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COMMISSIONER PLENARY: WILLIAM OSTENDORFF

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TRANSCRIPT OF PROCEEDINGS

Public Meeting

APPEARANCES

NRC Staff:

Eric Leeds
Director, Office of Nuclear Reactor Regulation
U.S. Nuclear Regulatory Commission

Brian Sheron
Director
Office of Nuclear Regulatory Research

William C. Ostendorff
Commissioner
U.S. Nuclear Regulatory Commission

1 PROCEEDINGS

2 ERIC LEEDS: All right. If you could bear with us for a moment, I'll
3 have Brian Sheron and Commissioner Ostendorff, if you'd please take the dais.

4 BRIAN SHERON: Good morning. Commissioner William
5 Ostendorff has served on the commission since April 2010, and is approaching
6 four decades of dedicated public service. Before coming to the NRC,
7 Commissioner Ostendorff served as the principal deputy administrator with the
8 Department of Energy's National Nuclear Safety Administration, as well as
9 holding senior positions at the national academies and the House Armed
10 Services Committee staff. This was preceded by a distinguished 26-year naval
11 career where he notably held command of a nuclear attack submarine, as well as
12 a submarine squadron. So with that, I will introduce Commissioner Ostendorff.

13 [applause]

14 COMMISSIONER OSTENDORFF: Good morning. It's a real
15 pleasure to address this audience of nuclear safety professionals across many
16 different roles and responsibilities, especially greet those who traveled to attend
17 this year's RIC. I've been advised by my council that I need to make a disclosure
18 in response to yesterday's address by two commissioners. Last night I received
19 a stakeholder ex-parte communication. Margie Doane, on behalf of the Office of
20 General Council, sent me -- some training as both an engineer and as an
21 attorney -- sent me some lawyer jokes.

22 [laughing]

23 Yet these were not really lawyer jokes. They were jokes against

1 engineers. And I appreciate Margie, your thinking about that, your advocacy on
2 behalf of your 100 plus attorneys in OGC, and a sign of solidarity. And
3 consistent with my verbal MOU with Commissioner Magwood, I will not tell these
4 jokes.

5 [laughing]

6 I thank Bill Magwood also for those people that are chronic clock
7 watchers who will be timing my remarks.

8 [laughing]

9 I'll tell you when the 24 minutes can start.

10 [laughing]

11 Before I begin, I do want to add my thanks to those of fellow
12 Commission colleagues, for the people who've worked with Brian and Eric and
13 their dedicated staff to put on the RIC. I think this is just an extraordinarily
14 important opportunity for all of us to talk about critical issues. I also want to thank
15 the NRC staff represented by leadership here in the front rows, and my fellow
16 commissioner colleagues. We've had a lot of tough issues to deal with over the
17 last year, both technical and policy, and I think we've done it in a very
18 responsible, proper manner with your assistance and as team members.

19 I add my thanks to those -- to Allison Macfarlane for her leadership
20 and collegiality, as she's joined the Commission this past year. It's a real
21 pleasure to work with her, Kristine, George, and Bill.

22 A final note of thanks. For the past three years I've been blessed to
23 have Mike Franovich as my reactor assistant. Mike's in the front row down here.
24 Mike has performed his job admirably, especially during the weeks and months
25 following Fukushima. He never tired of teaching me about the NRC and civilian

1 reactor technology. I am truly grateful, Mike, to have had you as my advisor. I
2 thank you for this dedication the past three years and I wish you well as you take
3 on new challenges in Cathy Haney's organization in NMSS. Thank you, Mike.

4 Last year I started my speech with a sea story. I believe one this
5 year is appropriate in order to communicate a message on situational
6 awareness. Some of you may have heard this. If you have I apologize, but I'm
7 going to go ahead anyway.

8 What follows is a purported transcript of an at-sea radio
9 conversation between a United States Naval ship and Canadian authorities off
10 the coast of Newfoundland in 1995. For any sailors here, feel free to bring out
11 your maneuvering boards, your compass, and your parallel rulers to calculate the
12 closest point of approach or CPA.

