



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

1-10-1985

February 20, 1985

MEMORANDUM FOR: William H. Briggs, Jr.
Solicitor

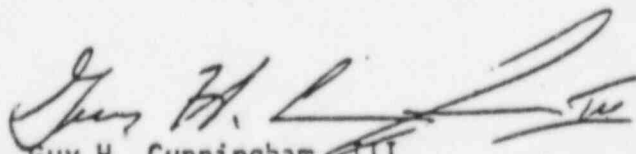
FROM: Guy H. Cunningham, III
Executive Legal Director

SUBJECT: UCS v. NRC, 735 F.2d 1437 (D.C. Cir 1984) (THE ATOMIC
ENERGY ACT DOES NOT PERMIT THE COMMISSION TO EXCLUDE
BY VOTE THE RESULTS OF EMERGENCY PREPAREDNESS EXERCISES
FROM OL HEARINGS)

This is in response to your memorandum of January 29, 1985, subject as above, requesting that OELD ~~review~~ all pending OL cases (particularly very near-term cases such as Waterford) to determine which, if any, may be impacted by the impending mandate [in UCS v. NRC] and may therefore require some action before Commission review as a result of this UCS decision".

Pursuant to your request we have again reviewed each of the pending operating license proceedings to determine if they will be impacted by the court of appeals' decision. The results of our review are set forth in the attached table. As a review of this table indicates, we have concluded that there are only two facilities which hold a potential for being impacted by the decision - Seabrook and Shoreham. We have identified Seabrook only because our experience to date has shown that all hearings in this case tend to be very protracted. Except for this consideration, the time between the June 1985 exercise at Seabrook and the April 1986 construction completion date would appear to be sufficient to conduct any necessary hearings based on the exercise results. The Shoreham facility was identified for obvious reasons; this facility involves the first utility run off-site emergency plan, no exercise has yet been scheduled, serious legal objections to such an exercise have been raised, and the intervenors have indicated their desire to litigate the results of any exercise if such is conducted.

While we do not now anticipate that the other operating license proceedings will be impacted by the court of appeals decision, we will, of course, continue to monitor these cases and promptly advise you if this assessment should change.


Guy H. Cunningham, III
Executive Legal Director

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PDR FOIA
GRABER85-562 PDR

Attachment

CASE NAME	NOTICED PRIOR/ AFTER JULY 13, 1982	EMERGENCY PLANNING CONTENTIONS FILED OR ADMITTED	EP EXERCISE CONTENTIONS REJECTED BASED ON RULE	SCHEDULE/ STATUS OF EP HEARINGS	MOST RECENT OR PROPOSED EP EXERCISE DATE	APPL CONST COMP	REMARKS
Beaver Valley 2	After	Uncontested	N/A	N/A	9/1/85	8/86	No impact anticipated; all proposed contentions, including one on EP, rejected by Licensing Board
Beliefonte	Prior	Uncontested	N/A	N/A	Not scheduled	10/87	No impact anticipated
Braidwood 1,2	Prior	Yes*	No	10/85	11/13/85	4/86	No impact anticipated; any new contentions raised as a result of the November exercise could be litigated before need to go above 5%
Clinton	Prior	Yes	No	Not scheduled	9/4/85	1/86	No impact anticipated; a settlement of all contentions has been approved by the Licensing Board
Comanche Peak	Prior	Yes	No	Complete	11/14/84	1/86	No impact anticipated; EP contention dismissed based on failure of intervenor to file findings of fact
Diablo Canyon 2	Prior	Yes	No	Complete	10/30/84	3/85	No impact anticipated; earlier EP exercise litigated in OL hearing
Fermi 2	Prior	Yes*	No	Complete	6/26/84	2/85	No impact anticipated
Hope Creek	After	No	No	N/A	10/23/84	1/86	No impact anticipated; settlement of all contentions is expected
Limerick	Prior	Yes	No	In progress	7/25/84	Complete	No impact anticipated based on Court of Appeals decision; licensing is currently impacted by 3 months awaiting Licensing Board decision
Midland	Prior	Yes	No	Not scheduled	Not scheduled	Not scheduled	No impact anticipated
Millstone 3	After	Uncontested	N/A	N/A	10/12/84	11/85	No impact anticipated
Nine Mile 2	After	Uncontested	N/A	N/A	10/31/84	2/86	No impact anticipated
Palo Verde 1,2,3	Prior	No	No	N/A	9/26/84	Complete	No impact anticipated

*Contention does not expressly raise issues related to EP exercise

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Perry 1,2	Prior	Yes*	No	4/9/85	11/28/84	6/85	No impact anticipated
River Bend 1,2	Prior	Yes*	No	N/A	1/16/85	4/85	No impact anticipated; settlement of all contentions approved by the Licensing Board
Seabrook 1,2	Prior	Yes*	No	Not scheduled	6/1/85	4/86	Potential for impact
Shearon Harris 1	Prior	Yes	No	6/18/85	5/17/85	3/86	No impact anticipated
Shoreham	Prior	Yes	No	In progress	Not scheduled	Complete	Potential for impact
South Texas	Prior	No	N/A	N/A	Not scheduled	12/86	No impact anticipated
Vogtle	After	Yes	No	Not scheduled	Not scheduled	9/86	No impact anticipated
WNP-3	After	Yes	No	Not scheduled	Not scheduled	Not scheduled	No impact anticipated
Waterford 3	Prior	Yes	Yes	Complete	2/8/84	Complete	No impact anticipated; exercise results favorable
Watts Bar	Prior	Uncontested	N/A	N/A	9/12/84	3/85	No impact anticipated
Wolf Creek	Prior	Yes*	No	Complete	11/7/84	2/85	No impact anticipated; exercise results favorable

*Contention does not expressly raise issues related to EP exercise