

September 16, 1993

MEMORANDUM FOR: Stephen G. Burns,
Director Office of Commission Appellate
Adjudication

FROM: Samuel J. Chilk, Secretary

SUBJECT: STAFF REQUIREMENTS - AFFIRMATION/DISCUSSION
AND VOTE, 11:30 A.M., THURSDAY, SEPTEMBER 16,
1993, COMMISSIONERS' CONFERENCE ROOM, ONE
WHITE FLINT NORTH, ROCKVILLE, MARYLAND
(OPEN TO PUBLIC ATTENDANCE)

I. Vermont Yankee Nuclear Power Corp. - Licensing Board
Memorandum Regarding Termination of License Amendment
Proceeding (LBP-93-16)

The Commission by a 4-0 vote* approved a memorandum and order that provides additional guidance for the staff and Licensing Board in response to issues in LBP-93-16. The memorandum and order notes that the Licensing Board was correct in concluding that it lacked jurisdiction to address the issue of the withdrawal of the licensing amendment, however, the Board erred in concluding that the staff approval of Vermont Yankee's withdrawal request had the effect of "terminating the proceeding". The Board itself has the jurisdiction to terminate the proceeding. Ordinarily the Commission would remand the proceeding to the Licensing Board with instructions to issue an order terminating the proceeding, however, in the interest of efficiency, the Commission has exercised its own authority and hereby takes that action.

(Subsequently, on September 16, 1993, the Secretary signed the Order.)

*Section 201 of the Energy Reorganization Act, 42 USC Section 3841, provides that action of the Commission shall be determined by a majority vote of the members present. Commissioner de Planque was not present when this item was affirmed. Accordingly the formal vote of the Commission was 3-0 in favor of the decision. Commissioner de Planque, however, had previously indicated that she would approve this paper and had she been present she would have affirmed her prior vote.

cc: The Chairman
Commissioner Rogers
Commissioner Remick
Commissioner de Planque
OGC
EDO
OIG
OCA
Office Directors, Regions, ACRS, ACNW, ASLBP (via E-Mail)
PDR - Advance
DCS - P1-24