



UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D.C. 20555-0001

February 23, 2005

SECRETARY

COMMISSION VOTING RECORD

DECISION ITEM: SECY-04-0236

TITLE: SOUTHERN NUCLEAR OPERATING COMPANY'S
PROPOSAL TO ESTABLISH A COMMON EMERGENCY
OPERATING FACILITY AT ITS CORPORATE
HEADQUARTERS

The Commission (with Chairman Diaz and Commissioners Merrifield and Lyons agreeing) approved the subject paper as recorded in the Staff Requirements Memorandum (SRM) of February 23, 2005. Commissioners McGaffigan and Jaczko disapproved this paper.

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

A handwritten signature in black ink, appearing to read "Annette Vietti-Cook", written over a horizontal line.

Annette L. Vietti-Cook
Secretary of the Commission

Attachments:

1. Voting Summary
2. Commissioner Vote Sheets

cc: Chairman Diaz
Commissioner McGaffigan
Commissioner Merrifield
Commissioner Jaczko
Commissioner Lyons
OGC
EDO
PDR

VOTING SUMMARY - SECY-04-0236

RECORDED VOTES

	APRVD	DISAPRVD	ABSTAIN	NOT PARTICIP	COMMENTS	DATE
CHRM. DIAZ	X				X	1/5/05
COMR. McGAFFIGAN		X			X	1/28/05
COMR. MERRIFIELD	X				X	1/6/05
COMR. JACZKO		X			X	2/14/05
COMR. LYONS	X				X	2/1/05

COMMENT RESOLUTION

In their vote sheets, Chairman Diaz and Commissioners Merrifield and Lyons approved the staff's recommendation and provided some additional comments. Commissioners McGaffigan and Jaczko disapproved this paper. Subsequently, the comments of the Commission were incorporated into the guidance to staff as reflected in the SRM issued on February 23, 2005.

NOTATION VOTE

RESPONSE SHEET

CHAIRMAN DEC'D
04 DEC 30 AM 9:23

TO: Annette Vietti-Cook, Secretary
FROM: CHAIRMAN DIAZ
SUBJECT: **SECY-04-0236 - SOUTHERN NUCLEAR OPERATING
COMPANY'S PROPOSAL TO ESTABLISH A COMMON
EMERGENCY OPERATING FACILITY AT ITS
CORPORATE HEADQUARTERS**

Approved ^(w/comments) Disapproved _____ Abstain _____
Not Participating _____

COMMENTS: See attached.



SIGNATURE



DATE

Entered on "STARS" Yes No _____

Chairman Diaz's Vote on SECY-04-0236
Southern Nuclear Operating Company's Proposal to Establish a Common Emergency
Operating Facility at its Headquarters

I approve the staff's recommendation to accept the proposal by Southern Nuclear Operating Company (SNC) to consolidate the Emergency Operating Facilities (EOFs) for the Edwin I. Hatch Nuclear Plant (HNP), the Joseph M. Farley Nuclear Plant (FNP) and the Vogtle Electric Generating Plant (VEGP) into a common EOF at its corporate offices in Birmingham, Alabama.

The staff should inform the Commission of any future significant emergency response issues which may adversely impact communication and coordination between the licensee, the public, and County, State, and Federal agencies, especially as they relate to the distances between the three sites and the new EOF. Furthermore, I look forward to the staff's proposed rulemaking to replace the "near-site" requirement with a more performance based requirement, thus eliminating the need for such exemptions.



NOTATION VOTE

RESPONSE SHEET

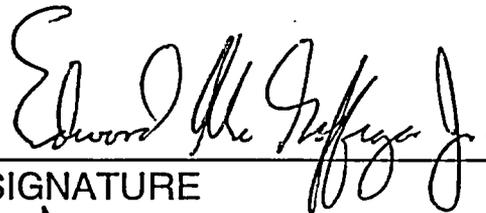
TO: Annette Vietti-Cook, Secretary
FROM: COMMISSIONER MCGAFFIGAN
SUBJECT: **SECY-04-0236 - SOUTHERN NUCLEAR OPERATING
COMPANY'S PROPOSAL TO ESTABLISH A COMMON
EMERGENCY OPERATING FACILITY AT ITS
CORPORATE HEADQUARTERS**

Approved _____ Disapproved X Abstain _____

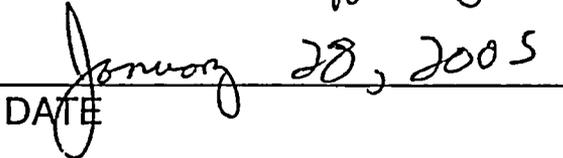
Not Participating _____

COMMENTS:

See attached comments.



