

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

AFFIRMATION SESSION

PUBLIC MEETING

Nuclear Regulatory Commission
Commission Hearing Room
11555 Rockville Pike
Rockville, Maryland
Wednesday, August 18, 2004

The Commission met in open session, pursuant to notice, at 9:25 a.m.,
Nils J. Diaz, Chairman, presiding.

COMMISSIONERS PRESENT:

NILS J. DIAZ, Chairman

EDWARD MCGAFFIGAN, JR., Member of the Commission

JEFFREY S. MERRIFIELD, Member of the Commission

STAFF AND PRESENTERS SEATED AT THE COMMISSION TABLE:

ANNETTE L. VIETTI-COOK, Secretary of the Commission

KAREN D. CYR, General Counsel

DISCLAIMER

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[9:25 a.m.]

P R O C E E D I N G S

CHAIRMAN DIAZ: Good morning, Madam Secretary. I think you have a couple of things for us.

MS. VIETTI-COOK: The first item is on Tennessee Valley Authority. The Commission is being asked to act on 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 Commission has voted to approve a Memorandum and Order based on review of the appellate briefs and the record, which affirms LBP-03-10 in part, reverses it in part, and remands the case for further proceedings.

MS. VIETTI-COOK: Would you please affirm your votes?

CHAIRMAN Diaz: Aye

COMMISSIONER MCGAFFIGAN: Aye.

COMMISSIONER MERRIFIELD: Aye.

MS. VIETTI-COOK: The second item is on Louisiana Energy Services. The Commission is being asked to act on 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 Commission has voted to approve a Memorandum and Order, affirming the Board's rulings on all five of the 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 the Department of Energy under the USEC Privatization Act). The parties will be given an opportunity to brief the matter.

MS. VIETTI-COOK: Would you please affirm your votes?

CHAIRMAN Diaz: Aye

COMMISSIONER MCGAFFIGAN: Aye.

COMMISSIONER MERRIFIELD: Aye.

MS. VIETTI-COOK: That's all I have.

CHAIRMAN DIAZ: Thank you. We're adjourned.

CERTIFICATE

This is to certify that the attached description of a meeting of the U.S. Nuclear Regulatory Commission entitled:

TITLE OF MEETING: Affirmation Session

(PUBLIC MEETING)

PLACE OF MEETING: Rockville, Maryland

DATE OF MEETING: August 18, 2004

was held as herein appears, is a true and accurate record of the meeting, and that this is the original transcript thereof taken stenographically by me, thereafter reduced to typewriting by me or under the direction of the court reporting company.

Transcriber: NANCY GREATHEAD

Reporter: (TAPE RECORDING)