

Texas Low-Level Radioactive Waste Disposal

Compact Commission Minutes

December 11, 2009
Texas State Capitol
Extension Auditorium, E1.004
1400 North Congress
Austin, Texas 78701

The meeting was called to order at approximately 9:20 a.m.

At the request of the Chair, audience members introduced themselves.

The Chair introduced Sarah Hofmann, Alternate Commissioner from Vermont.

The roll was called, and a quorum was present.

Commissioners present:

Michael Ford, Chair
John White, Vice Chair
Richard Dolgener
Bob Gregory
Robert Wilson
Uldis Vanags (VT)
Sarah Hofmann, (VT alternate)

Commissioners not present:

Kenneth Peddicord
Stephen Wark

Commission staff present:

Margaret Henderson, Interim Executive Director
Jim Crowson, Attorney General's Office
Nicole Bunker-Henderson, Attorney General's Office

5.¹ The minutes from the August 19, 2009 meeting were approved.

6. Abigail Cuthbertson, from the Department of Energy, National Nuclear Security Administration, gave a presentation about a project collecting sealed radioactive sources from within the US and seeking a solution for final disposition.

7. Rod Baltzer, President of Waste Control Specialists, reported on the status of their facility license, license conditions, ratemaking timeline, and projection for opening of site.

Susan Jablonski from the Texas Commission on Environmental Quality, updated the Commission on the status of the WCS license and the ratemaking case.

8. Discussion and possible action on funding, budget and Commission operations:

a. Status of Commission funding (discussed after c below).

b. Public Comment

¹ Numbers refer to item number on agenda.

There was no public comment at this time.

c. The Commission discussed contracts between the Compact Commission and TCEQ for travel and operating monies.

Susan Jablonski reported that there were two contracts. The first for travel, in the amount of \$40,000, is ready to be signed by the Commission. The second, \$60,000 for operating expenses, is in draft form.

Commissioner Wilson moved that the Commission approve the contract for transportation (travel), and allow to the Chair to sign it.

The motion was approved unanimously by those present and by voice vote.

Commissioner Wilson moved that the Commission authorize the chair, and at his discretion the Finance Committee, complete negotiations on the second contract with the Commission's legal counsel and sign the completed contract on behalf of the Commission.

The motion was approved unanimously by those present and by voice vote.

a. Chairman Ford reported on the status of Commission funding and reviewed the parts of the budget that had funding, including six Commission meetings: four in Austin, one in Andrews County, and one in Vermont. There would also be occasional travel for the Chair as part of his Compact Commission duties. The Commission noted the level of funding falls short of the amount necessary for the adopted budget.

No action was required.

9. The Commission discussed services necessary to carry out Commission duties and functions per Texas Low-Level Radioactive Waste Disposal Compact, Sec. 3.05(1) and (3).

a. Certified Public Accountant for accounting and independent audit services

Margaret Henderson reported that the TCEQ internal auditors would complete the audit for 2009, and the attorney general agreed that this would satisfy the audit requirements for the Commission.

Ms. Henderson also reported a bid on monthly accounting services of \$800 to set up the account, followed by \$400 a month to maintain it. Commissioner Dolgener moved to approve the contract (total \$5600). The motion was approved unanimously by those present and by voice vote.

b. Legal representation for actions of the Commission

Chairman Ford expressed gratefulness that the Commission had the services of the state Attorney General's office, and thanked the attorneys Jim Crowson and Nicole Bunker-Henderson for the work and extra efforts they have provided.

c. Other services as determined by the Commission (i.e., telephone, etc.)

Ms. Henderson reported that her cell phone had been used for Commission business, and while that was not a problem, she suggested that the Commission consider getting a cell phone so it can be transferred to someone else should she not continue in service. A motion was made to approve up to \$1440 for a year of

cell phone service for the executive director. The motion was approved unanimously by those present and by voice vote.

Chairman Ford moved that the executive director be able to make direct purchase of airfare and hotel arrangements directly from the travel account. During the discussion, Commissioner Wilson verified that this would not prevent a Commissioner from making his or her own arrangements. The motion was approved unanimously by those present and by voice vote.

10. Export and Import of low-level radioactive waste

a. Chairman Ford reported that as a result of the stakeholder meeting held the previous day (December 10, 2009), the Rules Committee met and produced a revised draft rule. He briefly explained the changes in the draft rule to the Commission, and suggested they take a 30-minute break to give the Commission and interested parties and opportunity to review the new draft.

Karen Hadden, on behalf of the SEED coalition, asked (and received) permission to address the Commission before they took the break. Ms. Hadden remarked that the Rules Committee meeting should be subject to the Open Meetings Act and reported that they had requested to be able to attend the meeting and were told that they could not. She pointed out that the changes were substantive and the public should have been allowed to participate. Mr. Crowson, Commission counsel explained that no violations of the Open Meetings Act had occurred since the Committee constituted less than a quorum of the members and was not a "rubber stamp" Committee. He noted that the public would receive time to comment on the rule once proposed and published.

