

February 26, 2007

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

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

SUBJECT: STAFF REQUIREMENTS - AFFIRMATION SESSION, 1:05 P.M., MONDAY, FEBRUARY 26, 2007,
COMMISSIONERS' CONFERENCE ROOM, ONE WHITE FLINT NORTH, ROCKVILLE, MARYLAND (OPEN TO
PUBLIC ATTENDANCE)

I. SECY-06-0243 - AmerGen Energy Company, LLC (License Renewal for Oyster Creek Nuclear Generating Station) Docket No. 50-0219, Remaining Legal Challenges to LBP-06-07

The Commission ⁽¹⁾ approved a Memorandum and Order responding issues postponed in a prior Commission decision (CLI-06-24) related to legal challenges to LBP-06-07 concerning the license renewal application filed by AmerGen Energy Company, LLC (AmerGen) for its Oyster Creek nuclear generating station. The Memorandum and Order affirms the Licensing Board's decision in LBP-06-07 with respect to New Jersey's appeal of the rejection of its NEPA-terrorism contention. The Memorandum and Order also dismisses as moot the appeals from LBP-06-07 filed by AmerGen and the NRC staff. Commissioner Jaczko dissented from the Memorandum and Order and Commissioner Merrifield filed a concurring opinion.

(Subsequently, on February 26, 2007, the Secretary signed the Memorandum and Order.)

II. SECY-06-0245 - Nuclear Management Co., LLC (Palisades Nuclear Plant, License Renewal Application); Response to "Notice" Relating to San Louis Obispo Mothers for Peace

The Commission¹ approved a Memorandum and Order responding to a June 22, 2006, "Notice" filed by a group of environmental and public interest organizations requesting that the NRC redraft the supplemental environmental impact statement (EIS) for the Palisades Nuclear Plant license renewal, and also requesting an extension of time to submit late-filed proposed contentions on the environmental impacts of terrorist attacks on the plant during the license renewal period. The Commission Memorandum and Order rejects the request that the EIS be redrafted to consider terrorism and for an extension of the time for filing contentions. Commissioner Jaczko offered a separate dissenting opinion.

(Subsequently, on February 26, 2007, the Secretary signed the Memorandum and Order.)

III. SECY-06-0246 - System Energy Resources, Inc. (Early Site Permit for Grand Gulf ESP Site); Response to NEPA/Terrorism Issue

The Commission¹ approved a Memorandum and Order resolving the issue of whether to admit for hearing a contention claiming the Environmental Impact Statement for the proposed Grand Gulf Early Site Permit must analyze impacts of a terrorist attack on the proposed facility. The Memorandum and Order rejects the contention. Commissioner Jaczko offered a separate dissenting opinion.

(Subsequently, on February 26, 2007, the Secretary signed the Memorandum and Order.)

IV. SECY-07-0006 - Pacific Gas & Electric Co. (Diablo Canyon ISFSI), Docket No. 72-26-ISFSI

The Commission ⁽²⁾ approved a Memorandum and Order responding to the Ninth Circuit's remand related to the Diablo Canyon Independent Spent Fuel Storage Installation proceeding. The Memorandum and Order establishes a schedule for further proceedings in response to the Ninth Circuit's remand.

(Subsequently, on February 26, 2007, the Secretary signed the Memorandum and Order.)

cc: Chairman Klein
Commissioner McGaffigan
Commissioner Merrifield
Commissioner Jaczko
Commissioner Lyons
EDO
OGC
CFO
OCAA
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." Commissioners Merrifield and Jaczko were present in the Conference Room. Chairman Klein and Commissioner Lyons participated in the meeting via speakerphone. Commissioner McGaffigan was not present when this item was affirmed. Accordingly the formal vote of the Commission was 3-1 in favor of the decision. Commissioner McGaffigan, however, had previously indicated that he would approve this paper and had he been present he would have affirmed his 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 Merrifield and Jaczko were present in the Conference Room. Chairman Klein and Commissioner Lyons participated in the meeting via speakerphone. Commissioner McGaffigan was not present when this item was affirmed. Accordingly the formal vote of the Commission was 4-0 in favor of the decision. Commissioner McGaffigan, however, had previously indicated that he would approve this paper and had he been present he would have affirmed his prior vote.