

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

AFFIRMATION SESSION

PUBLIC MEETING

Nuclear Regulatory Commission
Commission Hearing Room
11555 Rockville Pike
Rockville, Maryland
January 7, 2010

The Commission met in open session, pursuant to notice, at 12:15 p.m.,

Gregory B. Jaczko, Chairman, presiding.

COMMISSIONERS PRESENT:

GREGORY B. JACZKO, Chairman of the Commission

DALE E. KLEIN, Member of the Commission

KRISTINE L. SVINICKI, Member of the Commission

STAFF AND PRESENTERS SEATED AT THE COMMISSION TABLE:

STEPHEN G. BURNS, General Counsel

ANNETTE L. VIETTI-COOK, Secretary of the Commission

DISCLAIMER

This is an unofficial transcript of a meeting of the United States Nuclear Regulatory Commission on January 7, 2010 in the Commission's office at One White Flint North, Rockville, Maryland. The meeting was open to public attendance and observation. This transcript has not been reviewed, corrected or edited, and it may contain inaccuracies.

The transcript is intended solely for general information purposes. As provided by 10 CFR 9.103, it is not part of the formal or informal record of decision of the matters discussed. Expressions of opinion in this transcript do not necessarily reflect final determination or beliefs. No pleading or other paper may be filed with the Commission in any proceeding as the result of, or addressed to, any statement or argument contained herein, except as the Commission may authorize.

[12:15 p.m.]

P R O C E E D I N G S

CHAIRMAN JACZKO: Good morning. Today we are affirming votes on eight orders in front of the Commission. For those of you who are joining us by Webcast, I think this is one of the first times we've done a Webcast of an Affirmation Session. These are sessions that the Commission holds to affirm the positions they have previously taken in a written

voting process. These meetings are required by law and they are designed to enable us as Commissioners to come together and formally ratify the votes that we have previously cast. Affirmation sessions obtain a formal vote of the Commission on recommended actions that legally bind those the NRC regulates or have a significant legal effect on persons outside the Commission. These actions usually involve issuing final rules or what we call adjudicatory orders, which is what we're focusing on in our session today. I'm certainly pleased that the Commission has reached resolution on several of these issues and I look forward to our continuing progress in continuing to meet our important work in protecting public health and safety and protecting the environment. So, Madam Secretary, I think you'll go through the list of items that we have? If you will proceed?

MS. VIETTI-COOK: The first item is South Carolina Electric & Gas Company and South Carolina Public Service Authority on the Virgil Summer Unit 2 and 3. The Commission is being asked to act on a Memorandum and Order responding to appeals by the Sierra Club and Friends of the Earth, petitioning jointly, and Mr. Joseph Wojcicki, petitioning individually, of the Atomic Safety and Licensing Board's decision in LBP-09-2 to reject their intervention petitions in this combined license proceeding. The Commission, with Chairman Jaczko dissenting in part, has voted to approve a Memorandum and Order, which affirms in part and reverses in part the Board's decision and remands the case to the Board for further proceedings. Would you please affirm your votes?

CHAIRMAN JACZKO: Aye.

COMMISSIONER KLEIN: Aye.

COMMISSIONER SVINICKI: Aye.

MS. VIETTI-COOK. The second item is Progress Energy Florida Combined License Application for Levy County Nuclear Power Plant Units 1 and 2. The Commission is being asked to act on a Memorandum and Order responding to an appeal by Progress Energy Florida, Inc. of the Atomic Safety and Licensing Board decision in LBP-09-10 to admit three contentions for hearing. The Commission has voted to approve a Memorandum and Order, which affirms the Board's ruling admitting Contention 4, as reformulated, and affirms in part and reverses in part the Board's decision to admit Contentions 7 and 8. Would you please affirm your votes?

CHAIRMAN JACZKO: Aye.

COMMISSIONER KLEIN: Aye.

COMMISSIONER SVINICKI: Aye.

MS. VIETTI-COOK. The third item is Detroit Edison Company Fermi Power Plant Independent Spent Fuel Storage Installation. The Commission is being asked to act on a Memorandum and Order responding to a joint appeal filed by Beyond Nuclear and eight named individuals of the Atomic Safety and Licensing Board's decision in LBP-09-20, in which the Board found that no petitioner had demonstrated standing and terminated the proceeding. The Commission has voted to approve a Memorandum and Order, which affirms the Board's decision in LBP-09-20. Would you please affirm your votes?

CHAIRMAN JACZKO: Aye.

COMMISSIONER KLEIN: Aye.

COMMISSIONER SVINICKI: Aye.

