

August 18, 2004

MEMORANDUM FOR: John F. Cordes, Director
Office of Commission Appellate Adjudication

FROM: Annette L. Vietti-Cook, Secretary /RA/

SUBJECT: STAFF REQUIREMENTS - AFFIRMATION SESSION, 9:25 A.M., WEDNESDAY, AUGUST 18, 2004,
COMMISSIONERS' CONFERENCE ROOM, ONE WHITE FLINT NORTH, ROCKVILLE, MARYLAND (OPEN TO
PUBLIC ATTENDANCE)

I. SECY-04-0092 - Tennessee Valley Authority (Watts Bar Nuclear Plant, Unit 1, Sequoyah Nuclear Plant, Units 1 & 2, Browns Ferry Nuclear Plant, Units 1, 2 & 3), Docket Nos. 50-390-CIVP; 50-327-CIVP; 50-328-CIVP, 50-259-CIVP; 50-260-CIVP; 50-296-CIVP; LBP-03-10 (6/26/03)

The Commission approved a Memorandum and Order responding to a Petition by Tennessee Valley Authority (TVA) for Review of LBP-03-10 granted by the Commission in CLI-03-9. In LBP-03-10, a split Atomic Safety and Licensing Board upheld the NRC Staff's finding that TVA had violated 10 CFR 50.7 by discriminating against an employee on account of his "whistleblowing" activities; however, the majority of the Board reduced the civil monetary penalty assessed by the Staff. The Memorandum and Order, based on review of the appellate briefs and the record, affirms LBP-03-10 in part, reverses it in part, and remands the case for further proceedings.

(Subsequently, on August 18, 2004, the Secretary signed the Memorandum and Order.)

II. SECY-04-0137 - Louisiana Energy Services, L.P. (National Enrichment Center)

The Commission approved a Memorandum and Order responding to the Atomic Safety and Licensing Board's referral of five of its contention determinations in the Louisiana Energy Services, L.P. proceeding. The Memorandum and Order affirmed the Board's rulings on all five contentions, except for the Board's acceptance of basis D of the "plausible strategy" contention. The Commission took review of Basis D of the fifth contention (which alleges that the depleted uranium hexafluoride does not meet the Part 61 definition of low-level radioactive waste, and therefore would not be suitable for transfer to DOE under the USEC Privatization Act). The parties will be given an opportunity to brief the matter.

(Subsequently, on August 18, 2004, the Secretary signed the Memorandum and Order.)

cc: Chairman Diaz
Commissioner McGaffigan
Commissioner Merrifield
EDO
OGC
CFO
OCAA
OCA
OIG
OPA
Office Directors, Regions, ACRS, ACNW, ASLBP (via E-Mail)
PDR