Commissioner Wilson recommended that they not take action during this meeting, as he felt that 30 minutes would not give him time to carefully read and digest the changes.

Commissioner Gregory agreed with Commissioner Wilson and requested that the Commission hold off on moving the draft rule forward to publication in the Texas Register.

Commissioner White suggested that the Commission publish the rule and extend the comment period to 60 days.

Chairman Ford suggested that the Commission go ahead and take public comment before taking a break.

b. The following people made comments:

Derek Seal, Vermont Yankee and ARDT

Eliza Brown, SEED Coalition

Karen Hadden, SEED Coalition

Mark Carver, Entergy/Vermont Yankee

Rod Baltzer, WCS

(Testimony included exchanges with Commissioner Gregory and Commissioner Wilson)

c. Chairman Ford moved that the draft rule be tabled for about 30 days to allow the Commissioners and stakeholders to more thoroughly review the proposed rule. The motion was approved unanimously by those present and by voice vote.

14. (Taken out of order on the advice of counsel).

Chairman Ford read the resolution allowing generators to petition the Commission for export approvals aloud. Comments were received from Derek Seal, Mark Carver, Bill Kroger for WCS, and Rene Ruiz with South Texas Nuclear Operating Company. Chairman Ford amended the last sentence in the resolution to include that it was in place until the effective date of any rule governing export pursuant to Section 3.05(7), and then moved that the resolution be passed. The motion was approved unanimously by those present and by voice vote.

11. The Commission considered generator petitions for export of low-level radioactive waste to management and disposal facilities outside of the Texas Compact

a. Petitioner: Luminant Generation Company LLC ("Luminant"), owner of the Comanche Peak Nuclear Power Plant ("Comanche Peak"), with the principal offices of Luminant located at 500 N. Akard St., Dallas, Texas 75201

Dick Adams on behalf of Luminant explained their petition.

A motion was made to approve the petition. The motion was approved unanimously by those present and by roll call vote.

b. Petitioner: STP Nuclear Operating Company ("STPNOC"), PO Box 289, Wadsworth, Texas 77483.

Renee Ruiz (STPNOC) explained their petition

A motion was made to approve the petition. The motion was approved unanimously by those present and by roll call vote.

c. Petitioner: Vermont Yankee Nuclear Power Station, an affiliate of Energy Nuclear Operations, Inc., with principal office of Entergy Nuclear Operations, Inc., located at 440 Hamilton Ave., White Plains, New York 10601

Derek Seal, for Vermont Yankee, explained their petition.

A motion was made to approve the petition. The motion was approved unanimously by those present and by roll call vote.

d. Petitioner: Southwest Research Institute

Bill Kroger, from WCS, commented on the petition.

A motion was made to approve the petition with an end date of 30 September 2010. The motion was approved unanimously by those present and by roll call vote.

12. Consideration of and possible vote on amendments to the out-of-state disposal permits granted on October 15, 2009, to Texas A&M University to clarify whether the permits cover all components of the Texas A&M University System

No action was taken.

13. Commissioner White moved that a message be sent to all known generators of low level radioactive waste in Texas and Vermont informing them of the provisions of Sections 3.05(7), 6.01, and 6.03 of the Texas Low-Level Radioactive Waste Compact (P.L. 105-236) as compiled in Chapter 403, Texas Health and Safety Code, and b. Section 3.05(8) of the Texas Low-Level Radioactive Waste Compact (P.L. 105-236) as compiled in Chapter 403, Texas Health and Safety Code. Chairman Ford added to the motion that a Commissioner, in conjunction with counsel, develop and produce the letter for publication to Compact state generators. The motion was approved unanimously. Commissioner White volunteered to write the letter.

14. Taken up before number 11 (see above).

15. Meeting participations – Report and possible actions on:

a. Chairman Ford and Commissioners Dolgener, Gregory, and White commented on their experiences at the last LLW Forum and RadWaste Summit meetings.

b. An invitation for a Commissioner to participate as a panelist in LLW Forum Symposia in Phoenix, AZ, in March 2010 was presented by Ms. Henderson. The Symposia requires speakers to pay a registration fee. Chair Ford indicated he might be attending, but that the Symposia would need to provide a waiver of the registration fee if he were to speak due to the budgetary constraints of the Commission. Ms. Henderson was to pursue this issue with the sponsors of the event.

16. Bylaws – Discussion and possible action to adopt
No action was taken.

17. Records retention policy – Discussion and possible action to adopt
No action was taken.

18. Plan for annual report of the Commission – Discussion and possible action
No action was taken.

19. Commissioner Wilson gave an update regarding status of litigation in Energysolutions L.L.C. v. State of Utah, Case No. 09-4122; In the 10th Circuit Court of Appeals.

20. Agenda items for next meeting

Other than tabled items from this meeting, no additional agenda items were suggested.

21. Selection of next meeting date and location
Friday, January 22, 2009 in the Capitol auditorium.

22. Public Comment

Kimberly Connelly, Department of Defense, US Army

23. A motion to adjourn was made. The motion was approved unanimously by those present. The meeting adjourned at approximately 4:30 p.m.

