

October 1, 1999

MEMORANDUM TO: Karen D. Cyr  
General Counsel

William D. Travers  
Executive Director for Operations

FROM: Andrew L. Bates /s/

SUBJECT: STAFF REQUIREMENTS - SECY-99-220 - PROPOSED RULE -- CLARIFICATION OF REGULATIONS AND GUIDANCE TO EXPLICITLY LIMIT WHICH TYPES OF APPLICATIONS MUST INCLUDE ANTITRUST INFORMATION; DISPOSITION OF WOLF CREEK ANTITRUST LICENSE CONDITIONS

The Commission has approved publication of the proposed rule and draft guidance documents in the Federal Register, and approved the draft letter regarding the Wolf Creek antitrust conditions, subject to the changes provided in the attachment.

The Commission-made changes to the press release contained in the attachment should be made and the press release should then be circulated through the normal concurrence process.

(OGC/EDO)

(SECY Suspense: 10/29/99)

Attachment: [Changes to the Rulemaking Package in SECY-99-220](#)

cc: Chairman Dicus  
Commissioner Diaz  
Commissioner McGaffigan  
Commissioner Merrifield  
CIO  
CFO  
OCA  
OIG  
OPA  
Office Directors, Regions, ACRS, ACNW, ASLBP (via E-Mail)  
PDR  
DCS

SECY NOTE: THIS SRM AND SECY PAPER WILL BE RELEASED TO THE PUBLIC FIVE WORKING DAYS AFTER ISSUANCE OF THE LETTER

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ATTACHMENT

## Changes to the Rulemaking Package in SECY-99-220

### Changes to the FRN

1. Add to page 17, at the end of first partial paragraph at the top of the page, the following footnote:

"The same principle holds in the context of Part 52 of the Commission's regulations. Under that Part, the operating license is issued simultaneously with the construction permit in a combined license. The application for the combined license is subject to the agency's antitrust review, but antitrust reviews of post-combined license transfer applications are not authorized or, if authorized, are not required and not warranted."

2. Add to page 17, at the end of 1st sentence of the first full paragraph, the following footnote:

"The paragraph speaks only to the historically typical case in which a construction permit (CP) is issued first, and then years later an operating license (OL). Under Part 52, the CP and OL are issued simultaneously, and the antitrust review is done before issuance. Thus, there could be no direct transfer of the facility CP before issuance of the initial OL."

3. On page 20, paragraph 1, revise line 9 to read ' ... because the proposed revisions **only** affect ~~only~~ when antitrust information ....'

### Changes to the Draft Standard Review Plan

1. On page 1-3, revise the last line to read ' ... conduct antitrust reviews **after issuance of a COL under Part 52** ~~at the OL stage for COL Part 52 applications~~.
2. On page 1-4, in the 1<sup>st</sup> paragraph under section 1.4, revise the last sentence to read ' ... one-time antitrust review, with ~~a~~ no significant changes review ~~at the OL stage~~ **after construction but before operation under the COL**.

## Changes to the letter to Messrs. Miller and Elliott

1. On page 1, paragraph 3, revise the 1<sup>st</sup> sentence to read ' ... review of post-operating license transfer applications **(or, if it had authority, would not perform as a matter of policy)**.'
2. On page 1, paragraph 3, revise lines 7 and 8 to read ' ...review the Commission decided **not** ~~it had no authority~~ to perform ~~(or, if it had authority, would not perform as a matter of policy)~~.
3. On page 2, 2<sup>nd</sup> full paragraph, revise line 2 to read ' ... to conduct the kind of antitrust review **(or, if it had authority, would not perform as a matter of policy)** ....'

## Changes to the Press Release

1. On page 1, paragraph 3, revise the last sentence to read ' ... types of applications that must include antitrust information ~~in the to~~ application s for a construction permit, initial operating license, ~~and preoperating~~ transfers of **a construction permit before issuance of an initial operating license, or combined construction permit/operating license.**'