

June 18, 1999

MEMORANDUM FOR: Karen D. Cyr
General Counsel

William D. Travers
Executive Director for Operations

John F. Cordes, Acting Director
Office of Commission Appellate Adjudication

FROM: Annette Vietti-Cook, Secretary /s/

SUBJECT: STAFF REQUIREMENTS - AFFIRMATION SESSION, 11:30 A.M., WEDNESDAY, JUNE 18, 1999, COMMISSIONERS' CONFERENCE ROOM, ONE WHITE FLINT NORTH, ROCKVILLE, MARYLAND (OPEN TO PUBLIC ATTENDANCE)

I. SECY-99-133 - Final Revision to 10 CFR 50.65 to Require Licensees to Perform Assessments Before Performing Maintenance

The Commission approved a final rule, subject to the changes in attachment 1, amending 10 CFR 50.65 to require that power reactor licensees, before performing maintenance, assess and manage the increase in risk that may result from the maintenance activities.

Following incorporation of these changes, the Federal Register notice should be reviewed by the Rules Review and Directives Branch in the Office of Administration and forwarded to the Office of the Secretary for signature and publication.

(EDO) (SECY Suspense: 7/16/99)

The Commission agrees with the staff that, given the importance of the regulatory guidance to our licensees and inspectors, the final rule should not become effective until the final regulatory guide is in place for 120 days. While the final rule is an important first step, the staff has a great deal of work remaining on the development of acceptable regulatory guidance. This should include careful consideration of stakeholder comments and a very thorough review of the operational implications of such guidance. As directed in the Staff Requirements Memorandum from the briefing on the maintenance rule dated May 13, 1999, the draft regulatory guide should be provided to the Commission for information.

(EDO) (SECY Suspense: 7/13/99)

Prior to issuing the final regulatory guide, the staff should provide it to the Commission for review and approval.

(EDO) (SECY Suspense: 11/15/99)

II. SECY-99-145 - Kansas Gas & Electric Co., et. al. (Wolf Creek Generating Station, Unit 1), Docket No. 50-482 (Antitrust Issues)

The Commission approved a Memorandum and Order, subject to the changes in attachment 2, rejecting a petition for review of the antitrust issues in the license transfer application for the Wolf Creek nuclear power reactor. It also directs the NRC staff to initiate a rulemaking to remove any implication in current rules that the NRC would conduct antitrust reviews of license transfers. Further, the Order solicits the parties' views on how best to handle the Wolf Creek license conditions, and gives non-parties an opportunity to comment.

The staff should initiate a rulemaking to remove any implication in current rules that the NRC would conduct antitrust reviews of license transfers and clarify Regulatory Guide 9.3 and NUREG-1574.

(OGC/EDO) (SECY Suspense: 8/27/99)

The staff should publish this Order in the Federal Register and place it on the NRC's Web site.

(SECY) (SECY Suspense: 6/25/99)

(Subsequently, on June 18, 1999, the Secretary signed the Memorandum and Order.)

Attachment: As stated

cc: Chairman Jackson
Commissioner Dicus
Commissioner Diaz
Commissioner McGaffigan
Commissioner Merrifield
CIO
CFO
OCA
OIG
OPA
Office Directors, Regions, ACRS, ACNW, ASLBP (via E-Mail)
PDR - Advance
DCS - P1-17

ATTACHMENT 1

Changes to the Final Rule in [SECY-99-133](#)

1. The staff should review the Federal Register Notice (FRN) to ensure that it consistently accounts for the new language in 10 CFR 50.65(a)(4).
2. On page 11, line 11 from the top, capitalize 'Regulation'.
3. On page 13, line 2 from the bottom, delete 'normal'.

