

December 9, 1998

COMMISSION VOTING RECORD

DECISION ITEM: SECY-98-153

TITLE: UPDATE OF ISSUES RELATED TO NUCLEAR POWER REACTOR FINANCIAL QUALIFICATIONS IN RESPONSE TO RESTRUCTURING OF THE ELECTRIC UTILITY INDUSTRY

The Commission (with all Commissioners agreeing) approved the subject paper as recorded in the Staff Requirements Memorandum (SRM) of December 9, 1998.

This Record contains a summary of voting on this matter together with the individual vote sheets, views and comments of the Commissioners, and the SRM of December 9, 1998.

John C. Hoyle
Secretary of the Commission

Attachments: 1. Voting Summary
2. Commissioner Vote Sheets
3. Final SRM

cc: Chairman Jackson
Commissioner Dicus
Commissioner Diaz
Commissioner McGaffigan
Commissioner Merrifield
OGC
EDO
PDR
DCS

VOTING SUMMARY - SECY-98-153

RECORDED VOTES

	APRVD	DISAPRVD	ABSTAIN	NOT PARTICIP	COMMENTS	DATE
CHRM. JACKSON	X				X	11/12/98
COMR. DICUS	X				X	11/19/98
COMR. DIAZ	X				X	11/16/98
COMR. McGAFFIGAN	X				X	11/17/98
COMR. MERRIFIELD	X				X	11/16/98

COMMENT RESOLUTION

In their vote sheets, all Commissioners approved the staff's recommendation and provided additional comments. Subsequently, the comments of the

Commission were incorporated into the guidance to staff as reflected in the SRM issued on December 9, 1998.

Chairman Jackson's Comments on Secy-98-153

I approve staff's proposed actions to continue to monitor license financial qualifications for operating plants within the existing regulatory framework. Because the financial qualifications regulations allow the NRC to request a licensee to submit additional or more detailed information to determine whether power reactor licensees remain financially qualified, I believe that it is unnecessary, at this time, to proceed with a rulemaking to impose additional financial reporting requirements (i.e., notification of any proposed assets transfers from the licensee to its parent or related company and/or systematically reporting that liquid assets are sufficient to cover safety expenditures during extended outages). Notwithstanding, the transition period to full rate deregulation will likely continue for a number of years and lessons-learned from early state actions on deregulation have not been fully studied or examined. The staff should continue to promptly advise the Commission of the need to clarify ambiguities in our regulations covering financial qualification which could potentially lead to a reduction of financial responsibility of licensees.

Further, as operational safety is ensured, in part, through appropriate financial qualifications and by the judicious expenditure of resources at a given facility, the staff should consider whether it is possible to develop indicators of responsible financial management in a manner analogous to the Commission's position on measuring the effectiveness of management through inference. Indicators may be available which infer responsible financial management. Potential examples include overtime usage, deferred training, backlogged work and the amount of maintenance on risk-significant equipment which is postponed awaiting parts. The development of any such indicators should be fully integrated with the staff's ongoing efforts in the development of the assessment and risk-informed baseline inspection program.

I approve the issuance of the Standard Review Plan on Power Reactor Licensee Financial Qualifications and Decommissioning Funding Assurance which reflects current NRC regulations and policy. On October 9, 1998, the Nuclear Energy Institute submitted comments on the proposed actions presented in this paper. Staff should refine the SRP as appropriate to further clarify the NRC position on established and newly-formed entities to minimize licensee misunderstanding of NRC requirements and policies regarding corporate restructuring.

The SRP should also be revised to reference the draft SRP on Foreign Ownership, Control and Domination. The issuance of this final SRP should not be further delayed to incorporate the draft guidance document on foreign ownership, control and domination. I believe that it would be more effective to consider merging the two guidance documents following the public comment period and the resolution of comments on the SRP on Foreign Ownership, Control and Domination.

Additionally, to ensure that license transfer guidance is appropriately disseminated, the staff should prepare an overarching document to reference other key guidance documents that are used in the process to review license transfer applications which would include but not be limited to, the SRP on technical qualifications, and the SRP on antitrust reviews.

Commissioner Dicus' Comments on SECY-98-153

I approve issuance of the SRP. I agree with the Chairman's comment that the SRP should be revised to reference the draft SRP on Foreign Ownership, Control and Domination, and that issuance of this final SRP should not be delayed by SECY-98-246. I also agree that it is unnecessary, at this time, to proceed with rulemaking that imposes any additional financial reporting requirements.

I support Commissioner Diaz' view regarding the Chairman's proposal of developing indicators of responsible financial management.

Commissioner Diaz's Comments on Secy-98-153

I approve issuance of the Standard Review Plan on Power Reactor Licensee Financial Qualifications and Decommissioning Funding Assurance. I note that the Nuclear Energy Institute submitted comments on this paper on October 9, 1998, and suggested definitions of Established Entity and Newly-Formed Entity for inclusion in the Standard Review Plan. These appear to be reasonable and staff should consider their use in the Standard Review Plan to the extent that they clarify the NRC position. To the extent that the definitions raise policy issues, staff should advise the Commission.

I do not believe that there is a compelling case for rulemaking at this time that would impose additional financial reporting requirements. As staff notes, the existing framework allows the NRC to request a licensee "to submit additional or more detailed information respecting its financial arrangements and status of funds if the Commission considers this information appropriate."

I disagree with the Chairman's proposal that the staff also consider the possibility of developing indicators of responsible financial management as a means, in part, of ensuring operational safety. In my view, this could lead to unnecessary involvement of the Commission in aspects of our licensees' management of their facilities and operations.

Commissioner McGaffigan's Comments on SECY 98-153

I approve the staff's proposal to continue to use the process recommended in SECY-98-083 to monitor Federal and State rate deregulation developments and issues relevant to protecting public health and safety. I also approve issuance of this Standard Review Plan (SRP) on Power Reactor Licensee Financial Qualifications and Decommissioning Funding Assurance, subject to the following comments.

In light of the draft foreign ownership SRP attached to SECY-98-246, I believe that the SECY-98-153 SRP should acknowledge that this is a policy matter that is under active consideration by the Commission. I agree with Chairman Jackson that the SRP should refer to the SECY-98-246 draft SRP.

Further, I propose that the SECY-98-246 draft foreign ownership SRP, as approved by the Commission, should be used as interim guidance until such time that the draft SRP is issued in final form. I also concur in the comments of Commissioner Diaz.

Commissioner Merrifield's Comments on SECY-98-153

I concur with the comments of Commissioner Diaz.