

July 11, 2000

COMMISSION VOTING RECORD

DECISION ITEM: SECY-00-0126
TITLE: DENIAL OF PETITION ON JOINT AND SEVERAL LIABILITY (PRM-50-64)

The Commission (with all Commissioners agreeing) approved the subject paper as recorded in the Staff Requirements Memorandum ([SRM](#)) of July 11, 2000.

This Record contains a summary of voting on this matter together with the individual vote sheets, views and comments of the Commission.

Annette Vietti-Cook
Secretary of the Commission

Attachments: 1. Voting Summary
2. Commissioner Vote Sheets

cc: Chairman Meserve
Commissioner Dicus
Commissioner Diaz
Commissioner McGaffigan
Commissioner Merrifield
OGC
EDO
PDR

VOTING SUMMARY - SECY-00-0126

RECORDED VOTES

	APRVD	DISAPRVD	ABSTAIN	NOT PARTICIP	COMMENTS	DATE
CHRM. MESERVE	X				X	6/22/00
COMR. DICUS	X					6/18/00
COMR. DIAZ	X				X	6/30/00
COMR. McGAFFIGAN	X					6/20/00
COMR. MERRIFIELD	X				X	6/29/00

COMMENT RESOLUTION

In their vote sheets, all Commissioners approved the staff's recommendation and some provided additional comments. Subsequently, the comments of the Commission were incorporated into the guidance to staff as reflected in the SRM issued on July 11, 2000.

Commissioner Comments on SECY-00-0126

Chairman Meserve

I approve the denial of the petition for rulemaking and the publication of a notice announcing the denial, subject to the attached edits of the notice. The reason for most of the editorial suggestions is self-evident, but perhaps three need to be explained:

- The text at the bottom of page 10 notes that petitioners' proposed rule makes no reference to de minimis ownership,

thereby implying that their argument is flawed. This seems unfair because the petitioners' proposal removed the need to define de minimis ownership. Moreover, I think it is appropriate to explain why the Commission chooses not to define the de minimis threshold -- namely, that the Commission needs the flexibility to respond to particular circumstances.

- I would delete the citation on page 12 to Safety Light Corporation (Bloomsburg Site Decontamination), ALAB-931, 31 NRC 350 (1990), because the Appeal Board did not address joint and several liability.
- A fuller explanation of the process leading to the policy statement, including in particular the fact that allocation of responsibility was a matter on which the Commission sought and responded to comment, would bolster the response to Comment 15 at page 15.

Commissioner Diaz

On the basis of discussion between my staff and OGC, I recommend the following edits:

1. On page 6 of the Federal Register Notice, revise the fourth sentence of the Response as follows:

"After the Commission assured itself that the co-applicants'/co-licensees' financial qualifications provided for reasonable assurance,"

2. On page 7 of the Federal Register Notice, replace the second and third sentences of the first paragraph of the Response with the following:

"Although power reactor licenses frequently recite the ownership percentages of the co-licensees, those percentages do not invariably reflect the allocation of decommissioning funding obligations. By reciting ownership percentages, the staff did not intend to make any finding about proportional allocation of decommissioning funding obligations."