SIGNATURE



DATE

Entered on "STARS" Yes X No _____

Commissioner McGaffigan's Comments on SECY-04-0236

I disapprove the staff's recommendation that Southern Nuclear Operating Company be allowed to combine the existing near-site emergency operations facilities (EOFs) for the Edwin I. Hatch Nuclear Plant and the Vogtle Electric Generating Plant, both located in Georgia, and the Joseph M. Farley Nuclear Plant, located in Alabama, into a common EOF located at the licensee's corporate offices in Birmingham, Alabama.

The remote centralization of EOFs might appear to be a natural development of industry consolidation and advances in information technology. In the case of the former, there are increasing gains to be achieved in centralizing tasks and functions in personnel reliability and continuity as well as economies of scale. For the latter, cell phones, video conferencing, web casting, and wireless internet access all have dramatically improved the ability of personnel to exchange information and take actions at great distances from the scene of events. Furthermore, a centralized EOF that is co-located with corporate offices also allows corporations with multiple sites to staff that facility very quickly and with many of the same personnel in response to an event at any of their facilities. This approach offers the licensee the potential for gains in many ways, including centralizing response assets, theoretically faster response times for the licensee, coordination improvements, etc. However, as discussed below, it is not at all clear that there are any advantages in this case for NRC. Indeed, I will argue that there will be significant disadvantages.

The requirement for an EOF was first formalized as part of the requirements related to Three Mile Island (TMI) as stated in NUREG-0737, "Clarification of TMI Action Plan Requirements" as item III.A.1.2(3), "Near-Site Emergency Operations Facility." This was an obvious lesson learned from the TMI accident. Harold Denton, President Carter's personal representative, needed to be on the scene and in nearby Harrisburg. The Tennessee Valley Authority (TVA) requested an exception to the "near-site" requirement and, along with representatives from Alabama and Tennessee, met with the Commission (as part of a broader public meeting on EOFs on October 30, 1980) to request permission for a roughly centrally-located, consolidated EOF for the three TVA facilities (Watts Bar, though not yet licensed, was under construction). I note that none of the three facilities are located in Georgia, the site of the NRC Regional Office, and that the facilities are about 10, 50, and 100 miles from the TVA consolidated EOF. The distances from Atlanta to those same facilities are roughly 100, 135, and 160 miles, making the 100-mile distance from the Region II Office in Atlanta to the consolidated EOF essentially transit-neutral in terms of NRC response.

The Commission granted the TVA request (SRM for COMJA-80-37). The record reflects that the Commission carefully weighed the advantages and disadvantages of the specific request, including concerns with the EOF not being "near-site." In particular, it was recognized that the NRC would need a near-site team and that they would have difficulty fulfilling their roles without near-site facilities. The SRM required the "addition of some provisions near each site for the NRC site team" to address that issue but, in 1980, those NRC roles were presumed to be able to be performed adequately with little more than, in the words of Commissioner Joseph M. Hendrie, "a telephone and a place to hang their hats." In 2005 and going forward, I do not believe that to be sufficient. Indeed, if it has not been done recently, NRC staff needs to look at the adequacy of TVA's near-site facilities for the NRC site team. As Harold Denton himself pointed out of last year's Regulatory Information Conference, the change in the last quarter century in media technology (the advent of 24 - hour cable news, etc) would enormously complicate event response today. As a media representative pointed out at the RIC, if the

media only sees NRC and other entities' public affairs officers at the Joint Information Center, they will go elsewhere to find the real decision makers. Again, TMI is instructive. At President Carter's direction, significant DOD communications capabilities were made available to Mr. Denton's site team. Moreover, under the new National Response Plan, the Secretary of Homeland Security will appoint a principal Federal official from DHS in the event of an incident of national significance. I can not imagine that PFO setting up shop remotely from the site. Under the Southern proposal, NRC's site team would have to be more senior than the team sent to Birmingham. Ideally, the near site facilities would need to be capable of serving both NRC staff, and accommodating the mobile communications facilities that DHS and other agencies would bring to the scene in such circumstances. In SECY-04-0236, the staff stated that Southern's near-site legacy facilities would remain available to the NRC site team, but I note that the off-site roles and ongoing communications elsewhere would be by other means, such as specialized web-based systems and tele-conferencing hardware unlikely to be at a legacy facility.

In granting the 1980 TVA EOF request, the Commission specified that any future EOF would require "specific approval by the Commission" if it were to be located beyond 20 miles from the plant. This distance was later extended to 25 miles (SRM for SECY-96-170).

