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UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D.C. 20555

April 21, 1989

MEMORANDUM FOR: William C. Parier, General Counsel
Victor Stello, Jr.
Executive-Director for Operations

FROM: Samuel J. Chilk, Secretary

SUBJECT: STAFF REQUIREMENTS - AFFIRMATION/DISCUSSION
AND VOTE, 3:30 P.M., THURSDAY, APRIL 20,
1989, COMMISSIONERS' CONFERENCE ROOM, ONE
WHITE FLINT NORTH, ROCKVILLE, MARYLAND
(OPEN TO PUBLIC ATTENDANCE)

I. Commission Vote on Full Power operating License for
Shoreham Nuclear Power Plant

The commission, by a 4-0 vote,* approved the NRC staff's request to authorize the Director of Nuclear Reactor Regulation to issue a full power operating license to the Shoreham Nuclear Power Plant.

In addition, the NRC staff is directed to keep the Commission currently informed of material developments relating to the executory agreement between LILCO and New York State and to make such additional readiness reviews as the passage of time dictates and the staff deems appropriate. These conditions are to remain in effect until such time as the Shoreham facility has reached commercial operation.

commissioner Curtiss did not participate in this matter.

* Section 201 of the Energy Reorganization Act, 42 U.S.C. Sec. 5841, provides that action of the Commission shall be determined by a "majority vote of the members present." commissioner Carr was not present when this item was affirmed. Accordingly, the formal vote of the Commission was 3-0 in favor of the decision. Commissioner Carr, however, had previously indicated that he would approve and had he been present he would have affirmed his prior vote.

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II. SECY-89-115 - Issue by Joseph J. Macktal in the Comanche Peak Proceedings Including a Motion to Reconsider CLI-88-12

The Commission, by a 4-0 vote,* approved an order denying a motion for "limited intervention" and a motion to reconsider the Commission's December 21, 1988, Order (CLI-88-12) denying another petition to intervene in the Comanche Peak proceedings.

The Commission also notes in the order that Mr. Macktal has challenged the settlement agreement between himself and the Brown and Root Corporation before the Department of Labor and that the DOL is the appropriate forum for such action. Further, the order emphasizes that the Commission's decision in CLI-88-12 was not intended as a Commission "stamp of approval" on the disputed settlement agreement and the Commission withdraws any comment in CLI-88-12 regarding the legality of that agreement.

Commissioner Curtiss was on travel and unavailable to participate in this matter.

(Subsequently, on April 20, 1989, the Secretary signed the Order.)

In addition, the Commission directs the Office of the General counsel, in conjunction with the staff, to review the practice of entering into such settlement agreements which restrict the ability of a person to testify or participate in proceedings under the Atomic Energy Act and determine any policy implications such agreements might have on the Commission's statutory mission including, but not limited to, any implications for the integrity of the Commission hearing process.

cc: Chairman Zech
Commissioner Roberts
commissioner Carr
commissioner Rogers
commissioner Curtiss
GPA
PDR - Advance
DCS - Pl-24

* Section 201 of the Energy Reorganization Act, 42 U.S.C. Sec.

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