

March 31, 2003

COMMISSION VOTING RECORD

DECISION ITEM: SECY-02-0180

TITLE: LEGAL AND FINANCIAL POLICY ISSUES ASSOCIATED
 WITH LICENSING NEW NUCLEAR POWER PLANTS

The Commission (with all Commissioners agreeing) approved the subject paper as recorded in the Staff Requirements Memorandum (SRM) of March 31, 2003.

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-02-0180

RECORDED VOTES

	APRVD	DISAPRVD	ABSTAIN	PARTICIP	NOT COMMENTS	DATE
CHRM. MESERVE	X				X	2/12/03
COMR. DICUS	X					1/13/03
COMR. DIAZ	X				X	2/20/03
COMR. McGAFFIGAN	X				X	3/24/03
COMR. MERRIFIELD	X				X	12/12/02

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 March 31, 2003.

Commissioner Comments on SECY-02-0180

Chairman Meserve

The paper presents a discussion of 11 issues, although staff seeks Commission approval of only 3 of these matters (environmental effects of the production, transportation, and storage of reactor fuel; financial qualifications of non-electric-utility applicants; and funding of decommissioning costs for non-electric-utility applicants). Although staff is not seeking Commission approval for the remaining issues, staff appears to have achieved final resolution of many of these issues. The staff's proposed approach seems appropriate.

Commissioner Diaz

At this time, I have no objection to the staff's providing its statement of views or status of issues raised. I note, however, that the treatment of certain issues will have to conform to Commission direction, when issued, on such matters as those in SECY-02-0077, Proposed Rule to Update 10 CFR Part 52, "Early Site Permits, Standard Design Certifications, and Combined Licenses for Nuclear Power Plants," on which I voted on May 23, 2002.

Commissioner McGaffigan

I approve the staff's recommendations in this paper. I do not agree with Commissioner Merrifield with regard to issue 8. Congress may have made a drafting error in the Energy Policy Act of 1992 with regard to the duration of COL licenses (I believe it did), and both Houses of Congress may have indicated their willingness to fix this problem in response to our request and allow a 40 year term of operation for a COL license (or each module under a COL license), but we should not presume Congressional action before it occurs. Given the current state of play on possible advanced reactor licensing, I see no need for the staff to be working on the issue 8 timing issues now, rather than waiting until Congress acts. Certainly the pebble bed modular reactor program will be significantly delayed compared to the wildly optimistic estimates of a couple of years ago, if it goes forward at all in this country.

Commissioner Merrifield

I approve the staff's recommendations for issues 1 - 3 without comment. As for issue 8, concerning the effective duration of a license term for modular reactors, I will reiterate what I said in my vote on SECY-02-0077. The duration of operation for a Part 52 license should be the same as for a Part 50 license, including modular reactor licenses. The current regulations provide for this treatment (see §52.83 and §52.97) and legislation submitted to Congress would merely clarify and confirm what the Commission intended when Part 52 was promulgated - that the operating term for a combined license holder would extend for 40 years after the Commission makes its finding in accordance with §52.99. This finding is made after construction is complete.

Under this licensing process, I recognize that there is a potential for many years to elapse between licensing and construction of later units. In Section 50.55, the Commission sets completion time limits for use of construction permits. Similar limitations will have to be developed for Part 52 licenses. Further, I understand the staff's concern with a licensee that may choose to build a reactor design many years after issuance of the license without reconsidering the

acceptability of the original design. However, the staff can and should exercise the provisions of §50.109 or §52.63 in order to impose any new requirements or staff positions on previously approved designs, just as it would for any present operating reactors. I encourage the staff to start work on the timing issues now, rather than waiting until Congress acts on the pending legislation, as the staff suggests.