

U.S. Nuclear Regulatory Commission Public Meeting Summary

March 10, 2017

Title: Category 3 Public Meeting on “Access Authorization and Fitness-for-Duty Determinations” Rulemaking

Meeting Identifier: 20170087

Date of Meeting: February 13, 2017

Location: NRC One White Flint North, Commission Hearing Room, 11555 Rockville Pike, Rockville, MD 20852

Type of Meeting: Category 3

Purpose of the Meeting: This meeting had two purposes: (1) provide information to the public about the NRC rulemaking activity on the role of third parties in licensee access authorization and fitness-for-duty determinations; and (2) offer an opportunity for the public to express views on this rulemaking activity.

General Details: The meeting was attended by 82 individuals, including 22 NRC staff and 60 members of the public. Approximately half attended in person and the other half participated via webinar/teleconference. The meeting was transcribed and the transcript is available in ADAMS under Accession No. ML17067A169. A list of attendees is provided as an attachment to this meeting summary.

Summary of NRC Presentation: The NRC is in the early stages of the rulemaking process to further explore the issues raised in SECY-15-0149, “Role of Third-Party Arbitrators in Licensee Access Authorization and Fitness-for-Duty Determinations,” dated November 30, 2015 (ADAMS Accession No. ML15068A348). The staff is developing a draft regulatory basis document and expects to publish it for public comment in early 2017. The regulatory basis document will describe the regulatory issue, options to address the issue, and the recommended option. The NRC’s presentation slides are available in ADAMS under Accession No. ML17030A007.

Summary of Public Feedback: Union representatives stated that arbitration of access authorization and fitness-for-duty determinations occurs very infrequently and does not pose a safety or security risk. They believe that rulemaking to limit arbitration is not justified. A representative from the International Brotherhood of Electrical Workers (IBEW) provided data collected from an internal poll of IBEW Local Unions. The results showed that over a span of 32 years, 371 individuals had their employment terminated. Of those 371, 46 went to arbitration and 14 of those employees ultimately returned to work. The union representative further stated that these actions have not resulted in any adverse consequences that would warrant rulemaking. Some union representatives stated that restricting arbitration would have a chilling effect on employees. Others stated that the company should not have a unilateral right to revoke an employee’s access without due process.

Several individuals stated that the status quo is not fair because whether employees have access to arbitration depends on their employer, union status, or collective bargaining

agreement. They stated that an independent and robust appeals process should be available to all employees across the industry, regardless of these factors.

Representatives of power reactor licensees stated that rulemaking is justified. One representative described the dilemma that licensees may face if an arbitrator rules that an individual's access should be reinstated. The licensee could choose to reinstate the individual and face enforcement action from the NRC, or they could choose not to reinstate the individual and potentially face litigation for not following the arbitrator's decision. Other industry representatives stated that the individual making the access determination should have training on NRC regulations and should also have an appropriate background screening and be trustworthy and reliable.

Action Items/Next Steps:

- The NRC expects to publish a draft regulatory basis for public comment in early 2017.

Additional Information:

- Meeting notice and agenda: ADAMS Accession No. ML17031A095
- NRC staff presentation: ADAMS Accession No. ML17030A007
- Transcript: ADAMS Accession No. ML17067A169

SUMMARY OF CATEGORY 3 PUBLIC MEETING ON "ACCESS AUTHORIZATION AND FITNESS-FOR-DUTY DETERMINATIONS" RULEMAKING DATED: March 10, 2017

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*concurrence via e-mail

OFFICE	NRR/DPR/PM	NRR/DPR/RS*	NRR/DPR/BC
NAME	DDoyle	GLappert	MKhanna
DATE	3/3/17	3/9/17	3/10/17

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LIST OF ATTENDEES FOR 2/13/2017 CATEGORY 3 PUBLIC MEETING	
Name	Affiliation
James Andersen	NRC
Merritt Baker	NRC
Brad Baxter	NRC
Howard Benowitz	NRC
Luis Betancourt	NRC
Daniel Doyle	NRC
Paul Goldberg	NRC
William Gott	NRC
Paul Harris	NRC
Natreon Jordan	NRC
Meena Khanna	NRC
Glenna Lappert	NRC
Angella Love-Blair	NRC
Jody Martin	NRC
Beth Reed	NRC
Mark Resner	NRC
Alison Rivera	NRC
Aaron Sanders	NRC
Amy Sharp	NRC
Norman St. Amour	NRC
Eduardo Uribe	NRC
Lynnea Wilkins	NRC
Lee Anderson	UWUA
Missy Ansel	TVA
Barnes	Southern Nuclear
Jana Bergman	Curtiss-Wright
Bruce Bettilyon	IBEW Local 66
Tyson Blakeburn	IBEW Local 66
Tammy Bond	American Electric Power
Victoria Bor	IBEW
Michael Brandon	DTE Energy
B. Eric Brooks	Nuclear Energy Institute
Ken Brooks	University of Missouri-Columbia Research Reactor
Ralph Butler	University of Missouri-Columbia Research Reactor
Randall Cleveland	Excel Energy
Andrea Davis	Duke
Sachin Desai	Hogan Lovells
Nick DiPietro	FirstEnergy
Tamra Domeyer	Exelon Generation Company, LLC
Aaron Enloe	Callaway Energy Center
Les Foyto	University of Missouri-Columbia Research Reactor
Brad Goetz	IBEW Local 1413
Nathan Grove	IBEW Local 777
Julie Hansen	Columbia Generating Station
Michele Hockenbury	Susquehanna Nuclear
Dugg Ingram	Southern Nuclear
Nathan Irvin	IBEW Local 777

Anna Jerry	IBEW
Theresa Jones	Arizona Public Service Company
David Kline	Access Profiles Incorporated
Melinda Krahenbuhl	Reed College
Michael Madison	Balch & Bingham
Ellen Malasky	Florida Power & Light Company
Jacqueline Matyas	University of Missouri
Bruce Meffert	University of Missouri-Columbia Research Reactor
Andi Merritt	ICF International
Bob Meyer	Professional Reactor Operator Society
Daniel Mickinac	Southern Nuclear
Charlene Miller	Pacific Gas & Electric
Cheree Montgomery	Southern Nuclear
Kevin Mueller	IBEW Local 627
Thomas H. Newton, Jr.	NIST Center for Neutron Research
Bill O'Brien	IBEW Local 949 & 160
Jamie O'Connell	Exelon Corporation
Esther Park	Arizona Public Service Company
Jim Peschel	Certrec Corporation
Billy Phillips	IBEW Local 15
Lisa Powell	Member of the public
Marjorie Pretzello	MOX Project
Mike Qualsnick	IBEW
Barry Quigley	Member of the public
John Rayment	IBEW Local 1289
Dariani Reddick	Exelon Corporation
Grant Riles	Wolf Creek Nuclear Operating Corporation
Billy D. Scally	IBEW Local 1392
Marcus Schwaderer	NIST
William Schwarz	IBEW Local 50
Geri Shapiro	US Senator Kirsten Gillibrand
Marilyn Teitelbaum	IBEW Local 15
Andrea Threet	Morgan, Lewis & Bockius LLP
Larry J. Tscherne	IBEW Local 245
Mary Yerkes	Exelon Corporation