13 Here follows the transcript of that radio communication. "United
14 States ship: Please divert your course 15 degrees to the south to avoid a
15 collision. Canadian reply: recommend you divert your course 15 degrees to the
16 south to avoid a collision. United States ship: This is the captain of the United
17 States Navy ship. I say again, divert your course. Canadian reply: No. I say
18 again, you divert your course. United States ship: This is the aircraft carrier USS
19 Coral Sea. We are a large warship, United States Navy. Divert your course
20 now. Canadian reply: This is a lighthouse."

21 [laughter]

22 "Your call, captain."

23 And although this joke or sea story, however you want to look at it,
24 has been around for many years, I think its message is relevant to all of us today.
25 We must all maintain awareness of the situation around us, and we must always

1 be open to correcting our course based on new information. This message will
2 resurface throughout my remarks from addressing the NRC's use of operating
3 experience.

4 During my first RIC, in 2010 -- excuse me, 2011 -- I provided my
5 initial impressions as a new commissioner. Last year I talked about risk
6 communications. This year I wanted to take on a broader and some might
7 suggest more ambitious task. This year I want to give the audience a 50,000
8 look at one commissioner's decision-making post-Fukushima. These are my
9 personal opinions only.

10 This will be a fly-by through some of the topics, but I think it'll give
11 you some insights as to what one person's thinking is, these important decisions
12 that other colleagues have addressed over the past two years. Not since the
13 accident at Three Mile Island in 1979 has NRC been confronted with as many
14 important issues so central to the core of our mission as have arisen in these
15 past two years. While much of the attention has rightfully been on the technical
16 merits of the near-term task force report recommendations -- and I applaud Dr.
17 Charlie Miller and teammates for that effort -- it is just as important that we
18 consider the long-term regulatory impacts of our post-Fukushima actions.

19 Today I want to walk you through my view of our adequate
20 protection framework, how that has shaped my decision-making, and the factors
21 that I take into account when I make decisions as a commissioner here at the
22 NRC. I hope this will demonstrate not only one commissioner's views, but also
23 demonstrate the post-Fukushima votes are not a series of disparate decisions
24 but rather are practical applications of a larger regulatory framework.

25 I will start with the foundation of the NRC's regulatory framework,

1 that of adequate protection. Most of you here today are familiar with our
2 adequate protection mission, so I'll not spend too much on these comments.
3 This is a very brief foundational overview. Adequate protection of public health
4 and safety is the Atomic Energy Act floor below which safety cannot fall. The
5 NRC may, however, institute requirements that go beyond adequate protection if
6 certain requirements and conditions are met. Generally this means a
7 determination that the new requirement would be a substantial increase in the
8 overall protection of the public health and safety or common defense and security
9 that satisfies cost benefit analysis.

10 As George Apostolakis mentioned yesterday, although no court has
11 ever defined adequate protection. Neither has the NRC ever actually defined it in
12 our regulations. However, there are four generally accepted principles that we
13 can look to for guidance; what it means. These principles have been synthesized
14 for over three decades from a number of federal appellate court decisions.
15 Those principles are, first, the NRC's authority under the Atomic Energy Act's
16 adequate protection mandate is extremely broad, and the NRC is afforded
17 significant discretion in determining whether the adequate protection standard
18 has been met. Second, the NRC's authority over adequate protection is bound
19 to matters that have a reasonable nexus to radiological health and safety. Third,
20 the NRC is able to make case-by-case determinations on adequate protection.
21 No set objective criteria are required. The fourth, final, and perhaps most
22 important principle is that adequate protection does not mean zero risk. To put it
23 another way, adequate protection is not and never will be absolute protection.

24 Because of the NRC's broad responsibility on matters of adequate
25 protection, each commissioner's judgment is vitally important. I'll delve a bit

1 deeper into this. First, I strongly believe that we have a duty to use our broad
2 responsibility judiciously, while also respecting the significant trust that Congress
3 and the American public have placed in us to ensure adequate protection.

