

March 9, 1999

COMMISSION VOTING RECORD

DECISION ITEM: SECY-99-010

TITLE: CLOSURE OF ORDER REQUIRING INDEPENDENT, THIRD-PARTY OVERSIGHT OF NORTHEAST NUCLEAR ENERGY COMPANY'S IMPLEMENTATION OF RESOLUTION OF THE MILLSTONE STATION EMPLOYEES' SAFETY CONCERNS

The Commission (with Commissioners Dicus, Diaz, McGaffigan, and Merrifield agreeing) approved the subject paper as recorded in the Staff Requirements Memorandum (SRM) of March 9, 1999. Chairman Jackson disapproved the paper in part.

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 March 9, 1999.

Annette Vietti-Cook
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-99-010

RECORDED VOTES

	APRVD	DISAPRVD	ABSTAIN	NOT PARTICIP	COMMENTS	DATE
CHRM. JACKSON	X	X			X	1/27/99
COMR. DICUS	X				X	2/18/99
COMR. DIAZ	X				X	1/25/99
COMR. McGAFFIGAN	X				X	2/17/99
COMR. MERRIFIELD	X				X	2/16/99

COMMENT RESOLUTION

In their vote sheets, Commissioners Dicus, Diaz, McGaffigan, and Merrifield approved the staff's recommendation to lift the existing Order requiring third-party oversight of NNECO's employee concerns program and establishment of a safety conscious work environment and provided some additional comments. Chairman Jackson disapproved lifting of the Order without preserving, in some manner, the framework for third party audits. Subsequently, the comments of the Commission were incorporated into the guidance to staff as reflected in the SRM issued on March 9, 1999.

Chairman Jackson's Comments on SECY-99-010

The staff has recommended lifting the existing Order associated with third-party oversight of NNECO's employee concerns program(ECP) (and the establishment of a safety conscious work environment (SCWE)).

The staff appears to be basing its recommendation on lifting the Order, at least in part, on the continuing oversight of both the third party audits and heightened NRC inspection resources. Consequently, I believe it is not appropriate to lift the Order without preserving, in some form, the established framework for third party audits.

I acknowledge improvement in both the safety conscious work environment, and the processes by which the licensee handles employee concerns. However, given that allegations continue to be a concern at this licensee, that there is an acknowledged "fragility" of the various programs that make up the SCWE, and that the licensee is undertaking a significant reorganization and restructuring, I believe that the appropriate regulatory response is either a modification of the Order or an amendment to NNECO's license (instead of simply a letter to the licensee or a Confirmatory Action Letter) to formalize the licensee-proposed third party audits of the ECP and SCWE. This action should remain in place until after both a decision is made on the potential restart of Unit 2, and the licensee's reorganization and its attendant effects are complete.

I also strongly believe that the staff must continue to be vigilant in its efforts to independently monitor the licensee's actions in this area; and, I believe that a modification of the Order or an amendment to NNECO's license is appropriate, especially in light of the Commission's desire for continued involvement.

Commissioner Dicus' Comments on SECY-99-010

I agree with the staff's conclusion that NNECO has demonstrated, by its sustained performance in executing its ECP and in establishing an SCWE, that the conditions that led to the requirement of having a third-party oversight organization have been corrected. Therefore, I agree that the Order can be closed. However, closure of the Order does not mean third party oversight should not be continued. The issue is what is the process that should be used to institute third party oversight.

Based on NNECO's actions to improve its ECP and establish an SCWE, I believe NNECO should be given the opportunity to demonstrate its commitment to its ECP and SCWE. By lifting the Order, NNECO is given that opportunity. With NNECO's commitment to continue Little Harbor's third party oversight, it is taking the actions necessary to ensure its current level of performance in executing its ECP is sustained and the SCWE it has worked hard to establish will continue to exist.

However, due to the ongoing organizational changes at Millstone, the pending restart of Unit 2, and continuing efforts to further improve the ECP/SCWE, I believe the staff should develop, and provide to the Commission, an inspection plan for future inspections of the ECP/SCWE. The plan should provide for periodic assessments until these activities at Millstone have been successfully completed.

Commissioner Diaz' Comments on SECY-99-010

In addition to reviewing SECY-99-010, I have also reviewed the material provided by the staff, the licensee, and the public interest groups for the Millstone Commission meeting on January 19, 1999. I have also reviewed staff's summary of the public comments offered during a public meeting with local stakeholders on December 14, 1998, regarding closure of the NRC Order, as well as have been briefed by my technical assistant regarding the 1/19 Commission meeting.

After a careful study of all the available information, I agree with the staff's conclusion that Northeast Nuclear Energy Company (NNECO) has demonstrated, through its performance during the past seven months, a sustained safety conscious work environment (SCWE) and an effective employee concerns program (ECP), with minimal involvement from Little Harbor Consultants (LHC). Furthermore, the licensee has developed adequate plans to monitor the safety work environment and address problems as they occur. Therefore, I am satisfied that NNECO has corrected the conditions which led to the NRC Order and approve the staff recommendation that the Order be rescinded.

I am mindful of the recent issues raised in the NRC's OIG report (Case No. 99-01S), and the many near-term important activities scheduled at the Millstone site under a new management structure, including the restart of Unit 2 and the Unit 3 refueling outage. Therefore, I support the licensee's plan to retain LHC as a consultant, for a pre-determined period of time, to conduct periodic reviews of the status of ECP/SCWE and to serve as an alternative for Millstone employees to bring safety issues to.

The staff should present to the Commission its plans for future inspection and assessment of Millstone ECP/SCWE, including the criteria for increased regulatory actions if there is evidence of deterioration of safety conscious work environment at Millstone.

Commissioner McGaffigan's Comments on SECY-99-010

I concur in Commissioner Merrifield's comments.

Commissioner Merrifield's Comments on SECY-99-010

I approve the staff's recommendation to close the Order associated with third-party oversight of NNECO's efforts to improve performance in the Employee Concerns Program (ECP) and Safety Conscious Work Environment (SCWE) at Millstone. My decision is based primarily on the fact that the actions required by the Order have been satisfactorily completed as well as the objective evidence which supports the staff's assessment that performance in the areas of ECP and SCWE has improved since the restart of Unit 3. My decision is also predicated in part on the licensee's long-term

oversight plans that it outlined in its presentation before the Commission on January 19, 1999, which include independent, third-party audits of the SCWE and ECP at Millstone. In the cover letter to the licensee ([Attachment 4 of SECY-99-010](#)), the staff should reconfirm that licensee management intends to perform these audits until the "fragility" in the various programs that make up the SCWE is remedied.

I agree with the staff's conclusion that given the potential problems that could arise from activities such as the impending reorganization and recent management changes, future NRC inspections or evaluations of the Millstone SCWE are warranted. I strongly believe that the staff must continue to be vigilant in its efforts to monitor the licensee's performance in the areas of ECP and SCWE so that any decline in performance is detected in its early stages.

I request that the staff provide the Commission with its future plans to monitor and assess performance in the areas of ECP and SCWE at Millstone, as well as the third-party audit reports as they are made available. I also request that the staff provide the Commission with future NRC inspection results that pertain to the ECP and SCWE at Millstone. It is incumbent upon the staff to promptly inform the Commission if a decline in performance is detected in these areas.