

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

DOCKETED 10/20/99

COMMISSIONERS:

SERVED 10/20/99

Greta Joy Dicus, Chairman
Nils J. Diaz
Edward McGaffigan, Jr.
Jeffrey S. Merrifield

In the Matter of)
)
ADVANCED MEDICAL SYSTEMS, INC.)
)
(Cleveland, Ohio))
)
_____)

Docket No. 30-16055-ML
Docket No. 30-16055-ML-REN

CLI-99-26

MEMORANDUM AND ORDER

The City of Cleveland has petitioned the Commission for review of a Presiding Officer decision, LBP-99-28 (Aug. 4, 1999), which (1) suspended these license renewal proceedings pending the NRC's transfer of regulatory jurisdiction over byproduct material to Ohio, and (2) terminated these proceedings once the NRC-Ohio transfer agreement took effect. The City of Cleveland seeks to have the NRC retain jurisdiction over both pending related proceedings (one on the renewal application and one on the NRC staff's denial of that application) or, if not both proceedings, then at least over the license denial proceeding, involving AMS's alleged lack of the requisite financial assurance for decommissioning. Both the NRC staff and Advanced Medical Systems (AMS) oppose the petition for review.

The Commission denies the petition for review. It does not meet the standards set out in 10 C.F.R. 2.786 (b)(4). See 10 C.F.R. 2.1253. The NRC-Ohio Agreement became effective on August 31, 1999. The NRC initiated the present adjudicatory proceedings to consider discrete issues related to license renewal. Contrary to the City of Cleveland's apparent view, an adjudication on license renewal is an inappropriate forum to contest the scope of the recently-entered agreement between the NRC and the State of Ohio. Petition for review denied.

IT IS SO ORDERED.

For the Commission⁽¹⁾

[original signed by]

Annette L. Vietti-Cook
Secretary of the Commission

Dated at Rockville, Maryland
this 20th day of October, 1999.

1. Commissioner Diaz was not available for the affirmation of this Order. If he had been present, he would have approved the Order.