

July 7, 2004

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

Karen D. Cyr
General Counsel

Luis A. Reyes
Executive Director for Operations

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

SUBJECT: STAFF REQUIREMENTS - AFFIRMATION SESSION, 1:55 P.M.,
WEDNESDAY, JULY 7, 2004, COMMISSIONERS'
CONFERENCE ROOM, ONE WHITE FLINT NORTH,
ROCKVILLE, MARYLAND (OPEN TO PUBLIC ATTENDANCE)

I. SECY-04-0098 - Pacific Gas & Electric Co. (Diablo Canyon Power Plant, Units 1 and 2); Applicant's Motion to Terminate Proceeding and Intervenor's Motion to Vacate

The Commission¹ approved a Memorandum and Order responding to a motion by Pacific Gas & Electric Co. to terminate the NRC proceeding and a request by the City of Santa Clara that the Commission vacate CLI-03-02. The Memorandum and Order terminated the NRC proceeding and denied Santa Clara's request to vacate CLI-03-02.

(Subsequently, on July 7, 2004, the Secretary signed the Memorandum and Order.)

II. SECY-04-0099 - Duke Energy Corp. (Catawba Nuclear Station, Units 1 and 2), Order on the Board's Certified Questions on Admissibility of a Security Contention

The Commission approved a Memorandum and Order responding to the Atomic Safety and Licensing Board's certified questions regarding admissibility of a security contention and related questions. The Memorandum and Order held that the Blue Ridge Environmental Defense League's Security Contention 1 is inadmissible and declined to reconsider the Commission's prior "need to know" decision in CLI-04-06.

(Subsequently, on July 7, 2004, the Secretary signed the Memorandum and Order.)

¹ Section 201 of the Energy Reorganization Act, 42 U.S.C. Section 5841, provides that action of the Commission shall be determined by a "majority vote of the members present." Commissioners McGaffigan and Merrifield were present in the Conference Room. Chairman Diaz participated in the meeting via speakerphone.

The staff should begin rulemaking to codify the DBT orders at the earliest possible opportunity.

III. SECY-04-0101 - Appointment of a Pre-license Application Presiding Officer (PAPO) for High Level Waste Repository Pre-license Application Phase

The Commission approved an Order designating an official to serve as the Pre-License Application Presiding Officer (PAPO) to rule on disputes among the participants over the electronic availability of documents during the pre-license application phase for high-level radioactive waste repository licensing. The Order designated the Chief Administrative Judge of the Atomic Safety and Licensing Board Panel, G. Paul Bollwerk, III, to serve as the Pre-License Application Presiding Officer, and authorized him to delegate that authority.

(Subsequently, on July 7, 2004, the Secretary signed the Order.)

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