

March 30, 1999

MEMORANDUM William D. Travers

TO: Executive Director for Operations

Karen D. Cyr
General Counsel

FROM: Andrew L. Bates, Acting Secretary /s/

SUBJECT: STAFF REQUIREMENTS - SECY-98-296 - AGENCY POLICY REGARDING LICENSEE RECAPTURE OF
LOW-POWER TESTING OR SHUTDOWN TIME FOR NUCLEAR POWER PLANTS

The Commission has approved the staff's plans to grant the Grand Gulf license amendment to amend the expiration date of the license to recover the time spent in low power testing before receiving the Full Power Operating License (FPOL). The Commission has also approved the granting of similar requests from other licensees provided that the 40-year license term began with issuance of a Low Power Operating License (LPOL) and a separate FPOL was issued.

The Commission has approved the staff's plan to continue to grant license amendment requests to amend the expiration date of the license to recover time spent in construction in cases where the 40-year license term began with the construction permit date, and has approved the staff's recommendation to deny license amendment requests to amend the expiration date of the license to recover time spent in a shutdown condition where the shutdown commenced after the full power license was issued.

The Office of the General Counsel should develop a legal analysis for the Commission regarding those plants in which the LPOL was amended to allow full-power operation and no separate FPOL was issued. Specifically, the OGC analysis should provide the following:

Is it consistent with the Atomic Energy Act (AEA) to conclude that the initial operating license begins to run when the staff authorizes full-power operation, irrespective of whether the grant of that authority was accomplished through a separate license (FPOL) or through an amendment to the LPOL?

What legislative approaches are recommended if the analysis identifies issues for which legislative proposals should be considered?

(OGC)

(SECY Suspense: 5/28/99)

cc: Chairman Jackson
Commissioner Dicus
Commissioner Diaz
Commissioner McGaffigan
Commissioner Merrifield
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