

July 8, 2010

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

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

SUBJECT: STAFF REQUIREMENTS - AFFIRMATION SESSION, 1:25 P.M.,  
THURSDAY, JULY 8, 2010, COMMISSIONERS' CONFERENCE  
ROOM, ONE WHITE FLINT NORTH, ROCKVILLE, MARYLAND  
(OPEN TO PUBLIC ATTENDANCE)

I. SECY-10-0030 – Entergy Nuclear Vermont Yankee, LLC, and Entergy Nuclear Operations, Inc. (Vermont Yankee Nuclear Power Station), Petitions for review of LBP-08-25 (Nov. 24, 2008) & LBP-09-9 (July 8, 2009), Docket No. 50-271-LR

The Commission<sup>1</sup> approved a Memorandum and Order responding to an NRC Staff petition for review of the Atomic Safety and Licensing Board's Partial Initial Decision in LBP-08-25 and a New England Coalition, Inc. (NEC) petition for review of the Board's later decision in LBP-09-9. The Memorandum and Order reverses those portions of LBP-08-25 addressing Contentions 2A and 2B related to the calculation of the environmentally adjusted cumulative usage factor for the core spray and reactor recirculation outlet nozzle. The Memorandum and Order considers the substance of NEC's arguments regarding Contention 2C and finds them to be without merit, but grants NEC's petition for review of LBP-09-9 and remands the case to the Board for the limited purpose of giving NEC the opportunity to resubmit its original Contention 2 or submit a revised version of that contention. The Memorandum and Order also grants the non-litigants' motion for leave to file an amicus brief.

(Subsequently, on July 8, 2010, the Secretary signed the Memorandum and Order.)

II. SECY-10-0047 - Pa'ina, Hawaii, LLC (Materials License Application), Docket No. 30-36974-ML, Petition for Review of Licensing Board Initial Decision

The Commission approved a Memorandum and Order responding to Petitions for Review filed by Pa'ina Hawaii, LLC (Pa'ina) and the NRC staff of the Atomic Safety and Licensing Board's final initial decision. The Memorandum and Order, which takes review of the Board's decision, admits Amended Contention 3 and remands it to the Board for further consideration, affirms the Board's rulings in connection with Contention 4, affirms the Board's determination to require an additional written comment period on the staff's amended Environmental Assessment, and denies Pa'ina's request to reinstate the categorical exclusion associated with its proposed irradiator.

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<sup>1</sup> Commissioner Apostolakis did not participate in this matter.

(Subsequently, on July 8, 2010, the Secretary signed the Memorandum and Order.)

III. SECY-10-0068 – Entergy Nuclear Operations, Inc. (Indian Point Nuclear Generating Units 2 and 3), Certified Question Arising From Motion for Leave to Admit New Contentions

The Commission<sup>2</sup> approved a Memorandum and Order responding to a question certified by the Atomic Safety and Licensing Board in this license renewal proceeding, seeking Commission clarification on how to respond to a motion by intervenor Hudson River Sloop Clearwater, Inc., (Clearwater) to submit two new contentions, related to the continued viability of the Waste Confidence Rule. The Memorandum and Order directs the Board to deny admission of Clearwater's contentions as improper challenges to the ongoing waste confidence rulemaking.

(Subsequently, on July 8, 2010, the Secretary signed the Memorandum and Order.)

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

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<sup>2</sup> Commissioner Apostolakis did not participate in this matter.