



UNITED STATES  
NUCLEAR REGULATORY COMMISSION

WASHINGTON, D.C. 20555-0001

February 13, 2006

DOCKETED  
USNRC

February 13, 2006 (4:12pm)

SECRETARY

The Honorable Lisa P. Jackson  
Acting Commissioner  
New Jersey Department of Environmental Protection  
401 E. State Street, 7<sup>th</sup> Floor, East Wing  
P.O. Box 402  
Trenton, NJ 08625-0402

OFFICE OF SECRETARY  
RULEMAKINGS AND  
ADJUDICATIONS STAFF

**SERVED February 14, 2006**

**Docket No. 50-219-LR**

Dear Commissioner Jackson:

I am responding to your letter to Chairman Nils J. Diaz, dated February 1, 2006, in which you urged the Commission to hold hearings on contentions that New Jersey stakeholders have raised in the Oyster Creek Nuclear Generating Station license renewal proceeding. Specifically, you request that the Atomic Safety and Licensing Board hold hearings on the contentions raised by the stakeholders in their petitions.

Under Nuclear Regulatory Commission procedural rules for adjudications, the Commission has an appellate role in proceedings commenced before its Atomic Safety and Licensing Boards. Because of that role, I trust that you will understand that all members of the Commission must remain impartial during the pendency of a case, whether it is before a Licensing Board or on appeal to the Commission, and that it would be inappropriate for any of them to discuss or comment on issues involved in this matter.

A copy of your letter and this response will be placed on the Oyster Creek hearing docket and served on the parties to the proceeding.

Sincerely,

A handwritten signature in cursive script, appearing to read "Annette L. Vietti-Cook".

Annette L. Vietti-Cook  
Secretary of the Commission

cc: Service List



## State of New Jersey

DEPARTMENT OF ENVIRONMENTAL PROTECTION

JON S. CORZINE  
Governor

LISA P. JACKSON  
Acting Commissioner

February 1, 2006

The Honorable Nils J. Diaz  
Chairman  
U.S. Nuclear Regulatory Commission  
Washington, D.C. 20555-0001

Re: Support of Atomic Safety Licensing Board Hearings for Oyster Creek License  
Renewal Contentions

Dear Chairman Diaz:

I am writing to express my disappointment that the staff of the Nuclear Regulatory Commission (NRC) has recommended against holding hearings on contentions that New Jersey stakeholders have raised in the context of the Oyster Creek Nuclear Generating Station license renewal.

As you may know, Oyster Creek is the oldest nuclear power plant currently operating in the United States. In evaluating whether the plant can continue that operation for another twenty years beyond the expiration of the current license in 2009, I hope that the Commission will conduct an open, public process, with the full participation of the people who live near the plant and in consultation with the state and local governments that have direct knowledge of the plant and the surrounding community.

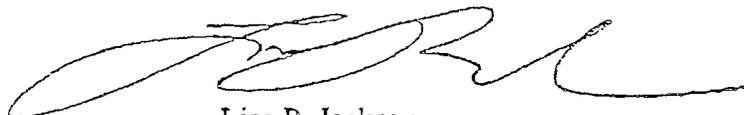
Several serious concerns need to be aired in public. First of all, the NRC, Amergen, state and local governments, and the public need to discuss plant-specific alternatives for managing severe accidents. The plant's vulnerability to an aircraft attack, especially an attack targeting the plant's spent fuel pool, has been the subject of extensive local debate which will not end if the NRC chooses to deny a public hearing. Equally public has been the discussion of metal fatigue in key components of the plant. There is substantial concern over Amergen's use of non-conservative assumptions regarding metal fatigue for the additional twenty years that the plant would be in service. In addition, the plant relies on a combustion turbine, owned and operated by a separate company, for backup power. Can the plant truly rely on that turbine, without influence over the turbine's availability, maintenance, and aging management, to provide the power needed to shut down the reactor safely in case offsite power is lost?

Public hearings before the Atomic Safety and Licensing Board (ASLB) will allow for an open exchange of information, an understanding of bases for the arguments on either side of the issues, and a chance to resolve the open issues that concern the citizens of New Jersey. I sincerely hope that the NRC will provide this opportunity, notwithstanding the recommendations of the agency's staff.

The Department of Environmental Protection could certainly conduct its own public meeting in order to allow stakeholders the opportunity to voice their concerns and present reasonable contentions. We can provide transcripts of the proceedings from this meeting to the NRC for your response. However, that meeting would at best be a supplement to, and not a substitute for, an open and transparent decision-making process by the NRC.

I look forward to your response.

Sincerely yours,

A handwritten signature in black ink, appearing to read 'Lisa P. Jackson', with a long horizontal flourish extending to the right.

Lisa P. Jackson  
Acting Commissioner

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

In the Matter of )  
 )  
AMERGEN ENERGY COMPANY, LLC ) Docket No. 50-219-LR  
 )  
 )  
(Oyster Creek Nuclear Generating Station) )

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing LETTER FROM ANNETTE L. VIETTI-COOK TO ACTING COMMISSIONER JACKSON RESPONDING TO HER 02/01/06 LETTER REGARDING THE OYSTER CREEK LICENSE RENEWAL PROCEEDING have been served upon the following persons by U.S. mail, first class, or through NRC internal distribution.

Office of Commission Appellate  
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U.S. Nuclear Regulatory Commission  
Washington, DC 20555-0001

Administrative Judge  
E. Roy Hawkens, Chair  
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Washington, DC 20555-0001

Administrative Judge  
Paul B. Abramson  
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Administrative Judge  
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Docket No. 50-219-LR  
LETTER FROM ANNETTE L. VIETTI-COOK TO ACTING  
COMMISSIONER JACKSON RESPONDING TO HER 02/01/06  
LETTER REGARDING THE OYSTER CREEK LICENSE  
RENEWAL PROCEEDING

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Office of the Secretary of the Commission

Dated at Rockville, Maryland  
this 14<sup>th</sup> day of February 2006