

December 28, 2001

MEMORANDUM John F. Cordes, Director
FOR: Office of Commission Appellate Adjudication
FROM: Annette L. Vietti-Cook, Secretary **/RA/**
SUBJECT: STAFF REQUIREMENTS - AFFIRMATION SESSION, 11:30 A.M., **FRI**DAY, DECEMBER 28, 2001,
COMMISSIONERS' CONFERENCE ROOM, ONE WHITE FLINT NORTH, ROCKVILLE, MARYLAND (OPEN TO
PUBLIC ATTENDANCE)

I. SECY-01-0212 - Private Fuel Storage (Independent Spent Fuel Storage Installation) Docket No. 72-22-ISFSI; Petition to Suspend Proceedings in Response to Terrorist Attacks

The Commission^{(1),(2)} approved a Memorandum and Order denying the State of Utah's petition to suspend proceedings regarding the proposed Private Fuel Storage (PFS) ISFSI in light of the September 11, 2001 attacks.

The State of Utah, simultaneously with the petition, asked the Board to admit a late-filed contention concerning the risk of terrorists attacking the facility. On December 13, 2001, the Board denied the request to admit the contention and referred its ruling for Commission review in LBP-01-37. The Commission did not act on the Board's referred ruling in LBP-01-37 in this Order.

(Subsequently, on December 28, 2001, the Secretary signed the Memorandum and Order.)

II. SECY-01-0213 - Duke Energy Corp. (McGuire Nuclear Station, Units 1 & 2; Catawba Nuclear Station, Units 1 & 2); Blue Ridge Environmental Defense League's ("BREDL's") Petition to Dismiss Licensing Proceeding or, in the Alternative, Hold it in Abeyance (Oct. 23, 2001)

The Commission^{1,2} approved a Memorandum and Order denying the Blue Ridge Environmental Defense League's ("BREDL's") petition to dismiss Duke Energy corporation's application to renew four power reactor operating licenses or, in the alternative, hold it in abeyance to await the conclusion of the NRC's ongoing comprehensive review of its terrorism-related rules and policies.

(Subsequently, on December 28, 2001, the Secretary signed the Memorandum and Order.)

III. SECY-01-0214 - Duke Cogema Stone & Webster (Savannah River Mixed Oxide Fuel Fabrication Facility): Georgians Against Nuclear Energy & Nuclear Control Institute's Petition to Suspend Construction Authorization Proceeding for Proposed Plutonium Fuel (MOX) Fab Facility

The Commission^{1,2} approved a Memorandum and Order denying the Georgians Against Nuclear Energy ("GANE") and the Nuclear Control Institute's ("NCI") petition to suspend the construction authorization request proceeding for Duke Cogema Stone & Webster's ("DCS") proposed MOX fuel fabrication facility as a result of the September 11, 2001 terrorist attacks on New York City and the Pentagon.

(Subsequently, on December 28, 2001, the Secretary signed the Memorandum and Order.)

Attachment:

As stated

cc: Chairman Meserve
Commissioner Dicus
Commissioner Diaz
Commissioner McGaffigan
Commissioner Merrifield
OGC
EDO
CFO
OCA
OIG
OPA
Office Directors, Regions, ACRS, ACNW, ASLBP (via E-Mail)
PDR

1. 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." Chairman Meserve and Commissioner McGaffigan were present in the Conference Room. Commissioners Dicus and Merrifield participated in the meeting via speakerphone.

2. 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 Diaz was not present when this item was affirmed. Accordingly, the formal vote of the Commission was 4-0 in favor of the decision. Commissioner Diaz, however, had previously indicated that he would approve this order and had he been present he would have affirmed his prior vote.