEST DISCUSSION _____

COMMENTS:

See Attached Comments.

230093

9312290177 931207
PDR COMMS NRCC
CORRESPONDENCE PDR

E. Gail de Planque
SIGNATURE

RELEASE VOTE

December 7, 1993

DATE

WITHHOLD VOTE

ENTERED ON "AS" YES No _____

JF07
11

Commissioner de Planque's Comments on SECY-93-284:

I approve issuance of the final rule providing for self-guarantee as an additional financial assurance mechanism. However, I believe that staff should study the development of alternative criteria which can be used by non-bond issuing licensees for the reasons explained below.

The staff's analysis of public comments on the proposed rule notes that one commenter argued that the bond rating criterion should be eliminated because it unfairly discriminates against companies that have not issued bonds. See SECY-93-284, Enclosure A, p.3. The staff's response notes that "firms that finance their activities through equity or short term commercial lines of credit may be as financially strong as firms that issue bonds," but indicates that it does not intend to remedy this admitted inequity because there is no criterion equivalent to the stringent bond-rating criterion which can be employed for firms that do not issue bonds. The Federal Register Notice itself does not directly address the inequity issue, but does suggest that "[a]t some future time, when the Commission has gained some experience with self-guarantee, it may consider an appropriate revision of the financial criteria" such as the test that a parent company of a licensee must meet. This less stringent test could be utilized both by bond-issuing and non-bond issuing firms.

Staff subsequently informed me that the number of non-bond issuing licensees who would otherwise be able to meet all the self-guarantee criteria is 20-40 (7-14% of licensees in the database). See Memorandum, James M. Taylor to Commissioner de Planque, December 1, 1993. This is not an insignificant number. I believe that staff should expend the resources necessary to study the development of alternative financial criteria which could be used by non-bond issuing licensees. (Presumably, this would either be stringent criteria equivalent to the bond-rating criterion or less stringent criteria which would be available to both bond-issuing and non-bond issuing firms.) This would cure the inequity in the final rule and, as staff points out, would also answer objections that the rule favors big companies since bonds are used mainly by larger firms. Staff indicates that the financial criteria used in the NRC parent guarantee could serve as a starting point for the development of alternative criteria, thereby lessening the resources needed for this task. I also note that staff has committed to studying the development of alternative criteria for non-profit entities, see PRN, p. 11. This suggests that staff is concerned to treat all licensees as fairly as possible with respect to allowing self-insurance mechanisms. Therefore, I propose that when staff reports the results of its study of the development of alternative criteria for non-profit entities, it also report on the results of studying the development of alternative criteria which can be used by non-bond issuing licensees.