

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

COMMISSIONERS

Dale E. Klein, Chairman  
Edward McGaffigan, Jr.  
Gregory B. Jaczko  
Peter B. Lyons

DOCKETED  
USNRC

August 2, 2007 (1:33pm)

OFFICE OF SECRETARY  
RULEMAKINGS AND  
ADJUDICATIONS STAFF

\_\_\_\_\_  
In the Matter of )  
)  
)

DOMINION NUCLEAR NORTH ANNA, LLC )  
)  
)

(Early Site Permit for North Anna ESP Site) )  
\_\_\_\_\_ )

**SERVED August 2, 2007**

Docket No. 52-008-ESP

**CLI-07-23**

**ORDER**

On June 29, 2007, a split Atomic Safety and Licensing Board issued its Initial Decision, LBP-07-9, in the “mandatory hearing” portion of this adjudication addressing Dominion Nuclear North Anna, LLC’s application for an Early Site Permit (ESP). “Before the Early Site Permit . . . can be made effective, the Commission must review and approve the Licensing Board’s Initial Decision authorizing its issuance.”<sup>1</sup> Here, the majority of the Board approved issuance of the North Anna ESP, while the dissenting judge would have denied the ESP due to insufficiencies in the NRC Staff’s and Dominion’s examinations of alternative sites and alternative design features related to water conservation. The Initial Decision recommended that the Commission consider the following issues:<sup>2</sup>

- (i) Did the Staff’s environmental justice analysis in the FEIS follow the “greater detail” guidance set forth in the Commission’s Environmental Justice Policy Statement?

<sup>1</sup> *System Energy Resources, Inc.* (Early Site Permit for Grand Gulf ESP Site), CLI-07-7, 65 NRC 122 (2007) (citing 10 C.F.R. § 2.340(f)).

<sup>2</sup> See slip op. at 91-107.

(ii) How do the NRC's multiple radiation protection standards (and the ALARA concept) apply to new reactors that are proposed to be added at a site with pre-existing nuclear reactors and radiological effluents?

(iii) How should the Commission apply its statement prohibiting partial ESPs and ESPs where adequate information is not available to a situation where significant elements of the plant parameter envelope for the ESP are missing and numerous siting issues are unresolved due to lack of information?

We invite the NRC Staff and Dominion to submit initial and reply briefs addressing the questions above, the issues of alternative sites and alternative design features raised in Judge Karlin's dissent, the suggestions in LBP-07-9 regarding perceived deficiencies in the NRC Staff's and Dominion's evidence and arguments,<sup>3</sup> and any other issues that, in the parties' view, warrant comment. Each initial brief shall be no longer than 40 pages (exclusive of title page, table of contents, and table of authorities) and shall be filed within 21 calendar days of the date of this order. Each reply brief shall be no longer than 20 pages and shall be filed within 14 days thereafter.<sup>4</sup>

IT IS SO ORDERED.

For the Commission



*Kenneth R. Hart*

Kenneth R. Hart  
Acting Secretary of the Commission

Dated at Rockville, Maryland,  
this 2<sup>nd</sup> day of August, 2007.

<sup>3</sup> See slip op. at 28-36 (hydrology), 45-46 (tritium), 56-61 (alternative sites); dissenting slip op. at 2-11 (alternative sites), 1 & 11-12 (alternative design criteria).

<sup>4</sup> Due to the potentially large number of issues requiring discussion, the Commission will entertain motions to expand these page limits if good cause can be shown. We urge the parties, however, to keep their briefs as short as possible, consistent with providing meaningful responses to our inquiry.

**Commissioner Gregory B. Jaczko respectfully concurring:**

I approve of this order and the request for briefs on these difficult and important questions. I offer a concurring opinion because I believe the Commission should have also specifically requested amicus briefs on these issues. The answers to these questions will impact the early site permit process for future applicants and participants. Thus, I believe the ultimate Commission decision would be better informed with a wider variety of interested stakeholder perspectives on these issues to aid the Commission in better understanding how best to improve the ESP process.

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

|   |   |                       |
|---|---|-----------------------|
| In the Matter of                            | ) |                       |
|   | ) |                       |
| DOMINION NUCLEAR                            | ) | Docket No. 52-008-ESP |
| NORTH ANNA, LLC                             | ) |                       |
|   | ) |                       |
| (Early Site Permit for North Anna ESP Site) | ) |                       |

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing COMMISSION ORDER (CLI-07-23) have been served upon the following persons by electronic mail this date, followed by deposit of paper copies in the U.S. mail, first class, and NRC internal mail.

