



UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D. C. 20555

May 9, 1979

PDR
Hendrie
Gilinsky
Kennedy
Bradford
Ahearne
Hendrie
Gilinsky
Kennedy
Bradford

MEMORANDUM FOR: Chairman Hendrie
Commissioner Gilinsky
Commissioner Kennedy
Commissioner Bradford
Commissioner Ahearne

FROM: Al Keneke, Acting Director, OPE

SUBJECT: OPE COMMENT ON FINANCIAL QUALIFICATIONS PAPER (SECY-79-299)

You have recently received a paper from the staff which analyzes the generic financial qualifications issue -- as was requested in the Commission's January 6, 1978 Seabrook Order (SECY-79-299). In its essentials, the staff proposes to forego financial qualifications reviews at the CP and OL stage, provided the applicant meets two tests (a) the enterprise either is regulated (private utilities) or sets its own rates (municipal utilities or co-operatives) and (b) its senior debt securities are rated A or better by both Moody's and Standard and Poor. Those not passing these tests (a very few utilities and potentially others receiving Part 50 licenses) would get the full treatment of current staff practice. This proposal would be implemented by changes in NRC regulations: 10 CFR 50.33(f), 50.54(q), and Appendix C to Part 50. As noted below, OPE believes that there are issues and alternatives not now well developed or evaluated in the paper where the Commission may wish additional information for decision-making prior to acting on the staff proposal.

As the Commission's Seabrook decision clearly suggests, the linkage between an applicant's financial qualifications and meeting his health and safety responsibilities is a tenuous one at best. In theory, a financially "well-heeled" applicant would not be pressed to cut corners in safety-related and other areas. On the other hand, shoestring operators could be so strapped financially that they could not be counted on to build and operate a plant safely. Whether or not such a connection really exists is very problematic. In this regard, during the Commission deliberations on Seabrook, OPE looked at Commission request for a possible relationship between bond ratings (an index of financial strength) and licensee event reports ("safety index") and found that -- for all intents and purposes -- there wasn't any linkage which was reflected in the statistics. In addition, Enclosure 4 of the staff paper (SECY-79-299) reports that IE has not identified any instances where utilities "... performed or authorized actions detrimental to public

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PDR COMMS NRCC
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health and safety for the purpose of reducing expenditures." (Note: There could be doubt regarding the basis for such a conclusion since it is by no means clear that IE would be in a position to scrutinize in detail financial decision-making and the procurement process.)

Recognizing the limited usefulness of the financial qualifications inquiry, the Commission's Seabrook decision notes that reliance is placed upon IE which "... monitors the quality assurance program of licensees and samples of the actual work performed by contractors and subcontractors." On the other hand, maintenance of a financial qualification test -- in some form -- is probably desirable, at least as a threshold test to identify applicants without sufficient money resources to enable them to meet existing and future regulatory requirements however good their intentions.

While OPE would favor eliminating reviews not warranted for protection of public health and safety reasons, we believe the Commission should have the benefit of additional information before acting on the staff's proposal. Issues identified by OPE are:

- Difference between NRC review and reviews done by Moody/Standard and Poor: The paper proposes adoption of the security ratings firms' reviews in lieu of NRC reviews, but does not indicate in what specific ways NRC reviews overlap or differ from the Moody/Standard and Poor reviews. Enclosure 5 has a general discussion, but it is difficult to compare easily NRC's effort to that of the bond raters. Does NRC require more or less detail? What aspects of the NRC review which could relate to safety are/are not found in the Moody/Standard and Poor reviews? What are the differences in fundamental objectives?
- Evaluation of other alternatives: The NRC regulations (50.33(f) and Appendix C of Part 50) were written in 1968. The depth of staff review underwent a substantial increase in 1973-74 in response to the crisis in utility financing of that period without formal change in the regulations. Yet, the staff proposes to reduce the level of effort for well qualified utilities by formal change in regulations. Staff could achieve the same end, given the generality of 50.33(f) and Appendix C, by writing a regulatory guide setting forth its specific requirements vis-a-vis financial qualifications. Such a guide would give more substance to the regulations. Staff might also consider, where available, the financial reviews done by state PUC's instead of the Moody/Standard and Poor bond ratings; they may prove close in nature to the type of financial qualification review NRC now performs.
- Cost evaluation: The value impact analysis in Enclosure 7 talks generally about cost burden on the licensees. Moreover, the staff paper asserts that financial qualifications have become "... a frequently contested issue in NRC licensing proceedings." (page 3) OPE understands that there have been at least three licensing cases where financial qualifications were a big issue: Seabrook, Wolf Creek and Black Fox. More

For the Commission

- 3 -

specific information regarding the number of cases adversely impacted and level of staff resources required to perform these reviews under current staff practice -- together with the estimated decrease in effort if the proposal were adopted -- would be useful before assuming "less is better."

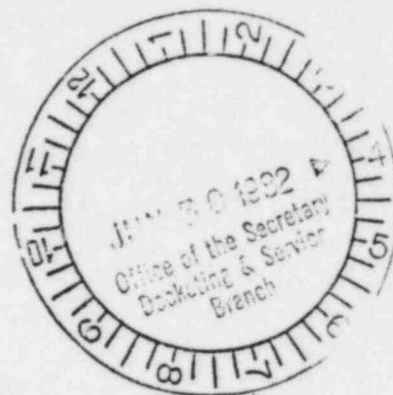
cc: Leonard Bickwit
Sam Chilk



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