The next significant EOF consolidation request was received in 1984 when Duke Power Company sought to include the Oconee station in the EOF 125 miles away at the Duke corporate offices in Charlotte, North Carolina that served the McGuire and Catawba stations (both within 20 miles, so no NRC exception required). The Commission disapproved that request citing concerns over the "the importance of face-to-face contact among decision makers" that would be lost. The Commission's decision was appealed by the licensee but sustained by the Courts. *See Duke Power Co. v. NRC*, 770 F.2d 386, 390-91 (4th Cir. 1985).

The first EOF consolidation request that came to the Commission during my tenure was in 1998 when then-Commonwealth Edison ("ComEd") asked to centralize their four Illinois operating reactor sites in one corporate EOF (SECY-98-274). The Commission approved the request but only after a lengthy period of tests that included the use of the facility on an interim basis. The Commission (in the SRM for SECY-98-274) specifically noted that the approval was not a generic one and directed the staff to carefully monitor the centralized EOF in practice and inform the Commission of any problems.

I supported the ComEd request. A critical factor in my decision was contained in the following excerpt from SECY-98-274:

The proposed CEOF is about 15 minutes away from the NRC Region III office by automobile. Such proximity will simplify the deployment of the EOF component of an NRC Site Team to the CEOF.

Thus, the Region III Regional Administrator (and/or other cognizant NRC officials) would now be able to reach the EOF much more quickly than the existing near-site EOFs, which ranged from 32 to 116 miles away. This, in turn, represented an improvement in NRC response to an emergency, despite the need subsequently for a site team. In 2002, the NRC considered and approved the inclusion of the Clinton Power Station in the same EOF facility as above (SECY-02-0033 and associated SRM).

In 2003, the Commission reviewed and approved the request by AmerGen Energy Company, LLC to consolidate the Three Mile Island Unit 1 EOF into the previously-approved combined EOF at Coatsville, Pennsylvania, for Peach Bottom Atomic Power Station and Limerick Generating Station (SECY-90-072, SECY-03-0033, and associated SRMs). The Coatesville EOF is about 25 miles from the Region I offices (King of Prussia, PA), about the same as to Limerick but reducing the other distances for NRC response by about half (Peach Bottom) or two-thirds (TMI).

The Commission has consistently treated each EOF consolidation request on a case-by-case basis and directed the staff to closely monitor the consolidation effort and to ensure that communications and coordination with the public and County, State, and Federal agencies were not adversely impacted by the consolidation. The Southern Company request is the most ambitious yet in that the facilities are both much more geographically separated from each other and the consolidated EOF (up to 352 miles), and also are located in different States with their different agencies. In contrast, the ComEd application in 1998 - though it consolidated more EOFs - involved plants only in Illinois. Similarly, the AmerGen request in 2003 was for facilities all of which were in Pennsylvania.

In SECY-04-0236, the staff asserted that advances in information technology have helped make this request feasible. The staff identified a myriad of communication tools available to the personnel at the proposed consolidated EOF some of which simply did not exist in 1984 when the Commission disapproved the Duke Power request, nor in 1998 when the Commission approved the ComEd request. One example is the communication tool called "Web EOC" that allows instant, real-time sharing of multiple screens of text and images among stations at the EOF, other licensee facilities, the different States, and local emergency management agencies. Others not identified in the SECY, such as cell phones and "web cams", have become ubiquitous and still others, such as video-conferencing, are becoming increasingly common. Finally, the NRC itself uses many of the same technologies mentioned above in the NRC Headquarters Operations Center to fulfill our duties associated with events at nuclear facilities anywhere in the United States.

Nonetheless, I am unpersuaded.

I approved the Chicago and Coatesville EOF consolidations because each one produced an overall improvement in NRC response, despite the disadvantage that the NRC would still have to field a near-site team. In each case, the improvement gain was achieved by the dramatic proximity of the consolidated EOF to the cognizant Regional Offices which allowed the Regional Administrator (and team) to very quickly respond to events. This gain is simply not present in the Southern Company request. In fact, for an event at either Georgia facility, the Regional Administrator would have to leave Georgia (where the emergency was and where he is collocated with the State government agencies) and go to Alabama to deal with the event. Similarly, Georgia emergency planning officials would be leaving their State to travel to Birmingham, as would officials from South Carolina (Hatch) or Florida (Vogtle). I do not consider that a defensible strategy. Nor, I believe, is it one that would actually be carried out for an event of national significance. SECY-04-0236 says that various federal, State and local officials have signed off on this centralized EOF. I fear those sign offs may not have been at a sufficiently senior level.

