

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

AFFIRMATION SESSION

PUBLIC MEETING

Nuclear Regulatory Commission
Commission Hearing Room
11555 Rockville Pike
Rockville, Maryland
July 8, 2010

The Commission met in open session, pursuant to notice, at 1:25 p.m.,

Gregory B. Jaczko, Chairman, presiding.

COMMISSIONERS PRESENT:

GREGORY B. JACZKO, Chairman of the Commission

KRISTINE L. SVINICKI, Member of the Commission

GEORGE APOSTOLAKIS, Member of the Commission

WILLIAM D. MAGWOOD, IV, Member of the Commission

WILLIAM C. OSTENDORFF, 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 July 8, 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.

[1:25 p.m.]

P R O C E E D I N G S

CHAIRMAN JACZKO: We will begin with affirmation items.

MS. VIETTI-COOK: The first item is SECY-10-0030 Entergy Nuclear Vermont Yankee and Entergy Nuclear Operations (Vermont Yankee Nuclear Power Station). The Commission is being asked to act on a Memorandum and Order responding to two petitions for review. The NRC Staff seeks review of Atomic Safety and Licensing Board's Partial Initial Decision in LBP-08-25. The New England Coalition seeks review of the Board's later decision in LBP-09-9. The Commission has voted to approve a Memorandum and Order which 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 the New England Coalition's arguments regarding Contention 2C and finds them to be without merit, but grants the New England Coalition's petition for review of LBP-09-9 and remands the case to the Board for the limited purpose of giving the New England Coalition the opportunity to resubmit its original Contention 2 or submit a revised version of that contention. The Memorandum and Order also grants the non-litigant's motion for leave to file a *amici curiae* brief. Commissioner Apostolakis did not participate in this matter. Would Chairman Jaczko and Commissioners Svinicki, Magwood, and Ostendorff please affirm your votes?

CHAIRMAN JACZKO: Aye.

COMMISSIONER SVINICKI: Aye.

COMMISSIONER MAGWOOD: Aye.

COMMISSIONER OSTENDORFF: Aye.

MS. VIETTI-COOK. The second item is Pa'ina, Hawaii (Materials License Application). The Commission is being asked to act on a Memorandum and Order responding to Petitions for Review filed by Pa'ina Hawaii and the NRC staff of the Atomic Safety and Licensing Board's final initial decision. The Commission has voted to approve a 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. Would please affirm your votes?

CHAIRMAN JACZKO: Aye.

COMMISSIONER SVINICKI: Aye.

COMMISSIONER APOSTOLAKIS: Aye.

COMMISSIONER MAGWOOD: Aye.

COMMISSIONER OSTENDORFF: Aye.

MS. VIETTI-COOK. The last item is Entergy Nuclear Operations (Indian Point Nuclear Generating Units 2 and 3). The Commission is being asked to act on 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 to submit two new contentions, related to the continued viability of the Waste Confidence Rule. The Commission has voted to approve a Memorandum and Order which directs the Board to deny admission of Clearwater's contentions as improper challenges to the ongoing waste confidence rulemaking. Commissioner Apostolakis did not participate in this matter. Would Chairman Jaczko and Commissioners Svinicki, Magwood and Ostendorff please affirm your votes?

CHAIRMAN JACZKO: Aye.

COMMISSIONER SVINICKI: Aye.

COMMISSIONER MAGWOOD: Aye.

COMMISSIONER OSTENDORFF: Aye.

MS. VIETTI-COOK. That's all I have. 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: July 8, 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: **Antoinette Lewis**

Reporter: **(TAPE RECORDING)**