

April 20, 2001

COMMISSION VOTING RECORD

DECISION ITEM: SECY-01-0049

TITLE: PROPOSED RULE ON DECOMMISSIONING
TRUST PROVISIONS

The Commission (with all Commissioners agreeing) approved the subject paper as recorded in the Staff Requirements Memorandum (SRM) of April 20, 2001.

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

Annette L. 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-01-0049

RECORDED VOTES

	APRVD	DISAPRVD	ABSTAIN	PARTICIP	NOT COMMENTS	DATE
CHRM. MESERVE	X				X	4/12/01
COMR. DICUS					X	4/16/01
COMR. DIAZ	X				X	4/12/01
COMR. McGAFFIGAN	X				X	4/12/01
COMR. MERRIFIELD	X				X	4/12/01

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 April 20, 2001.

Commissioner Comments on SECY-01-0049

Chairman Meserve

In light of the deregulation of the electric utility industry, the staff has proposed revisions to 10 C.F.R. § 50.75 in order to ensure that funds set aside for the decommissioning of power reactors will be available when necessary. The revisions provide that the terms of a decommissioning trust agreement must be acceptable to the NRC and outline certain general requirements for any such trust. I believe that the proposed rule is necessary and appropriate. In addition, it should serve to expedite the review of license transfer applications by ensuring that all licensees will be able to use a standard approach in developing decommissioning trust agreements. Accordingly, I approve the publication of the proposed rule and the issuance of the draft regulatory guide for public comment. I attach certain edits of the Federal Register notice and the proposed rule.

I also certify that this rule, if promulgated, will not have a negative economic impact on a substantial number of small entities.

Commissioner Diaz

I approve the staff's recommendation that the Commission publish for comment the draft proposed rule on decommissioning trust agreements. Specification of essential criteria for such agreements should promote predictable oversight, assure safeguarding of decommissioning trusts in an era of deregulation and restructuring, and facilitate efficient license transfer reviews. At the same time, a wide variety of trust instruments are in use and the Commission should guard against unnecessary prescription as the rulemaking is completed.

Commissioner Merrifield

I approve the staff's recommendation to issue the proposed rule on decommissioning trusts. The staff did a commendable job identifying and addressing issues raised about trust agreements in a deregulated market. As a future endeavor, I would encourage the staff to put in place an effective process to track receipt of notices from trustees indicating either an intention to amend a trust agreement or to make disbursements or payments from the trusts. A process is necessary because the wording of the proposed rule permits the trustee to undertake these activities once it has notified the NRC, if there is no objection from the NRC within 30 days of the notice. Thus, NRC silence will indicate no objection and permit the transaction to take place. While I believe the "no objection" mechanism is appropriate, I think it would be prudent to bolster it with an internal process that tracks these activities and ensures that the deadlines are not inadvertently missed.