

IN RESPONSE, PLEASE  
REFER TO: M050728A

July 28, 2005

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

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

SUBJECT: STAFF REQUIREMENTS - AFFIRMATION SESSION, 1:25 P.M.,  
THURSDAY, JULY 28, 2005, COMMISSIONERS' CONFERENCE  
ROOM, ONE WHITE FLINT NORTH, ROCKVILLE, MARYLAND  
(OPEN TO PUBLIC ATTENDANCE)

I. SECY-05-0109 - (1) Exelon Generation Company, LLC; (2) Dominion Nuclear North Anna, LLC; (3) System Energy Resources, Inc.; (4) Louisiana Energy Services, L.P.; (5) USEC Inc. (American Centrifuge Plant)

The Commission<sup>1</sup> approved a Memorandum and Order responding to certified questions from the Chief Administrative Judge of the Atomic Safety and Licensing Board related to the mandatory hearing requirements in section 189a of the Atomic Energy Act. The Memorandum and Order answers the certified questions and provides guidance to the Licensing Board.

While in large part Commissioner Jaczko concurs with his fellow Commissioners in this Order, he dissents as to the Commission's decision to determine, at this stage of the proceedings, the extent of an intervenor's ability to participate in the uncontested portions of a mandatory hearing.

(Subsequently, on July 28, 2005, the Secretary signed the Memorandum and Order.)

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<sup>1</sup> 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." Commissioner Merrifield was not present when this item was affirmed. Accordingly the formal vote of the Commission was 2-1 in favor of the decision. Commissioner Merrifield, however, had previously indicated that he would approve this Memorandum and Order and had he been present he would have affirmed his prior vote.

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