ATTACHMENT 2

Changes to the Memorandum and Order in [SECY-99-145](#)

1. On page 3, line 4, move the footnote notation outside of the period.
2. On page 3, 1st full paragraph, line 11 indicates that emphasis has been added but it is not clear where.
3. On page 3, 1st full paragraph, line 12, delete the space after '105' and the period after the 'c'.
4. On page 5, 2nd full paragraph, line 3, insert a space between 'March' and '31'.
5. On page 6, 2nd full paragraph, line 6, replace the dash with an apostrophe.
6. On page 6, revise the last line to read ' ... developed to a great extent at government (i.e., taxpayer) ~~taxpayer~~ expense'
7. On page 7, revise line 5 to read ' ... benefits of nuclear resources and thereby create an anti-competitive situation ~~reap the benefits of "cheap" nuclear-generated electricity.~~
8. On page 10, 2nd paragraph, capitalize the 's' in 'section'.
9. On page 10, revise the last line to read ' ... the Commission could order a remedy ~~one~~.
10. On page 12, 1st full paragraph, revise lines 5 through 10 to read 'At the time Congress enacted Section 105, it envisioned tThis broad and comprehensive review ~~makes sense~~ at the construction Congress believed that at the construction phase -- before the plant is built and before its operation is authorized by the Commission -- ~~when~~ the Commission would be ~~is~~ peculiarly well-positioned to offer meaningful remedies, such as license conditions, if it found that granting the license would create ~~finds~~ a situation inconsistent with the antitrust laws.'

11. On page 12, revise the last 2 lines to read ' ... review provisions "shall not apply to an application for a license to operate a utilization or production facility for which a construction permit was issued under section 103 ~~in operating license proceedings~~ unless the Commission'
12. On page 12, revise footnote 6 to read 'But sSee note 22, *infra*.'
13. On page 13, 1st full paragraph, lines 4 through 6, delete 'and this Commission no longer ... exacerbates an anti-competitive situation,'.
14. On page 13, revise the last 2 lines to read ' ... to protect public health and safety and the common defense and security ~~interest from the hazards of radiation.~~'⁷
15. On page 15, 1st full paragraph, line 11, close the quotation marks around 'possess'.
16. On page 16, 1st full paragraph, line 9, remove the underlining in the space after '(1994);'.
17. On page 17, line 3, capitalize the 'N' in 'national'.
18. On page 18, line 2, place 'significant changes' in quotation marks. Also, in the 1st full paragraph, line 5, place 'significant changes' in quotation marks.
19. On page 19, last paragraph, revise line 8 to read ' ... were expected to be inexpensive (~~some~~ one AEC Chairman erroneously'
20. On page 21, footnote 11, line 5, insert closing quotation marks after 'scheme.'
21. On page 23, 1st full paragraph, line 1, place 'significant changes' in quotation marks.
22. On page 26, 1st full paragraph, line 4 after the indent, delete 'for'.
23. On page 26, last paragraph, line 4, place 'significant changes' in quotation marks.
24. On page 28, 1st paragraph, revise line 10 to read ' ... antitrust information is to enable ~~so~~ the staff to ~~can~~ determine'
25. On page 29, 1st paragraph, revise line 6 to read ' ... protecting the public health~~7~~ and safety ~~and interest~~ and the'
26. On page 30, line 3, move footnote 17 to after the comma.
27. On page 30, last paragraph, revise line 2 to read ' ... anticompetitive conduct by the NRC's nuclear'
28. On page 31, revise line 1 to read ' ... which, therefore, were ~~was~~ of great concern to'
29. On page 31, last paragraph, revise line 1 to read ' ... in the Clayton Act also have contributed to eliminating'
30. On page 32, line 1, move footnote 21 to after the comma.
31. On page 33, revise lines 4 through 8 to read ' ... competitive situation, (1) it might be appropriate to retain ~~where~~ the existing conditions where they apply only to ... transferred license, (2) it might be appropriate to remove ~~pertain where~~ the conditions where they apply to only ... the transfer, and (3) it might be ~~would appear~~ appropriate to remove existing conditions or modify references to licensees in the conditions when existing'
32. On page 33, last paragraph, revise line 6 to read ' ... standing, that ~~to~~ propose appropriate'
33. On page 33, in footnote 23, revise line 3 to read ' ... conditions were imposed at a licensing'
34. On page 34, last paragraph, revise lines 1 and 2 to read ' ... adjudication to decide new general policy or changes in ~~matter of~~ general policy ~~generally~~ has focused'