

June 20, 2005

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

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

SUBJECT: STAFF REQUIREMENTS - AFFIRMATION SESSION, 3:00 P.M.,
MONDAY, JUNE 20, 2005, COMMISSIONERS' CONFERENCE
ROOM, ONE WHITE FLINT NORTH, ROCKVILLE, MARYLAND
(OPEN TO PUBLIC ATTENDANCE)

I. SECY-05-0076 - Private Fuel Storage (Independent Spent Fuel Storage Installation)
Docket No. 72-22-ISFSI

The Commission¹ approved a Memorandum and Order responding to a petition for review by the State of Utah of the Licensing Board's February 24 order rejecting its proposed new contention, Utah UU (Ramifications of DOE's Refusal to Accept Fuel in Welded Canisters from the PFS Site). The Memorandum and Order denies Utah's petition for review. Out of an abundance of caution, Commissioner Jaczko elected to abstain from voting on this order in light of his decision not to make public statements regarding Yucca Mountain for one-year from January 21, 2005. His participation in this Affirmation Session should not be construed as setting a precedent regarding his constituting a quorum on matters pertaining to his recusal.

(Subsequently, on June 20, 2005, the Secretary signed the Memorandum and Order.)

II. SECY-05-0079 - U.S. Army (Jefferson Proving Ground Site) (Possession-only License
for Depleted Uranium Munitions)

The Commission² approved a Memorandum and Order involving the application for a

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 Lyons were not present when this item was affirmed. Accordingly the formal vote of the Commission was 2-0 in favor of the decision. Commissioners McGaffigan and Lyons, however, had previously indicated that they would approve this paper and had they been present they would have affirmed their prior vote.

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." Commissioners McGaffigan and Lyons were not present when this item was affirmed. Accordingly the formal vote of the Commission was 3-0 in favor of the

possession only license by the U.S. Army for depleted uranium munitions at its Jefferson Proving Grounds site. The Commission Memorandum and Order directs the licensee to report to the Commission on past and present efforts to provide the information necessary for the staff to complete its technical and environmental reviews. The Memorandum and Order also directs the staff to provide a report to the Commission regarding the steps it plans to take to complete its reviews in light of the information provided by the licensee.

(Subsequently, on June 20, 2005, the Secretary signed the Memorandum and Order.)

III. SECY-05-0088 - Duke Energy Corp. (Catawba Nuclear Station, Units 1 and 2), Commission Sua Sponte Review of the Licensing Board's March 10, 2005 Final Decision on Security Contention

The Commission³ approved a Memorandum and Order responding to briefs filed in response to the Commission's Memorandum and Order (CLI-05-10 dated April 21, 2005) which took review of the Licensing Board's March 10, 2005 final decision on the security contention. The Memorandum and Order disapproves the four license conditions imposed by the Board in its March 10, 2005 final decision on the security contention.

(Subsequently, on June 20, 2005, the Secretary signed the Memorandum and Order.)

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

decision. Commissioners McGaffigan and Lyons, however, had previously indicated that they would approve this paper and had they been present they would have affirmed their prior vote.

³ 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 Lyons were not present when this item was affirmed. Accordingly the formal vote of the Commission was 3-0 in favor of the decision. Commissioners McGaffigan and Lyons, however, had previously indicated that they would approve this paper and had they been present they would have affirmed their prior vote.