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UNITED STATES  
NUCLEAR REGULATORY COMMISSION  
WASHINGTON, D.C. 20555

November 17, 1988

MEMORANDUM FOR: William C. Parler, General Counsel

FROM: Samuel J. Chilk, Secretary

SUBJECT: STAFF REQUIREMENTS - AFFIRMATION/DISCUSSION  
AND VOTE, 3:30 P.M., WEDNESDAY, NOVEMBER 9,  
1988, COMMISSIONERS' CONFERENCE ROOM, ONE  
WHITE FLINT NORTH, ROCKVILLE, MARYLAND  
(OPEN TO PUBLIC ATTENDANCE)

I. SECY-88-291 - Shoreham options

The Commission, by a 4-0 vote\* (with Chairman Zech and Commissioners Roberts, Carr, and Rogers agreeing) have approved an order which (pursuant to 10 CFR 2.785(d) and the Commission's inherent supervisory power over pending adjudicatory proceedings) directed that appeals from the Licensing Board's decision dismissing the Government from the Shoreham Licensing Proceeding be certified to the Commission itself for decision. The Commission will decide, on appeal, whether the Government's conduct was such as to warrant their dismissal from the entire proceeding and whether, if dismissal from the entire proceeding is not warranted, what other sanction, if any, is appropriate. Other matters decided in LBP-88-24 (role conflict of bus drivers, emergency broadcast system) remain before the Appeal Board.

Commissioner Curtiss did not participate in this matter.

cc: Chairman Zech  
Commissioner Roberts  
Commissioner Carr  
Commissioner Rogers  
Commissioner Curtiss  
EDO  
GPA  
PDR - Advance  
DCS - P1-124

\* Section 201 of the Energy Reorganization Act, 42 U.S.C. Sec.

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5841, provides that action of the Commission shall be determined by a "majority vote of the members present." Commissioner Rogers was not present when this item was affirmed. Accordingly, the formal vote of the Commission was 3-0 in favor of the decision. Commissioner Rogers, however, had previously indicated that he would approve this order and had he been present he would have affirmed his prior vote.