COMEXM-06-0007/
COMPBL-06-0002

August 9, 2006

MEMORANDUM TO: Chairman Klein
Commissioner Merrifield
Commissioner Jaczko

FROM: Commissioner McGaffigan /RA/
Commissioner Lyons

SUBJECT: EXPEDITING COMMISSION ADJUDICATORY REVIEW

We are sponsoring this joint COM for the purpose of emphasizing the importance the Commission places on resolving licensing adjudications promptly. The Commission is anticipating that in the near future applications for new reactor initiatives, such as combined operating licenses and early site permits, and ongoing applications for complex amendments to and renewals of existing reactor licenses will be received. In addition, we are faced with the potential for DOE's application for the licensing of the proposed Yucca Mountain repository. Our goal with respect to the hearings associated with these applications is to expedite the completion of adjudications without sacrificing fairness.

To further this goal, we have within the past two years instructed our licensing boards in certain cases to "expeditiously decide legal and policy issues," and we have repeatedly stated our intent to "avoid unnecessary delays" and "endeavor to identify efficiencies . . . to further reduce the time the agency needs to complete reviews and reach decisions." *See e.g., Exelon Generation Company, LLC* (Early Site Permit for Clinton ESP Site), *et. al*, CLI-05-17, 62 NRC 5, 35 (2005). In fact, just recently we articulated our expectation that boards in uncontested matters issue their final initial decisions generally within four months (or six at the most) of the staff's issuance of the SER and FEIS and that in "most cases, we expect that the time would be significantly shorter." *See Exelon Generation Company, LLC* (Early Site Permit for Clinton ESP Site) *and System Energy Resources, Inc*. (Early Site Permit for Grand Gulf ESP Site), CLI-06-20, dated July 26, 2006, *slip op.* at 15.

We as Commissioners need to do more on our part, too, in achieving timeliness goals. Delays in adjudicatory decision making at the Commission level could result in costs to licensees, applicants, intervenors, and - in the case of Yucca Mountain - the American taxpayers. Delays impede public resolution of potential health, safety and environmental issues. In addition, Commission delays can also have unintended internal impacts. For example, at the all hands meeting this year, we were asked about delays at the Commission level in reviewing staff papers. A participant asked, "[W]hen the papers get to the Commission, the Commission does not act on them for months. Does the Commission realize how demoralizing this is for staff?" Although we responded by recognizing the need for us to deliberate and the sheer magnitude of our workload, we recognize that this response could easily be echoed by anyone who works at the agency. Realistically, we can do a better job, and Commissioners should set an example by expediting our own process. Consequently, we believe that, at a minimum, the Commission review time for adjudications should be shortened from ten days to five days. The Internal

Commission Procedures at page III-2 should include a statement that “Commissioners are expected to complete voting within the first 5 business days on the recommendation of a paper from OCAA.” While this is a small - - but necessary - - improvement, it emphasizes the need for all five of us to meet timeliness goals.

We look forward to working with our colleagues on matters related to adjudicatory efficiencies and welcome suggestions that they may have toward this endeavor.

SECY, please track.

cc: L. Reyes, EDO
K. Cyr, OGC
A. Vietti-Cook, SECY