



UNITED STATES
NUCLEAR REGULATORY COMMISSION

WASHINGTON, D.C. 20555-0001

March 3, 2009

DOCKETED
USNRC

March 9, 2009 (2:00pm)

OFFICE OF SECRETARY
RULEMAKINGS AND
ADJUDICATIONS STAFF

SERVED MARCH 9, 2009

SECRETARY

The Honorable Christopher H. Smith
United States House of Representatives
Washington, D.C. 20515

Dear Congressman Smith:

I am responding to your letter of February 3, 2009, in which you requested that the Commission postpone an affirmation session that was tentatively scheduled for February 4, 2009, in connection with adjudicatory matters pending before the Commission with respect to the license renewal application for the Oyster Creek Nuclear Generating Station (Oyster Creek). In particular, you requested that the Commission postpone the tentative affirmation session and defer any decision on the license renewal application until recommendations of the Atomic Safety and Licensing Board relating to the Oyster Creek drywell liner have been implemented.

The Commission postponed the affirmation session that was tentatively scheduled for February 4, and the Oyster Creek license renewal matter remains under consideration by the Commission. As noted in my January 5, 2009, letter to you, under Commission regulations, the Commission has an adjudicatory role in the Oyster Creek license renewal proceeding. An appeal is currently pending before the Commission with respect to the license renewal application, specifically related to the 3-D structural analysis of the drywell liner mentioned in your letter. Due to the nature of the Commission's role, all members of the Commission must remain impartial while the case is pending. At this time, therefore, the Commission cannot discuss or comment on issues involved in this matter. The Commission may, however, always discuss the status of the proceeding and the performance of the facility generally.

A copy of your letter and this response will be served on the participants in the Oyster Creek proceeding.

Sincerely,

A handwritten signature in black ink, appearing to read "Annette L. Vietti-Cook", is written over a horizontal line.

Annette L. Vietti-Cook

cc: Oyster Creek Service List

CHRISTOPHER H. SMITH

4TH DISTRICT, New Jersey

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Congress of the United States
House of Representatives

February 3, 2009

The Honorable Dale E. Klein
Chairman
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555-0001

Dear Chairman Klein:

The US NRC web page indicates that The Nuclear Regulatory Commission has tentatively scheduled an Affirmation Session on License Renewal for Oyster Creek Nuclear Generating Station for tomorrow afternoon. I respectfully request that this meeting be postponed and any decision on extending the operating license be deferred until the recommendations of the Atomic Safety and Licensing Board (ASLB) relating to drywell corrosion have been implemented.


On January 22, 2009, Exelon submitted to the Commission only a "summary report" of the results of their 3-D structural analysis of the Oyster Creek drywall shell. As I stated in my December 4, 2008 letter to you and your fellow NRC Commissioners, the ASLB has called for a more rigorous review of the completed 3-D analysis and for the NRC staff to perform or have performed a comprehensive and in-depth review of the complete analysis package. Not only has the NRC staff not yet received the full analysis package, but a letter I received just five days ago from R.W. Borchardt, Executive Director for Operations for the NRC, points out that the staff has not yet completed a review of even the "summary report." The NRC should not make a final decision on license renewal while the recommendations put forth by the ASLB have not been fully integrated or achieved.

The NRC staff must demonstrate vigilance and thoroughness in order for the NRC to earn and maintain public confidence in its ability to comprehensively oversee nuclear power plant safety issues. Rushing to an Affirmation Session while critical information is outstanding, still under review, or yet to be released to the public only serves to undermine public confidence in the NRC's ability and commitment to fully ensure public safety.

DOCKETED
USNRC

February 3, 2009 (4:30pm)

OFFICE OF SECRETARY
RULEMAKINGS AND
ADJUDICATIONS STAFF

Sincerely,

CHRISTOPHER H. SMITH
Member of Congress

COMMITTEES:

FOREIGN AFFAIRS

AFRICA AND GLOBAL HEALTH
SUBCOMMITTEE
RANKING MEMBER

WESTERN HEMISPHERE
SUBCOMMITTEE

COMMISSION ON SECURITY AND
COOPERATION IN EUROPE
RANKING MEMBER

CONGRESSIONAL-EXECUTIVE
COMMISSION ON CHINA
RANKING MEMBER

DEAN, NEW JERSEY DELEGATION

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 THE SECRETARY TO THE HONORABLE CHRISTOPHER H. SMITH IN RESPONSE TO HIS FEBRUARY 3, 2009 LETTER has been served upon the following persons by electronic mail this date, followed by deposit of paper copies in the U.S. mail, first class, and NRC internal mail.

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

U.S. Nuclear Regulatory Commission
Office of the Secretary of the Commission
Rulemakings & Adjudications Staff
Mail Stop O-16C1
Washington, DC 20555-0001

U.S. Nuclear Regulatory Commission
Atomic Safety and Licensing Board Panel
Mail Stop T-3 F23
Washington, DC 20555-0001

U.S. Nuclear Regulatory Commission
Office of the General Counsel
Mail Stop - O-15 D21
Washington, DC 20555-0001
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Brian G. Harris, Esq.
Brian Newell, Paralegal

Administrative Judge
E. Roy Hawkens, Chair

Administrative Judge
Paul B. Abramson

Administrative Judge
Anthony J. Baratta

Emily Krause, Law Clerk

Docket No. 50-219-LR
LETTER FROM THE SECRETARY TO THE HONORABLE CHRISTOPHER H. SMITH IN
RESPONSE TO HIS FEBRUARY 3, 2009 LETTER

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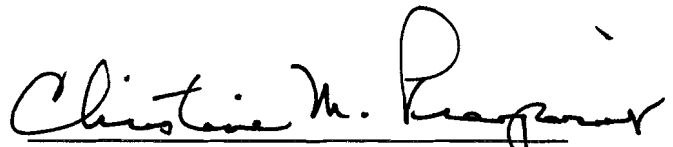
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Docket No. 50-219-LR

LETTER FROM THE SECRETARY TO THE HONORABLE CHRISTOPHER H. SMITH IN
RESPONSE TO HIS FEBRUARY 3, 2009 LETTER

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Christine M. Pagan
Office of the Secretary of the Commission

Dated at Rockville, Maryland
this 9th day of March 2009