4 In my post-Fukushima decision-making I found one very simple
5 question to be useful in striking that balance. That question is as follows: What, if
6 anything, is broken? Second, if there is, in fact, something broken, it is essential
7 that the Commission has a clear understanding of the exact nature of the
8 problem to be addressed, as well as any risk associated with not addressing the
9 problem. As a regulator, we must also take a hard look at whether concerns are
10 based on realistic assumptions as well as real-world safety, security, and legal
11 practices. The Commission should never consider these issues in a vacuum.

12 Drawing upon my career in Admiral Rickover's nuclear Navy, I
13 recognized the importance and value of operating experience. As a young
14 submarine officer on USS George Bancroft, and fleet ballistic missile submarine
15 SS BN 643 in the 1970s, I saw firsthand the strong emphasis placed on learning
16 from incidents in the nuclear propulsion plant. If we had a problem we followed it
17 with a watch section critique of the precise events with the engineer, officer,
18 executive officer, and commanding officer. We identified corrective actions, and
19 then later submitted a formal incident report to Admiral Rickover at Naval
20 Reactors.

21 These actions taken by the ship or submarine may have included,
22 where appropriate, such steps as retraining or re-qualifying watch standards,
23 updating procedures, or making material modifications. I see those very same
24 principles from my Naval Reactors experience, learning from operating
25 experience, nuclear reactors, alive and well at the NRC in our decision-making.

1 Because of this experience, when I visit nuclear power plants and
2 other NRC licensees, I always seek to understand and, if possible, view the
3 actual impacts of proposed or existing regulations. Since maintaining situational
4 awareness is a key to my decision-making, I try to answer questions such as,
5 how will this be implemented? What will be the impact of the new regulation?
6 How will this affect other processes? Are there any unintended safety
7 consequences?

8 Third, our work does not end once the NRC has determined there
9 is a problem. In fact, this is when the hard work truly begins. We must evaluate
10 all the information gathered in a structured manner within our regulatory
11 framework. That framework has a built-in check and balance. The regulatory
12 combination of adequate protection determinations and cost-benefit analyses
13 that ensures our regulations are neither too lax nor excessively burdensome. I
14 firmly believe that if the NRC has determined that adequate protection has
15 already been achieved, we have a duty as a reliable and consistent regulator to
16 ensure that we make this perfectly clear to our licensees and stakeholders.
17 Thus, we must ensure that we have effectively evaluated questions of adequate
18 protection at the outset. By adhering to our adequate protection standard, NRC
19 is able to maintain its position as a predictable and stable regulator. It serves no
20 interest, not ours, the NRC, not the regulated industry, and not the American
21 public's to have regulatory uncertainty. Of course, to be clear, this does not
22 mean that we should not consider new information or new insights. To the
23 contrary, the NRC must remain vigilant, ensuring that adequate protection is
24 being achieved. A stable regulatory structure does not mean a static regulatory
25 structure. Operating experience and new information can and should lead to

1 appropriate changes. I consider our ability as an agency to be self-critical and
2 learned lessons to be significant strengths of our regulatory framework. The
3 NRC must, however, ensure that additional requirements are imposed only after
4 clearing the corporate regulatory bar, and do not simply result in determining that
5 we can do better.

6 In this agency's response to Fukushima, I've witnessed a staff and
7 Commission dedicated to undertaking thorough and thoughtful assessments in
8 adequate protection matters. To highlight this, I want to discuss the foundation
9 for my views of the near-term task force report, as well as my decisions on
10 certain recommendations. I know that everybody in this room is familiar with the
11 sequence of events of Fukushima. We appreciated Commissioner Magwood's
12 slides this morning to remind us. I'm going to skip straight to five factors that
13 anchored my views on post-Fukushima actions. First, the task force concluded
14 that a sequence of events like the Fukushima accident is unlikely to occur in the
15 United States, and the continued operation and continued licensing activities do
16 not pose an imminent risk to public health and safety. Second, the task force
17 further concluded that although complex, the current regulatory approach has
18 served the Commission and the public well. Third, in October 2010, the IAEA's
19 Integrated Regulatory Review Service mission to the U.S. found that the NRC
20 has a comprehensive and consistent regulatory system that has been developed
21 in a determined manner, and that the NRC has a strong drive for continuous
22 improvement. Forth, a good friend and colleague, Commissioner Apostolakis
23 has made the following observation, which I fully endorse: The accident in
24 Fukushima was not of extremely low probability, is not unthinkable, or
25 unforeseen. Fifth and finally, the Fukushima tragedy occurred in another country

