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## POLICY ISSUE

(NEGATIVE CONSENT)

October 25, 1991

SECY-91-345

For: The Commissioners

From: James M. Taylor  
Executive Director for Operations

Subject: RESPONSE TO A REQUEST FOR INFORMATION ON DECOMMISSIONING  
FUNDING FOR THE THREE MILE ISLAND NUCLEAR STATION, UNIT 2  
(TMI-2)

Purpose: To respond to a Commission memorandum of January 24, 1991,  
requesting that the staff (1) provide a recommendation on how  
the facility license would be handled between the time it will  
expire (November 4, 2009) and the time the licensee intends to  
begin decommissioning, and (2) keep the Commission informed of  
the intended accumulation period for decommissioning funds for  
TMI-2.

Background: In SECY-90-350, "Status of and Remaining Actions for Cleanup  
of Three Mile Island Nuclear Station (TMI-2)," the staff  
summarized financial information on the cleanup and described  
the licensee's Decommissioning Funding Plan of July 26, 1990.  
The licensee stated in the plan that it will deposit \$195  
million in an escrow account for TMI-2 radiological decontami-  
nation. The licensee stated that the accumulation period for  
the funds would end when the TMI-1 license expires (April 19,  
2014), some 5 years after the TMI-2 license expires. In the  
July 26, 1990 submittal, the licensee stated that it did not

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require an exemption to be allowed until the end of TMI-1 operation to assemble the required funds because of the unique circumstances following the accident at TMI-2.

On November 26, 1990, the staff submitted SECY-90-386, "NRC Policy on the Accumulation Period for Decommissioning Funds for Prematurely Shut Down Reactors." The staff requested the Commission to review and approve a recommended policy on the appropriate period for accumulating decommissioning funds for prematurely shut down reactors. The staff identified two categories of reactors: those reactors that had permanently ceased operation before the effective date of the rule (July 27, 1988) and those that had shut down after the effective date of the rule. The staff's policy question pertained to Rancho Seco, Fort St. Vrain, and Shoreham, which had permanently ceased operation since July 27, 1988. The licensee for TMI-2 has not formally indicated that the facility has permanently ceased operations. However, in SECY-90-386, the staff viewed the TMI-2 facility as having been permanently shut down as of the date of the TMI-2 accident, March 28, 1979. Therefore, the staff views TMI-2 as having permanently ceased operation before the effective date of the Decommissioning Rule. Other facilities in this category include Dresden 1, Fermi 1, Humboldt Bay, Indian Point 1, LaCrosse, and Peach Bottom 1.

Section 50.82(a) of Title 10 of the Code of Federal Regulations [10 CFR 50.82(a)] states that the requirements of the decommissioning plans for plants that have permanently ceased operation before the effective date of the rule "may be modified with the approval of the Commission to reflect the fact that the decommissioning process has been initiated previously." In the Supplemental Information accompanying the rule, the staff stated that while the funding and recordkeeping requirements of the rule apply to these reactors, "details concerning financial assurance, primarily the time period for accumulating funds not set aside during operation, would be decided on a case-by-case basis."

On December 21, 1990, in a memorandum to the Executive Director for Operations (EDO), the Commission directed the staff to prepare a proposed rule in which the NRC would determine the appropriate collection period for each licensee individually who permanently ceased operation after July 27, 1988. The Commission did not address the issue of TMI-2 and the appropriateness of including TMI-2 with the facilities that permanently ceased operation before July 27, 1988, and the staff has continued to handle the decommissioning requirements for TMI-2 in a similar manner as for other facilities that ceased operation before the effective date of the rule.

On January 24, 1991, the Commission, in a memorandum to the EDO, requested that the staff address a number of issues arising from the Commission's review of SECY-90-350. The staff is addressing two of these issues herein. The Commission requested that the staff recommend a method for handling the TMI-2 license between the time it is currently scheduled to expire (November 4, 2009) and the time the licensee intends to begin decommissioning (April 19, 2014), which is the date the TMI-1 license will expire. The Commission also requested that the staff keep the Commission informed of the decommissioning funding provisions for TMI-2 that will be required to meet the Commission's direction (the December 21, 1990 memorandum to J. Taylor) on the accumulation period for decommissioning funding for prematurely shut down plants. The staff's response on these two issues is provided below.

Discussion:License Expiration Date

The license for TMI-2 expires on November 4, 2009. In its Decommissioning Funding Plan submitted on July 26, 1990, the licensee stated that the period of time for accumulating decommissioning funds will be linked with the expiration date of the TMI-1 license (April 19, 2014), approximately 5 years after the expiration date of the TMI-2 license. The licensee has stated that it would be impractical to begin decommissioning of TMI-2 before ceasing operations at TMI-1. During the next phase of the cleanup at TMI-2, the licensee would likely use destructive techniques that might affect the operation of TMI-1. Furthermore, decommissioning both facilities simultaneously could reduce occupational exposure and would likely reduce costs significantly. If the licensee begins decommissioning both units at the same time, it must submit preliminary and final decommissioning plans for both units. The licensee also reasoned that if decommissioning would not commence until 2014, then the licensee would also have until that time to assemble the decommissioning funds. Therefore, the licensee would have an additional 5 years to collect decommissioning funds.

On October 9, 1991, the licensee proposed to amend the TMI-2 license to expire coincidentally with the TMI-1 license (April 19, 2014, 36 years after issuance). In this regard, it should be noted that if the practice of construction permit recapture is applied to TMI-2, its operating license could be extended to February 8, 2018, to reflect a full 40-year license period. This action is consistent with the staff's past practice for a number of other multiple unit facilities in which one unit has permanently ceased operation (Peach Bottom 1 and Fermi 1).



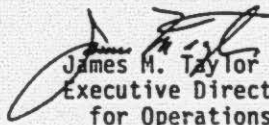
Accumulation Period

Before receiving the January 24, 1991 memorandum, the staff had received the Commission's guidance on December 21, 1990, regarding the accumulation period for decommissioning funds for a prematurely shut down plant. That guidance dealt principally with facilities that had ceased operation after the effective date of the Decommissioning Rule. The staff views the TMI-2 facility as having been permanently shut down before the effective date of the rule. Thus, the NRC could approve individual requests regarding provisions for ensuring adequate funding for TMI-2 under existing regulations [10 CFR 50.82(a)].

The staff finds that the licensee's proposal is acceptable and that the accumulation period for decommissioning funds could reasonably extend until the TMI-2 license expires. Since there is another reactor on site that is operating and generating revenues during long term storage, the staff finds that there is adequate assurance that extending the license and, thereby the collection period, does not decrease the licensee's ability to accumulate the funds necessary to decommission the facility. The staff also concludes that extending the date of expiration of the TMI-2 license to coincide with the expiration date of the TMI-1 license is consistent with the staff's practice at Peach Bottom 1. Peach Bottom 1 permanently ceased operations before the effective date of the Decommissioning Rule, and the staff has extended the license to approximately coincide with the license expiration date of the other reactors on site. The Decommissioning Funding Plan for Peach Bottom 1 defines an accumulation period ending with the expiration date of the amended license.

Coordination: The Office of the General Counsel has no legal objection to this paper.

Recommendation: Unless the Commission directs otherwise, the staff intends to process the licensee's request to extend the TMI-2 license until April 19, 2014.

  
James M. Taylor  
Executive Director  
for Operations

SECY NOTE: In the absence of instructions to the contrary, SECY will notify the staff on Friday, November 8, 1991, that the Commission, by negative consent, assents to the action proposed in this paper.

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