

May 18, 2009

MEMORANDUM FOR: Brooke Poole, Director
Office of Commission Appellate Adjudication

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

SUBJECT: STAFF REQUIREMENTS - AFFIRMATION SESSION, 10:00
A.M., MONDAY, MAY 18, 2009, COMMISSIONERS'
CONFERENCE ROOM, ONE WHITE FLINT NORTH,
ROCKVILLE, MARYLAND (OPEN TO PUBLIC ATTENDANCE)

I. SECY-09-0046 – Progress Energy Carolinas, Inc. (Shearon Harris Nuclear Power Plant, Units 2 and 3), Docket Nos. 52-022-COL and 52-023-COL, Progress Energy and NRC Staff Appeals from LBP-08-21; NC WARN's Motion to Hold the Proceeding in Abeyance

The Commission approved a Memorandum and Order responding to appeals by Progress Energy and the NRC staff from the Atomic Safety and Licensing Board's decision to admit one contention proposed by the North Carolina Waste Awareness and Reduction Network (NC WARN) and to respond to motions by NC WARN to hold the proceeding in abeyance pending the completion of the NRC's rulemaking on the Westinghouse Electric Corporation's AP1000 advanced pressurized water power reactor certified design and for reconsideration of CLI-08-15.

The Memorandum and Order grants the appeals from the Progress Energy and the NRC staff and remands the proceeding to the Board for reassessment of the admissibility of NC WARN's contention. The Memorandum and Order also denies the motion to hold the proceeding in abeyance and declines to reconsider CLI-08-15.

(Subsequently, on May 18, 2009, the Secretary signed the Memorandum and Order.)

II. SECY-09-0058 – Crow Butte Resources, Inc. (License Renewal), LBP-08-24 and LBP-08-27 (Staff and Applicant Appeals of Order Granting Hearing)

The Commission approved a Memorandum and Order responding to appeals of the NRC staff and Crow Butte Resources, Inc. of the Atomic Safety and Licensing Board's decision in LBP-08-24 to grant the hearing requests of the Oglala Sioux Tribe and a group of organizational and individual petitioners (the Consolidated Petitioners), and in LBP-08-27 to admit a late-filed contention. The Memorandum and Order also addresses an appeal by the Consolidated Petitioners on the Board's refusal to admit several proposed contentions.

The Memorandum and Order affirms in part, and reverses in part, the Board's decision in LBP-08-24; reverses the Board's decision in LBP-08-27; and rejects the Consolidated Petitioners' appeal, without prejudice to their ability to file a petition for review following the issuance of the Board's final initial decision in this matter.

(Subsequently, on May 18, 2009, the Secretary signed the Memorandum and Order.)

cc: Chairman Jaczko
Commissioner Lyons
Commissioner Klein
Commissioner Svinicki
EDO
OGC
CFO
OCA
OIG
OPA
Office Directors, Regions, ACRS, ASLBP (via E-Mail)
PDR