1 with a regulatory structure that was quite different from ours at the NRC. After
2 reading the near-term task force report, I formed my own opinion about which
3 recommendations should be given high priority status for short-term regulatory
4 action. But it is essential for the NRC to have an integrated prioritized approach
5 to those recommendations that was based on input from the NRC staff as a
6 whole. The failure to have such an approach was a key lesson learned from the
7 NRC's response to the events of Three Mile Island, and was stated as a key
8 concern by the executive director for operations at our first meeting on
9 Fukushima in March 2011.

10 In my personal opinion, not all of the 12 task force
11 recommendations with 35 subparts are equal. For me there are safety
12 enhancements or urgency perspectives. Every post-Fukushima action cannot be
13 the most important. Therefore, it's imperative for the NRC to focus on the most
14 safety-significant actions first. Much of that focus and attention went to the first
15 three orders the NRC issued a year ago, in March of 2012. Those orders require
16 the installation of reliable, hard, and containment vents for Mark I and Mark II
17 BWRs, development of strategies to mitigate beyond-design basis natural
18 phenomenon, which addresses both multi-unit events and reasonable protection
19 of equipment identified under such strategies, and installation of enhanced spent
20 fuel pool instrumentation.

21 The proposal before the Commission was to issue the orders based
22 upon a redefinition of the level of protection regarded as adequate under our
23 backfit rule. This would have, in essence, raised the bar for adequate protection,
24 which is quite a weighty decision for the Commission to make. In my opinion,
25 decisions on adequate protection are among the most significant policy decisions

1 entrusted to this Commission. I believe that the decision-making process for
2 these orders demonstrated just how seriously the Commission took its
3 responsibilities. While I agree with the staff that the requirements and the
4 hardened vents, and the mitigation strategies orders were matters of adequate
5 protection to public health and safety, I personally do not believe that the NRC
6 was defining or redefining adequate protection. In my opinion, the NRC was
7 responding to operating experience from Fukushima by supplementing existing
8 requirements in codifying current regulatory expectations. To me, these orders
9 were about ensuring rather than redefining adequate protection.

10 The spent fuel pool instrumentation order, however, it was a
11 different story. I do not believe this is a matter of adequate protection. While the
12 experience of Fukushima demonstrated that reliable and available
13 instrumentation is important for plant personnel to effectively prioritize emergency
14 actions, operating experience from Fukushima did not show that the absence of
15 such instrumentation resulted in radiological consequences. But I've known for
16 many years at sea in submarines that the lack of reliable instrumentation can
17 cause operator confusion. It can be a significant distraction that may adversely
18 impact safe operations. Given the significant radiological inventory in a typical
19 spent fuel pool, I believe it is important for spent fuel pools to have reliable
20 instrumentation. As I cannot conclude that this modification is necessary for
21 adequate protection, in this unique circumstance I determined that an
22 administrative exemption to the backfit rule is appropriate. In my opinion, one
23 point should be evident from this discussion so far. Our regulatory standard has
24 not changed since Fukushima. The NRC still regulates based upon reasonable
25 assurance of adequate protection to public health and safety, and my personal

1 belief is that the Commission's existing framework is robust and flexible enough
2 to disposition post-Fukushima actions.