As I stated in my vote approving the 1998 ComEd request (SECY-98-274):

“Following a plant emergency, the national media will fight for the closest site proximity, and instant and repeated access to those representing the Agency.”

The tragic events of September 11, 2001 and the media responses for subsequent incidents since then have increasingly demonstrated the burdens inherent in the Lead Federal Agency duties that will fall to the NRC following an emergency at any of our licensees. Discharging those duties will be challenging enough under any circumstances. It will be impossible if the cognizant NRC officials leave the State where the emergency is ongoing for a consolidated facility over 100 miles in another direction.

Finally, I absolutely do not believe that we are ready to promulgate a “performance based” rule relaxing the “near - site” requirement in our regulations. We have several potential emergency preparedness rulemaking/guidance activities that are far more important. Thus, I do not support the staff’s proposed relaxation and want the Commission to continue to see exemption requests beyond the 25 - mile standard.

I also believe that we need to build in opportunities for public participation on such a sweeping exemption request. Certainly, the staff and Southern did coordinate with FEMA and State and local officials in this instance, including conducting the July 14, 2004 dual-site drill with their involvement. But I suspect that this EOF centralization exemption has been largely invisible to the broader public.

EW2

NOTATION VOTE
RESPONSE SHEET

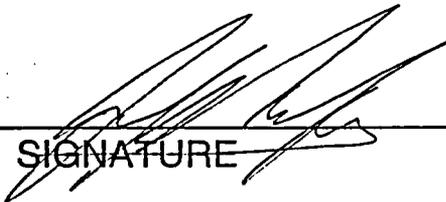
TO: Annette Vietti-Cook, Secretary
FROM: COMMISSIONER MERRIFIELD
SUBJECT: **SECY-04-0236 - SOUTHERN NUCLEAR OPERATING
COMPANY'S PROPOSAL TO ESTABLISH A COMMON
EMERGENCY OPERATING FACILITY AT ITS
CORPORATE HEADQUARTERS**

Approved Disapproved Abstain

Not Participating

COMMENTS:

See attached comments.



SIGNATURE



DATE

Entered on "STARS" Yes No

**Commissioner Merrifield's Vote on SECY-04-0236
Southern Nuclear Operating Company's Proposal to Establish a Common Emergency
Operating Facility at its Corporate Headquarters**

I agree with the comments made by Chairman Diaz and approve the proposal by Southern Nuclear Operating Company to combine the existing near-site emergency operating facilities (EOFs) for the Edwin I. Hatch Nuclear Plant, the Joseph M. Farley Nuclear Plant, and the Vogtle Electric Generating Plant into a common facility at its corporate headquarters in Birmingham, Alabama.

In addition, the staff should consider revising 10CFR Part 50 to make the requirements for EOFs more performance-based to allow other multi-plant licensees to consolidate their EOFs, if those licensees can demonstrate their emergency response strategies will adequately cope with an emergency at any of the associated plants. This rulemaking effort should be prioritized along other potential rulemakings as part of the normal budgeting process. The staff does not need to submit a rule plan for this rulemaking.



1/6/05

NOTATION VOTE

RESPONSE SHEET

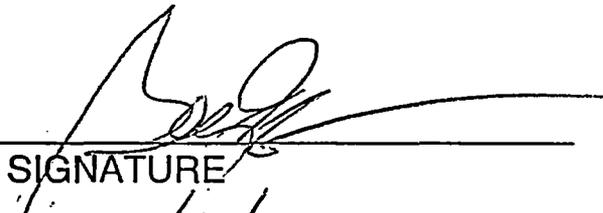
TO: Annette Vietti-Cook, Secretary
FROM: COMMISSIONER JACZKO
SUBJECT: **SECY-04-0236 - SOUTHERN NUCLEAR OPERATING
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EMERGENCY OPERATING FACILITY AT ITS
CORPORATE HEADQUARTERS**

Approved _____ Disapproved Abstain _____

Not Participating _____

COMMENTS:

See attached comments.



SIGNATURE
2/14/07

DATE

Entered on "STARS" Yes ___ No ___

Commissioner Jaczko's Vote on SECY-04-0236
Southern Nuclear Operating Company's Proposal to Establish a Common Emergency Operating Facility at its Headquarters

I disapprove of the proposal by Southern Nuclear Operating Company to combine the existing near-site emergency operating facilities (EOFs) for the Edwin I. Hatch Nuclear Plant, the Joseph M. Farley Nuclear Plant, and the Vogtle Electric Generating Plant into a common facility at its corporate headquarters in Birmingham, Alabama.

