

January 12, 2000

MEMORANDUM TO: Chairman Meserve
Commissioner Dicus
Commissioner Diaz
Commissioner McGaffigan

FROM: Jeffrey S. Merrifield

SUBJECT: COMNJD-99-006 - THE EFFECTS OF INDUSTRY CONSOLIDATION ON NRC OVERSIGHT

I share Commissioner Diaz's concern regarding the effects of industry consolidation on NRC oversight and agree with his recommendations. Before commenting on the specific issues associated with COMNJD-99-006, I feel it is important to put my views into context. In my vote associated with COMSECY-99-024, "Draft Reactor Safety Chapter of the Strategic Plan," I recommended that the staff consider adding performance strategies and measures which ensure NRC's regulatory processes keep pace with the challenges associated with the economic deregulation of the electric utility industry. The Commission subsequently directed the staff to carry out this recommendation in its SRM dated August 2, 1999, specifically focusing the staff on strategies and measures related to license transfers. While the EDO indicates in his memorandum of December 15, 1999 that the staff is proposing revisions to the strategic plan to provide the strategic direction and guidance necessary to meet the challenges associated with industry consolidation, that initiative is not yet obvious from the updated "Draft Nuclear Reactor Safety Chapter of the Strategic Plan" submitted to the Commission on December 22, 1999 (COMSECY-99-042). While this updated chapter briefly addresses deregulation of the electric utility industry, the context of the discussion is narrowly focused. Also, the staff does not identify deregulation as an external factor that could significantly affect achievement of our strategic or performance goals. Thus, my perception is that the staff has made limited progress to date. I will address this further in my vote on COMSECY-99-042.

As Commissioner Diaz has indicated in COMNJD-99-006, mergers such as the Unicom/PECO merger, and the extent to which license transfers are being considered, reflect the considerable change occurring in the nuclear power industry. This change brings with it challenges associated with the NRC's oversight of licensee performance, including management and organizational structure challenges related to the emergence of cross-regional licensees. The recent agreement for BNFL to purchase the worldwide nuclear businesses of ABB highlights another area of potential change facing the industry and NRC. While the full impact of industry consolidation is clearly still evolving, it is essential that the staff be proactive in its approach to addressing the many related regulatory challenges.

I agree with Commissioner Diaz that the staff should develop a plan to address the areas of oversight that would change under industry consolidation. I also agree that the plan should be developed with industry and other stakeholder participation. Where perhaps we differ is the time frame over which this plan should be developed. The staff recently completed the pilot phase of the new reactor oversight process. The staff believes that this new process, if effectively implemented, will be responsive to any licensee performance affects resulting from industry consolidation and will facilitate greater consistency among our regions. I believe that it is simply too early to be certain of these results. I further believe that before a sound plan can be developed to address the areas of oversight that would change under industry consolidation, the staff must gain greater experience implementing the new reactor oversight process. This experience should help the staff gain a better understanding of the strengths and weaknesses of the new oversight process, and thus provide a better foundation upon which to base where potential changes related to industry consolidation are necessary.

It is not clear to me how long a period the staff will need to gain the experience necessary to develop a sound oversight plan. One option I understand is being considered is integrating this plan into the assessment of the new reactor oversight process due to the Commission in June 2001. This appears to be a reasonable approach. I am confident that the Commission can reach consensus on a schedule which embraces both timeliness and quality. The budgetary aspects of this matter are of course contingent upon the Commission's endorsement of an oversight plan.

Again, I appreciate Commissioner Diaz's views on this very important matter.

cc: OEDO
OCFO
OCA
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