3 The Commission is still finalizing its direction on the agency's
4 approach to addressing the offsite economic consequences associated with the
5 unintended release of licensed nuclear material of the environment; whereas I'll
6 shorten to economic consequences. Economic consequences is not a matter of
7 adequate protection under the Atomic Energy Act, but this does not mean the
8 NRC does not take these issues into account. The NRC's longstanding
9 regulatory philosophy provides regulatory actions that are protective of public
10 health and safety, also afford protection to the environment. As it specifically
11 relates here, the NRC's reliance in prevention and mitigation of severe accidents
12 provides ancillary protection to offsite property, thus minimizing economic
13 consequences. From -- both the near-term task force and NRC staff
14 independently took second looks at our consideration of economic consequences
15 in our regulatory structure. Both bodies determined that our current regulatory
16 framework is sound and affords sufficient flexibility. Further, the NRC's defense-
17 in-depth philosophy and risk considerations for adequate protection of public
18 health and safety already provide substantial additional protection of offsite
19 property. While I will not discuss the substance of my vote today on economic
20 consequences, I can say that I always strive to be consistent with our principle of
21 good regulations, especially that on reliability. Once established,
22 recommendations should be perceived to be reliable and not unjustifiably in a
23 state of transition.

24 Another issue related to offsite consequences is that of reducing
25 offsite radiological releases. As many of you are aware and as Commissioner

1 Magwood alluded to earlier this morning, the Commission is currently considering
2 a staff recommendation to require installation of an engineer filtered containment
3 venting system of BWR's Mark I and Mark II containments. The Commission has
4 not finalized its deliberations to this matter, so I will not discuss my vote or where
5 I think the Commission will come out; but I will make some other comments. I
6 will mention that I was struck by the almost universal consensus that existed
7 amongst our diverse stakeholders in this matter, who may have received a great
8 deal of correspondence. As Mike Johnson, our deputy director for operations
9 and chairman of the Japan Lessons Learned Steering Committee observed at
10 the Commission's January 9th meeting on this topic, he said, quote, "There were
11 no stakeholders who argued with the status quo," unquote. Public interest
12 groups, the individual members of the public, NEI, utilities, Congress, the ACRS,
13 all believed that there needed to be some type of filtering strategy to enhance
14 defense in depth to these types of containments. Although I won't be telling you
15 my views today, because that would compromise the voting process, I will
16 comment that in weighing this issue we have spent a lot of time and made a lot of
17 field trips, been to Sweden to look at Oskarshamn, the external filter system;
18 went to Nine Mile Point to look at their approach for Mark I BWR containment. I
19 spent a lot of time looking at the impacts and consequences of the different
20 decision-making options for the Commission. I've tried to determine whether this
21 is a matter of adequate protection, and if not, whether there is a substantial
22 safety benefit to be gained. I've also considered that if there is a substantial
23 safety benefit, how could a proposal be implemented? The exact path forward is
24 not clear cut, or at least we can't talk about it at this stage, but I can assure you
25 that the staff and Commission have given this matter careful, thoughtful attention;

1 and I'm very proud to be part of that decision making process.

2 One near-term task force recommendation will not be resolved for
3 quite some time. It is also the one recommendation that had the most wide
4 ranging impact possibly on our regulatory structure. That is recommendation
5 one. It states that, "The task force recommends establishing a logical,
6 systematic, and coherent regulatory framework for adequate protection that
7 appropriately balances defense in depth and risk considerations." One word
8 used only three times throughout the task force report seems to have garnered
9 much of the attention. That is the word "patchwork." My personal opinion is that
10 the NRC's regulatory framework is not broken, and calling it a patchwork unfairly
11 paints it in a negative light. As I have stated in my first vote with the near-term
12 task force report, the use of the word "patchwork" diminishes the dynamic
13 evolving nature of NRC's regulatory framework. The NRC is a continuously
14 learning organization, which should be viewed by all of us as a real strength.
15 With the benefit of hindsight, one can usually suggest better ways to approach
16 past issues. But I am not a critic of actions this agency took in response to Three
17 Mile Island or September 11th of 2001. While the previous NRC staffs and
18 commissions used their best judgment to appropriately address the problems
19 they faced, those judgments have generally stood the test of time. As I said then
20 and continue to believe now, while the NRC's regulatory approach may not have
21 the coherence of a framework that might be developed with the luxury of being
22 done in a closed room at one static point in time, it does not mean that the
23 framework is not effective. The Commission has not yet received the staff's
24 analysis and options for addressing recommendation one. That will be in the
25 future months ahead. I don't know how it will come out on this, but we as

1 commissioners have been periodically briefed on this important body of work by
2 our staffs. The briefings I've had I've consistently asked the same question:
3 What is the problem we are trying to solve? To be clear, I am open to enhancing
4 our regulatory framework if warranted, but everything that I've seen during my
5 time as a commissioner has suggested that our current regulatory process has
6 served us well. One very apt example stands out on that very point. It appears
7 that our current regulatory framework is robust and flexible enough to facilitate
8 the Commission's decisions on all Fukushima Tier 1, 2, and 3 actions under that
9 same regulatory framework. And in my personal opinion, this has been
10 accomplished logically, efficiently, and effectively.

