



COMMISSIONER

REQUEST REPLY BY: 3/16/06
UNITED STATES

COMGBJ-06-C001

NUCLEAR REGULATORY COMMISSION
WASHINGTON, D.C. 20555

March 2, 2006

Disapproved with comments.

Nils J. Diaz

03/ 21 /06

MEMORANDUM TO: Chairman Diaz
Commissioner McGaffigan
Commissioner Merrifield
Commissioner Lyons

FROM: Gregory B. Jaczko

SUBJECT: ESTABLISHING A POLICY FOR THE REVIEW OF NEW POWER REACTOR COMBINED OPERATING LICENSES

The U.S. Nuclear Regulatory Commission (NRC) faces a formidable challenge choosing the most effective and efficient process possible for reviewing a large number of combined operating licenses (COL) in the next few years. This decision must be based on a thoughtful analysis of the range of options available to the agency under its current regulations. These options include, but are not necessarily limited to, such previously discussed ideas as developing criteria to prioritize the review of COLs or using a design-centered approach in which one technical review would be performed for each reactor design and this review would be used to support the certification of other license applications.

Which option the Commission chooses will have broad implications on how the agency will function as it reviews new license applications for the first time in decades. This decision will not only affect the fee billing system, resource and staffing requirements, and raise issues regarding the fair treatment of multiple applicants, it could also have an impact on the adjudicatory process. It is important to vet these policy approaches so that any potential problems are identified early to ensure an efficient review of potential license applications.

Therefore, the staff should prepare a notation vote paper addressing these issues. Once the pros and cons of the various options have been presented to the Commission, the Commission should set the policy direction and empower the staff to implement the new effort.

SECY, please track.

cc: OGC
EDO

CHAIRMAN REC'D
06 MAR -2 PM 3:11

Chairman Diaz' Comments on COMGBJ-06-0001

During my tenure at the NRC I have consistently supported holding the staff accountable for implementing the policy decisions of the Commissioners, allowing the staff to manage its work, and ensuring that the staff keeps the Commission fully and currently informed. With these principles in mind, I disapprove the proposal in COMGBJ-06-001 to task the staff to prepare a notation vote paper that includes options for how the staff should conduct its reviews of new plant licensing applications, including pros and cons for each option.

I believe the staff has done what they were tasked to do: to develop a manageable, effective, and efficient process to conduct the review of potential COL's applications consistent with the Commission approved budget. Furthermore, the staff has and will continue to keep the Commission fully and currently informed on the subject via multiple vehicles. The staff is already extremely busy with the development of the design-centered approach and the regulatory structure. The industry has endorsed the approach and the need to standardize. The preparation and resolution of a notation vote on the subject would create confusion and delay what is already recognized as the best way to discharge the agency responsibilities.

My expectations are that the staff will continue to utilize a well established planning, budgeting, and performance management (PBPM) process to manage work in new reactor licensing as more detailed information regarding actual applications becomes available. The staff will continue to bring policy matters to the Commission for direction. In addition, the Commission will provide direction regarding prioritization of activities and resource allocation through the comprehensive budgeting process.

A handwritten signature in black ink, appearing to be 'LDZ', is written over the end of the final paragraph.



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WASHINGTON, D.C. 20555

COMGBJ-06-0001

March 2, 2006

*Approved, subject to
attached comments.
E. G. Jeffrey Jr
3/28/06*

MEMORANDUM TO: Chairman Diaz
Commissioner McGaffigan
Commissioner Merrifield
Commissioner Lyons

FROM: Gregory B. Jaczko *Greg Jaczko*

SUBJECT: ESTABLISHING A POLICY FOR THE REVIEW OF NEW POWER
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Commissioner McGaffigan's Comments on COMGBJ-06-0001

I agree with Commissioner Jaczko that the staff needs to develop a paper on how it intends to deal with the unplanned avalanche of advanced reactor Early Site Permit (ESP) and combined operating license (COL) applications which will confront the staff starting late next year. I agree that the staff's approach must be based upon a thoughtful analysis of the range of options available to us and that the staff will need criteria to prioritize its review of ESP, COL and design certification applications.

As I said at a recent Commission meeting, we seem currently to be planning to perfection. Human institutions do not achieve perfection. As I said in my recent Regulatory Information Conference (RIC) speech, a very large number of challenges, not all under NRC control, will need to be overcome for NRC to succeed in processing COL applications by 2011-2012. Some seem to be under the illusion that a design-centered approach to the staff's development of its safety evaluation reports for design certification and COL applications somehow solves all problems. I support the design-centered approach, but it will barely scratch the surface in meeting the challenges ahead.

NRC needs contingency plans. NRC needs prioritization criteria. NRC needs to establish expectations consistent with reality, not wild-eyed optimism. These are all policy matters, on which the Commission should deliberate in a transparent manner.

Since I joined the Commission in 1996, the NRC staff has met many challenges in its licensing work, perhaps most notably the renewal of 39 power reactor licenses so far, with 12 more units under review. But in that instance, the staff benefitted from years of planning, the opportunity to deal with a small number of initial applications (Calvert Cliffs and Oconee), the opportunity to learn lessons from those initial applications and inform future applicants of those lessons learned, and the opportunity to gradually build up staff resources to cope with the much larger steady state of renewal applications. We also were blessed with a very stable, experienced work force. None of these factors will be present as the staff copes with the avalanche of ESP, COL and design certification applications. The analogy to the challenge we currently face with advanced reactor applications is the Congressional cancellation of the DOE multi-purpose canister program in 1996. That led to a flood of applications for dual-purpose storage and transportation casks from private sector vendors, many with little experience in NRC licensing. Instead of one high-quality application from DOE, for which NRC had planned, the Spent Fuel Projects Office faced many applications of varying quality. It took years for us to reorient our licensing program, train additional staff, educate applicants about NRC expectations, and process all those applications.