MS. VIETTI-COOK: This item is on the draft notice and order for GE-Hitachi Global Laser Enrichment. The Commission is being asked to act on a Notice and Order responding to an application from GE-Hitachi Global Laser Enrichment LLC for a license to possess and use source, byproduct and special nuclear material and to enrich natural uranium to a maximum of 8 percent U-235 utilizing a laser-based isotope separation process. The Commission, with Chairman Jaczko disapproving in part, has voted to approve a Notice and Order which provides a notice of hearing, guidance on issues, and a milestone

schedule to be followed in the proceeding. Would you please affirm your votes?

CHAIRMAN JACZKO: Aye.

COMMISSIONER KLEIN: Aye.

COMMISSIONER SVINICKI: Aye.

MS. VIETTI-COOK: The next item is Southern Nuclear Operating Company Early Site Permit for Vogtle Early Site Permit Site. The Commission is being asked to act on a Memorandum and Order responding to a petition for review filed by Center for a Sustainable Coast, Savannah Riverkeeper, Southern Alliance for Clean Energy, Atlanta Women's Action for New Directions, and Blue Ridge Environmental Defense League (collectively, Joint Intervenors), of the Atomic Safety and Licensing Board's First Partial Initial Decision in the contested portion of this proceeding – LBP-09-7. The Commission has voted to approve a Memorandum and Order which denies the petition for review. Would you please affirm your votes?

CHAIRMAN JACZKO: Aye.

COMMISSIONER KLEIN: Aye.

COMMISSIONER SVINICKI: Aye.

MS. VIETTI-COOK: The next item is Tennessee Valley Authority Bellefonte Nuclear Power Plant, Units 1 and 2. The Commission is being asked to act on a Memorandum and Order responding to two contentions in a petition for hearing and intervention by the Blue Ridge Environmental Defense League, its chapter the Bellefonte Efficiency and Sustainability Team, and the Southern Alliance for Clean Energy. The contentions claim that the Nuclear Regulatory Commission lacks the statutory authority under the Atomic Energy Act to reinstate TVA's construction permits for the Bellefonte Nuclear Power Plant Units 1 and 2 after TVA voluntarily surrendered these permits. The Commission, with Chairman Jaczko dissenting, has voted to approve a Memorandum and Order which concludes that the Commission does have the statutory authority to reinstate the Bellefonte Construction Permits for Units 1 and 2. Accordingly, petitioners' Contentions 1 and 2 are denied and the remainder of the petition to intervene is referred to the Atomic Safety and Licensing Board Panel pursuant to 10 C.F.R. Part 2. Would you please affirm your votes?

CHAIRMAN JACZKO: Aye.

COMMISSIONER KLEIN: Aye.

COMMISSIONER SVINICKI: Aye.

MS. VIETTI-COOK: This is on the Combined License Application for Bell Bend Nuclear Power Plant. The Commission is being asked to act on a Memorandum and Order responding to an appeal by Mr. Eric Joseph Epstein of the Atomic Safety and Licensing Board's decision in LBP-09-18 to deny his petition to intervene and request for hearing in this combined license proceeding. The Commission has voted to approve a Memorandum and Order which affirms the Board's decision to deny Mr. Epstein's petition for intervention in this proceeding. Would you please affirm your votes?

CHAIRMAN JACZKO: Aye.

COMMISSIONER KLEIN: Aye.

COMMISSIONER SVINICKI: Aye.

MS. VIETTI-COOK: The last item is Shieldalloy Metallurgical Corporation. The Commission is being asked to act on a Memorandum and Order responding to a request by Shieldalloy Metallurgical Corp. for a stay pending judicial review of the transfer of regulatory authority over the Newfield, New Jersey site to the State of New Jersey. The Commission has

voted to approve a Memorandum and Order which denies Shieldalloy's request. Would you please affirm your votes?

CHAIRMAN JACZKO: Aye.

COMMISSIONER KLEIN: Aye.

COMMISSIONER SVINICKI: Aye.

MS. VIETTI-COOK: That's all I have. Thank you.

CHAIRMAN JACZKO: Okay. We're adjourned. Thank you.

CERTIFICATE

This is to certify that the attached description of a meeting of the U.S. Nuclear Regulatory Commission entitled:

TITLE OF MEETING: Affirmation Session

(PUBLIC MEETING)

PLACE OF MEETING: Rockville, Maryland

DATE OF MEETING: January 7, 2010

was held as herein appears, is a true and accurate record of the meeting, and that this is the original transcript thereof taken stenographically by me, thereafter reduced to typewriting by me or under the direction of the court reporting company.

Transcriber: **Darlene K. Wright**

Reporter: **(TAPE RECORDING)**