11 In conclusion, this agency must remain ever vigilant in ensuring that
12 a fog at Fukushima does not result in loose interpretations of our adequate
13 protection mandate. At the same time, operating experience at Fukushima can
14 and should be taken into account in updating regulatory requirements where
15 appropriate. But I personally have not seen as a commissioner any evidence
16 that suggests our current regulatory structure is broken or that there is any need
17 to divert from the stable and predictable way that the NRC evaluates issues. We
18 should and must adhere to our well proven approach to regulation. If we do not,
19 regulations will only be as predictable as the five individuals carrying the title of
20 commissioner. With that I will close. Thank you for your attention.

21 [applause]

22 BRIAN SHERON: Yeah, well thank you. We have a number of
23 questions. The first one is regarding the 5 percent sequestration cut, our
24 understanding is the federal government is taking a 2 percent cut across the
25 board. Is NRC getting singled out for a higher cut than other agencies? Since

1 licensees pay the agency costs, can we expect to see a 5 percent reduction in
2 our fees this year?

3 [laughter]

4 COMMISSIONER OSTENDORFF: I see Jim Dyer down here
5 nodding his head. I don't want to commit Jim to this. I'll just comment that that's
6 really an issue for the chief financial officer. I want to tell you, I think Bill
7 Borchardt and Jim Dyer have done a remarkable job in managing this approach
8 to how the agency is going to deal with sequestration. When I was principal
9 deputy to NNSA, I ran the \$9 billion budget process we had for each year. These
10 are hard issues. I think this has been managed good and responsibly by our
11 staff.

12 BRIAN SHERON: The next one -- the media and political pressure
13 on the NRC to do something in response to Fukushima seems unabated. How
14 are you and NRC educating the media and the policy makers about adequate
15 protection and cost benefit versus demands for the highest level of safety or zero
16 risk?

17 COMMISSIONER OSTENDORFF: Well, that's a very thoughtful
18 question. I think, to everybody in this room, how life's a challenge, and how does
19 one talk about these issues, and how does one talk about, from the NRC
20 perspective, what are we doing to require corporate regulations? I know that all
21 the commissioners in the front row, and myself included, are committed to doing
22 everything we can to members of Congress, with the chairman's help through the
23 Office of Public Affairs, to communicate what we're doing. I think we're doing a
24 very responsible job in taking those areas that are the highest safety urgency and
25 working on them. I think last year the orders that came up, when one looks at --

1 let's take the mitigating strategies order. That order by itself, hard work by Mike
2 Johnson, Eric Leeds, other members of the steering committee working with
3 industry has expanded significantly in what's being done in the context of station
4 blackout and equipment protection opportunities. The challenge is how to
5 communicate these issues to members of the public who may not at times
6 appreciate the complexity of the science and engineering. I think the point is well
7 taken. We need to continue to work in this area, I know we will.

8 BRIAN SHERON: Okay. This actually says it's from a younger
9 member of the audience. When compared with a new plant build site -- with the
10 new plant build cycle of the 1970s, 1980s, what is the relevant change in a
11 regulatory cost associated with new plants/operations today? Has it increased or
12 decreased?

13 COMMISSIONER OSTENDORFF: I can't provide a specific
14 number. I know that there's probably people in Glenn Tracy's [spelled
15 phonetically] organization who could perhaps look at this. I don't see that there's
16 any radically different approach being used by the NRC today, to looking at
17 oversight of construction compared to what was used decades ago. I think the
18 basic concepts of construction inspection, quality assurance, the ITAAC process
19 were all philosophically consistent with what we've done in the past; and so I'm
20 not sure there's any significant change in regulatory footprint there.