Office of Commission Appellate  
Adjudication  
U.S. Nuclear Regulatory Commission  
Washington, DC 20555-0001  
E-mail: [ocaamail@nrc.gov](mailto:ocaamail@nrc.gov)

Administrative Judge  
Alex S. Karlin, Chair  
Atomic Safety and Licensing Board Panel  
Mail Stop - T-3 F23  
U.S. Nuclear Regulatory Commission  
Washington, DC 20555-0001  
E-mail: [ask2@nrc.gov](mailto:ask2@nrc.gov)

Thomas S. Elleman  
Administrative Judge, ASLBP  
5207 Creedmoor Rd.  
Raleigh, NC 27612-6303  
E-mail: [elleman@eos.ncsu.edu](mailto:elleman@eos.ncsu.edu)

Administrative Judge  
Richard F. Cole  
Atomic Safety and Licensing Board Panel  
Mail Stop - T-3 F23  
U.S. Nuclear Regulatory Commission  
Washington, DC 20555-0001  
E-mail: [rhc1@nrc.gov](mailto:rhc1@nrc.gov)

Robert M. Weisman, Esq.  
Jerry Bonanno, Esq.  
James P. Biggins, Esq.  
Office of the General Counsel  
Mail Stop - O-15 D21  
U.S. Nuclear Regulatory Commission  
Washington, DC 20555-0001  
E-mail: [rmw@nrc.gov](mailto:rmw@nrc.gov); [pam3@nrc.gov](mailto:pam3@nrc.gov);  
[bdp@nrc.gov](mailto:bdp@nrc.gov); [jxb5@nrc.gov](mailto:jxb5@nrc.gov); [jpb4@nrc.gov](mailto:jpb4@nrc.gov)

Diane Curran, Esq.  
Harmon, Curran, Spielberg,  
& Eisenberg, L.L.P.  
1726 M Street, NW, Suite 600  
Washington, DC 20036  
E-mail: [dcurran@harmoncurran.com](mailto:dcurran@harmoncurran.com)

Docket No. 52-008-ESP  
COMMISSION ORDER (CLI-07-23)

David R. Lewis, Esq.  
Robert B. Haemer, Esq.  
Timothy J. V. Walsh, Esq.  
Blake J. Nelson, Esq.  
Pillsbury Winthrop Shaw Pittman LLP  
2300 N Street, NW  
Washington, DC 20037  
E-mail: [david.lewis@pillsburylaw.com](mailto:david.lewis@pillsburylaw.com);  
[robert.haemer@pillsburylaw.com](mailto:robert.haemer@pillsburylaw.com);  
[timothy.walsh@pillsburylaw.com](mailto:timothy.walsh@pillsburylaw.com);  
[blake.nelson@pillsburylaw.com](mailto:blake.nelson@pillsburylaw.com)

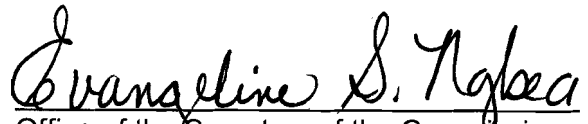
Paul Gunter, Director  
Reactor Watchdog Project  
Nuclear Information and Resource Service  
1424 16<sup>th</sup> St., NW, Suite 404  
Washington, DC 20036  
E-mail: [pgunter@nirs.org](mailto:pgunter@nirs.org)

Richard A. Parrish, Esq.  
Morgan W. Butler, Esq.  
Southern Environmental Law Center  
201 West Main Street  
Charlottesville, VA 22902  
E-mail: [rparrish@selcva.org](mailto:rparrish@selcva.org);  
[mbutler@selcva.org](mailto:mbutler@selcva.org)

Lillian M. Cuoco, Esq.  
Senior Counsel  
Dominion Resources Services, Inc.  
Rope Ferry Road  
Waterford, CT 06385  
E-mail: [lillian\\_cuoco@dom.com](mailto:lillian_cuoco@dom.com)

Michele Boyd  
Public Citizen  
215 Pennsylvania Ave., SE  
Washington, DC 20003  
E-mail: [mboyd@citizen.org](mailto:mboyd@citizen.org)

Margaret Parish, Esq.  
Law Clerk  
Atomic Safety and Licensing Board Panel  
Mail Stop - T-3 F23  
U.S. Nuclear Regulatory Commission  
Washington, DC 20555-0001  
E-mail: [map4@nrc.gov](mailto:map4@nrc.gov)

  
Office of the Secretary of the Commission

Dated at Rockville, Maryland,  
this 2<sup>nd</sup> day of August 2007