My disapproval is not intended to be a statement about common EOFs in general or the action of this licensee in particular. In fact, I am encouraged by the thoroughness of the actions undertaken by the licensee to support the proposal. I am particularly pleased with the licensee's emphasis on increased communication, including the web based communication tools developed. I appreciate that a common EOF can sometimes offer many benefits, especially in light of these advancements in communication and computer technology. Instead, my disapproval is more about what appears to me to be an abdication of an essential Commission responsibility, specifically ensuring no adverse impacts of a common EOF on the numerous Federal, State and local emergency response agencies that this proposal potentially affects. I simply think the Commission should have directed more be done to ensure that this consolidated EOF does not raise more issues surrounding coordination between Federal, State and local agencies' emergency response efforts than it resolves.

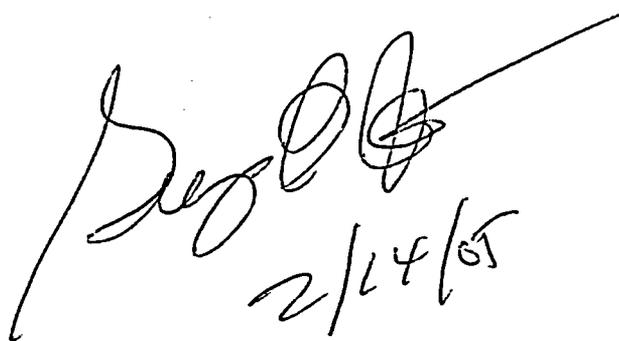
Commissioner McGaffigan's vote provides a thorough description of the history of the common EOFs which I need not repeat here. Importantly, as noted by Commissioner McGaffigan, exemptions from the near-site EOF regulations require specific approval by the Commission and, in the past, the Commission's decisions about common EOFs have been made on a case-by-case basis after weighing many different factors, including consideration of the impact on emergency response coordination efforts.

Given this history, I would expect that, prior to any Commission decision regarding the granting of the exemption in this instance - an ambitious request with over 200 miles between the consolidated EOF and each of the facilities it would serve, and involving emergency response coordination among up to four different states - the Commission would have requested a more thorough analysis of the potential implications of this proposed common EOF on the affected emergency response agencies. Instead, the Commission's apparent satisfaction with the licensee's elicitation of "letters of concurrence" from the State and local emergency management agencies, in effect, forsakes a basic Commission responsibility. I appreciate the efforts of the licensee in obtaining the letters of concurrence and the efforts of the staff to ensure effective communications by observing a dual-site drill. The fact remains that in order to grant an exemption, the Commission's regulations require that the Commission must be satisfied that the exemption will not present an undue risk to the health and safety of the public. In light of the complexity of the coordination of emergency response efforts and the Commission's lack of direction to seek solicitation of concerns from these very entities, I simply am not able to make this finding for this proposal.

Moreover, this consolidated EOF raises other concerns. There are notable public perception issues associated with high-level officials, including some responsible NRC officials, located at a facility over 200 miles away and in, potentially, a different state from where the event is occurring. Additionally, the ability (or lack thereof) of the NRC to inform the public through the

use of the media would seemingly be hampered by this common EOF when media visibility will most likely be focused on near-site locations.

For these and other reasons, I would prefer to continue to review any exemptions to NRC's near-site requirements on a Commission level, case-by-case basis, rather than through "performance based" criteria, as the staff is contemplating in an upcoming rulemaking. In this post 9/11 environment, concerns regarding emergency response efforts have, understandably, received heightened awareness. And, while there are certainly circumstances in which a common EOF would make a great deal of sense, I have not been convinced in this instance that the Commission has enough information to make that determination at this time.

A handwritten signature in black ink, appearing to be "D. J. [unclear]", with a long horizontal line extending to the right. Below the signature is the date "2/24/05".

2/24/05

NOTATION VOTE

RESPONSE SHEET

TO: Annette Vietti-Cook, Secretary

FROM: COMMISSIONER LYONS

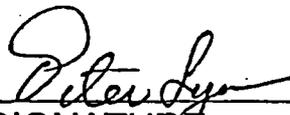
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CORPORATE HEADQUARTERS**

Approved Disapproved Abstain

Not Participating

COMMENTS:

*I concur with comments of Chairman Diaz and
Commissioner Morrill*



SIGNATURE

2/1/05

DATE

Entered on "STARS" Yes No