21 BRIAN SHERON: Okay. Time passes and people change. How
22 can the legacy of Admiral Rickover be maintained when firsthand knowledge is
23 no more? I want to comment just on one part of this, and I appreciate
24 Commissioner Svinicki's comments yesterday on Admiral Rickover; I thought
25 those were very apt. One thing that really struck home with me back in the 1970s

1 and then when I went on to be engineer and commanding officer of submarines,
2 and went through a whole bunch of different training cycles in our program, and
3 that is the expectations of continued high standards of technical competence.
4 And I believe that there's no substitute for strong science engineering
5 competence in what we do, whether it be from the regulator standpoint or on the
6 industry side. If one looks at the different challenges to the existing nuclear
7 power plants, if one looks at what's going on with new construction, I'm very
8 pleased to see that -- I believe those principles are being adhered to by all
9 parties, industry, vendors, regulator, but I think one can never take that for
10 granted, and one should never apologize for having high standards for technical
11 competence. That's the one thing I'd offer.

12 BRIAN SHERON: Okay, thank you. How do you see adherence to
13 the backfit rule in individual cases as affecting the agency's ability to address key
14 mode of effects of regulation?

15 COMMISSIONER OSTENDORFF: I'm going to comment on that in
16 two ways. One, I think that as commissioners yesterday -- I know the chairman
17 talked about this and I think Commissioners Svinicki and Apostolakis did as well.
18 I believe that we are all mindful and cognizant of the importance of understanding
19 what can be executed in a given time period. I know back in 1985 when I was
20 engineering an old attack submarine, I had my 3 by 5 card before a six-month
21 deployment in the Mediterranean, and I had five or six things we had to get done
22 the next two weeks before we left for six months to the Mediterranean. And I
23 thought, my gosh, how can we get this done? How are we going to fix these
24 repairs? There are 12 refrigeration plants. They're all in 14 -- lithium bromide air
25 conditioning plant, et cetera, et cetera; and some of you have had some

1 experience with those pieces of equipment. And I think everybody, whether it be
2 the Commission or our staffs, are fully aware -- because we have good
3 engagement with industry on what's required to make these changes happen.
4 And so going back to -- I think Bill Borchardt yesterday, his comments talked
5 about independence not being isolation, and other commissioners commented
6 on that. I think the two-way dialogues is important for us to understand what
7 would be required to implement the following four rules over the next five years.
8 And I think we're doing that. We can improve in that area. There's an effort the
9 Commission has directed our staff to work on, to start out in the rule making area
10 here, but I think we're on the right path.

11 BRIAN SHERON: The NTF report came out in July of 2011,
12 shortly after the accident. The more detailed Government of Japan report came
13 out later and contained better information. Has the NRC conducted a gap
14 analysis between NRC rules and the NTF report, and the Japanese -- I'm sorry,
15 and the Japanese Government report to better understand if their Tier 2 and Tier
16 3 recommendations are warranted?

17 COMMISSIONER OSTENDORFF: I'll comment that it is my strong
18 belief and factual understanding from talking to Bill Borchardt, Mike Johnson,
19 Dave Skeen, Eric Leeds, and others, that as the steering committee has
20 progressed with its body of work, that's not being done in a vacuum. It's being
21 done with cognizance of what were the appropriate lessons to be learned
22 factually from Fukushima, what particular regulations were in place at that event.
23 Station blackout is a good example. Seismic hazards, another good example.
24 So, I think our steering committee has been moving forward, perhaps not with a
25 formal, "this is a PhD dissertation level document that talks about the differences

1 between our regulatory requirements,” but substantively I fully believe that our
2 body of steering committee folks has looked at this in a very substantial,
3 thoughtful way.

4 BRIAN SHERON: After the Fukushima accident, nuclear plants in
5 Japan were not returned online. Why are U.S. plants continuing to operate?
6 Where is this confidence coming from?