I am particularly concerned because the avalanche of advanced reactor applications will coincide with a huge demographic shift in the NRC staff. In 2010-2011, almost forty percent of our staff will have been with the agency less than four years. We are planning on extraordinary productivity from that new staff, productivity that almost surely is unrealistic.

I will not repeat my whole RIC speech here, but it seems everyone knows that we face a plans/reality mismatch - - the staff, the industry, and I hope Congress. Of course, NRC is not the only one facing this mismatch. Industry also knows that not all the applications that it will submit can result in completed power plants by the middle of the next decade. Industrial capacity worldwide will need to be significantly expanded. Construction workforces will need to

be trained. All of this will take time. An underlying NRC staff assumption seems to be that when reality happens on the industry side (e.g., applications are delayed), the staff will be able to cope. If that is the assumption, let's make it transparent.

I want to be clear. I want to do everything possible to process advanced reactor applications as efficiently and as effectively as possible, and in numbers consistent with the industry's ability to construct and deploy plants. I believe that is every Commissioner's goal. But to achieve that goal, we need the prioritization criteria Commissioner Jaczko calls for.

We have always had such criteria. For design certifications we give priority to those applicants who have demonstrated strong utility interest in deploying their design. Among ESP applicants, we have prioritized based on the likelihood of a follow-on COL application. This does not mean that North Anna will finish before Clinton, but that was the original plan. For COL applications, we need similar criteria. Possibilities include giving first priority to any applicant with both a certified design and an early site permit, a null set unless Exelon decides to build an AP-1000 at Clinton. Priority should also be given to those with early site permits or design certifications, although I am not sure which should be weighed more. Priority should be given to COL applicants who like Southern at Vogtle submit an ESP application first, even if processing of the ESP application has not been completed. And perhaps most of all, priority should be given to applicants who are committed to building a plant, if a COL license is approved, and demonstrate that commitment by ordering long-lead items from the world's limited industrial capacity, as opposed to those applicants who are only engaged in an exercise of opening up possible generation options down the road.

I look forward to the staff's response to the staff requirements memorandum that will result from Commissioner Jaczko's initiative. This may be the most important paper the staff will write in this decade.

 3/28/06

Edward McGaffigan, Jr. (Date)



COMMISSIONER

REQUIRES REPLY BY: 3/16/06
UNITED STATES

COMGBJ-06-0001

NUCLEAR REGULATORY COMMISSION
WASHINGTON, D.C. 20555

March 2, 2006

*Disapproved.
See attached comments.*

MEMORANDUM TO: Chairman Diaz
Commissioner McGaffigan
Commissioner Merrifield
Commissioner Lyons

FROM: Gregory B. Jaczko

SUBJECT: ESTABLISHING A POLICY FOR THE REVIEW OF NEW POWER
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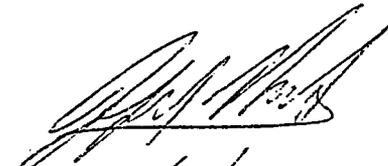
SECY, please track.

cc: OGC
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Commissioner Merrifield's Comments on COMGBJ-06-0001

I do not believe that a notation vote paper on the options for staff review of new reactor combined operating license (COL) applications is an efficient use of NRC resources. I therefore disapprove the proposal in COMGBJ-06-0001.

The design-centered approach the staff is developing to review COL applications is a practical and efficient approach which should lead to consistency in staff reviews and decisions, and at the same time encourage the standardization of licensee applications. This approach should optimize staff resources and the review schedule. The time it would take the staff to prepare and the Commission to deliberate on a notation vote on the pros and cons of the various options would result in unnecessary delays to the staff's planning, resource management and budgeting processes.



3/27/06



REQUEST REPLY NO 3116106

COMGBJ-06-0001

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

March 2, 2006

COMMISSIONER

Approved in part with comments;
disapproved in part with comments.

MEMORANDUM TO: Chairman Diaz
Commissioner McGaffigan
Commissioner Merrifield
Commissioner Lyons

Peter B. Lyons
Peter B. Lyons
3/21/06
Date

FROM: Gregory B. Jaczko

Gregory B. Jaczko

SUBJECT: ESTABLISHING A POLICY FOR THE REVIEW OF NEW POWER
REACTOR COMBINED OPERATING LICENSES

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Commissioner Lyons' Comments on COMGBJ-06-0001

**Establishing a Policy for the Review of
New Power Reactor Combined Operating Licenses (COLs)**

I agree with Commissioner Jaczko that a staff paper to the Commission is warranted. The paper should identify any issues as early as possible that may require a Commission decision. The paper, however, should not consider options other than the "design-centered-review" approach to the technical review of COL applications. This proposed approach has been conceptually discussed with industry and preliminary indications are very good that industry is willing to do their part to ensure the regulatory viability of this approach while providing the technical review process efficiencies the staff is seeking.

I was pleased to hear during the March 16, 2006 Commission meeting on NRR Programs that the staff has drafted and intends to issue a Regulatory Issue Summary describing their design-centered-review approach, and has also undertaken the task of developing a Regulatory Guide for COL application content and format. My expectation is that the staff will work with industry to achieve a clear mutual understanding of the scope, level of detail, and format needed for the COL applications to be effectively and efficiently reviewed by the staff.

 3/21/06
Peter B. Lyons Date