

July 7, 2004

MEMORANDUM FOR: John F. Cordes, Director  
Office of Commission Appellate Adjudication

Karen D. Cyr  
General Counsel

Luis A. Reyes  
Executive Director for Operations

FROM: Annette L. Vietti-Cook, Secretary /RA/

SUBJECT: STAFF REQUIREMENTS - AFFIRMATION SESSION, 1:55 P.M., WEDNESDAY, JULY 7, 2004, COMMISSIONERS' CONFERENCE ROOM, ONE WHITE FLINT NORTH, ROCKVILLE, MARYLAND (OPEN TO PUBLIC ATTENDANCE)

**I. SECY-04-0098 - Pacific Gas & Electric Co. (Diablo Canyon Power Plant, Units 1 and 2); Applicant's Motion to Terminate Proceeding and Intervenor's Motion to Vacate**

The Commission<sup>1</sup> approved a Memorandum and Order responding to a motion by Pacific Gas & Electric Co. to terminate the NRC proceeding and a request by the City of Santa Clara that the Commission vacate CLI-03-02. The Memorandum and Order terminated the NRC proceeding and denied Santa Clara's request to vacate CLI-03-02.

(Subsequently, on July 7, 2004, the Secretary signed the Memorandum and Order.)

**II. SECY-04-0099 - Duke Energy Corp. (Catawba Nuclear Station, Units 1 and 2), Order on the Board's Certified Questions on Admissibility of a Security Contention**

The Commission approved a Memorandum and Order responding to the Atomic Safety and Licensing Board's certified questions regarding admissibility of a security contention and related questions. The Memorandum and Order held that the Blue Ridge Environmental Defense League's Security Contention 1 is inadmissible and declined to reconsider the Commission's prior "need to know" decision in CLI-04-06.

(Subsequently, on July 7, 2004, the Secretary signed the Memorandum and Order.)

The staff should begin rulemaking to codify the DBT orders at the earliest possible opportunity.

**III. SECY-04-0101 - Appointment of a Pre-license Application Presiding Officer (PAPO) for High Level Waste Repository Pre-license Application Phase**

The Commission approved an Order designating an official to serve as the Pre-License Application Presiding Officer (PAPO) to rule on disputes among the participants over the electronic availability of documents during the pre-license application phase for high-level radioactive waste repository licensing. The Order designated the Chief Administrative Judge of the Atomic Safety and Licensing Board Panel, G. Paul Bollwerk, III, to serve as the Pre-License Application Presiding Officer, and authorized him to delegate that authority.

(Subsequently, on July 7, 2004, the Secretary signed the Order.)

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

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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." Commissioners McGaffigan and Merrifield were present in the Conference Room. Chairman Diaz participated in the meeting via speakerphone.