7 COMMISSIONER OSTENDORFF: Well, I’ll tell you that the
8 Commission, right after Fukushima made a very conscious decision based on
9 recommendations by a lot of people here in the front row, that we have
10 confidence in the safe operation of our nuclear power plants in March 2011. We
11 have confidence today in March 2013 that we did not need to shut any plants
12 down as a result of Fukushima, but where appropriate we learned the lessons
13 and make enhancements where they made sense, and that’s what we’ve done.
14 I’m very comfortable with those decisions we’ve made as a body.

15 BRIAN SHERON: Let’s see, the next one is please provide your
16 perspective on the balance of adequate protection and regulatory burden, and
17 the recently issued staff requirements memorandum on the cumulative effects of
18 regulation, with the current economic environment analogous to the light house.

19 [laughter]

20 COMMISSIONER OSTENDORFF: Somebody’s listening. Well, as
21 Commissioner Magwood said this morning, a lot of this is really the economics of
22 power plant operations or matters for the market to deal with; and that’s not our
23 responsibility as a regulator. It doesn’t mean we don’t maintain some
24 awareness. Of course we do. We watch what’s going on. We read the Wall
25 Street Journal, New York Times. We have a fairly good understanding of the five

1 of us as a Commission on what's happening across the country. I think, going
2 back to my prior response, I think we're all very comfortable with the directions
3 the commission has provided on CER, cumulative effects of regulation, to our
4 staff look at how to improve the rule making process, to issue guidance
5 concurrent with the rules, and where appropriate, to have more extensive
6 dialogue and engagement with the stakeholders. And I think those steps are
7 very important ones, and I think we're moving forward in the right direction.

8 BRIAN SHERON: What lessons learned from your naval career
9 could you suggest to help define "prompt" as denoted by the Blue Ribbon
10 Commission? Have you witnessed any prompt activities related to the back end
11 of the fuel cycle?

12 [laughter]

13 COMMISSIONER OSTENDORFF: I'm looking down here at my
14 good friend Pete Lyons, and I see if Pete wants to take a stab at that one.
15 [laughs] Memories of RICs past, right? I'm not sure quite frankly that there's a
16 problem in the context of a decision on the geologic repository or interim storage.
17 I'm not sure I understand the context.

18 BRIAN SHERON: The question didn't really explain what the
19 context is.

20 COMMISSIONER OSTENDORFF: Yeah, I'm not trying to duck the
21 question. I'm not sure that the "prompt" is one that, without a context, I can
22 address that. I will just tell you that I think the two comments I'll make in this
23 area, our staff's working very hard moving forward, as the chairman mentioned
24 yesterday, on the waste confidence rule update. That's a very important part for
25 our agency, and I think the second point I'd make is that we're standing by to

1 take any action appropriate based on administration, congressional approval of
2 Blue Ribbon Commission recommendations. I'll leave it at that.

3 BRIAN SHERON: Okay. All right, I think we have time for one
4 more question. You emphasize the importance of passing certain regulatory
5 hurdles before imposing requirements not necessary for adequate protection.
6 How do you reconcile this position with the commission's decision to impost post
7 Fukushima requirements that were -- and this is in quotes, "administratively
8 exempted from the backfit rule"?

9 COMMISSIONER OSTENDORFF: Well, I talked in my remarks --
10 I'm assuming the one that you're referring to is the spent fuel pool
11 instrumentation. If I miss that I apologize to whoever posed the question. I think
12 we made a very proper decision. Most of us voted in February 2012 on the use
13 of the administrative exemption for spent fuel. We thought it'd make those spent
14 fuel pool instrumentation -- we thought it needed to be done. Not doing so was
15 not a matter of adequate protection. It's not going to cause core damage, but is
16 an operator distraction. Made since then, I think it makes sense now.

17 BRIAN SHERON: Okay. I think we're just about out of time, so I'd like
18 to thank the commissioner.

19 [applause]

20 COMMISSIONER OSTENDORFF: Thank you.

21 BRIAN SHERON: Okay, I think right now we're scheduled for a 30
22 minute break, and then reconvene here at 10:30.

23 [Whereupon, the proceedings were concluded]