

Court Overrules Government's Lax Radiation Standards for Nuclear Waste at Yucca Dump

On July 9, the U.S. Court of Appeals for the D.C. Circuit ruled that the U.S. Environmental Protection Agency (EPA) illegally set its radiation release standards for groundwater for the proposed high-level radioactive waste dump at Yucca Mountain, Nevada. This ruling marks a major victory for citizens of Nevada, for the environment, and for science over politics.

The EPA set 10,000 years as the period during which radiation in the groundwater cannot exceed drinking water standards at the site's boundary, but this time frame would not protect the health of future generations. The Energy Policy Act requires that the EPA determine public health and safety standards for Yucca Mountain "based upon and consistent with" the National Academy of Sciences' recommendations. The Academy's recommendation is that the compliance period should extend through the time of the peak risk for radiation doses from the dump, which studies show are likely to occur in 300,000 years or more.

Now, the U.S. Department of Energy (DOE) must show that it can prevent groundwater contamination above drinking water standards at the compliance boundary for 300,000 years – a standard that the DOE's own analysis shows the Yucca Mountain site cannot meet. To read the court's decision, go to <http://pacer.cadc.uscourts.gov/docs/common/opinions/200407/01-1258a.pdf>.

In other Yucca news... in a July 28 letter to DOE, the Nuclear Waste Technical Review Board (NWTRB)

DID YOU KNOW...?

The Power of the Public Utility Holding Company Act

One of the abuses that led to the Public Utility Holding Company Act in 1935 was the repeated buying and selling of the same utility assets, raising the price each time. This, in turn, raised utility rates in order to cover utility costs. In 1992, Congress exempted many electric generating plants from PUHCA, and FERC has allowed them to charge "market" rates. Investment firms are now buying up power plants and reselling them at huge profits. Goldman Sachs is said to have paid \$370 million for the Orion plants, reselling them only three years later to Reliant Energy for \$4.6 billion. Goldman made a reported one billion dollar profit. Who will ultimately pay for the billions in debt piled on these plants? Electricity consumers, of course. So much for the "efficiency" of the marketplace as a "regulator" of electric rates!

announced that DOE has convinced the Board that calcium chloride, which would corrode the metal waste packages containing the irradiated fuel, would not be present in the tunnels built in Yucca Mountain. But corrosion by calcium chloride is one of only several means that could cause deterioration of the waste packages. Many other issues related to the site, including hydrology and seismic hazards, also remain unanswered. According to the Board, "The extent to which the DOE has characterized accurately the likely waste package environments (i.e., temperature,

relative humidity, and chemical species present) is unclear at this point."

Government Affirms Role of Citizens' Groups in Licensing Hearing of Nuclear Plant

On July 19, a federal judicial board affirmed the participatory role of Public Citizen and the Nuclear Information and Resource Service (NIRS) in the upcoming licensing hearing for a proposed nuclear fuel plant in southeastern New Mexico. The board accepted all but one of the groups' complaints (called "contentions") about the application of Louisiana Energy Services (LES), the multinational company seeking to build a uranium enrichment facility near Eunice, N.M. The plant would process uranium fuel for sale to operators of commercial nuclear power reactors.

The ruling came from the Atomic Safety and Licensing Board (ASLB) appointed by the NRC. Now, the citizens' groups will be able to formally participate in the

licensing hearing by presenting their disputes regarding such issues as the need for the proposed plant, its possible impact on local water resources, LES's uranium waste storage and disposal plan, and the company's financial plan for dealing with hazardous radioactive material. To read the ASLB's ruling, please go to: <http://www.citizen.org/documents/LESContentions.pdf>.

Public Citizen Urges Maryland to Strengthen Licensing Process for Power Providers

On July 28, Public Citizen sent a letter to Maryland's Public Service Commission (PSC) urging the agency to

QUICK QUOTE:

“If this country is going to have a new nuclear power plant, the federal government is going to have to subsidize it.”

- Sen. Jim Bunning (R-Kentucky), at a congressional hearing on nuclear power on July 13.

strengthen its licensing and approval process to better protect consumers from energy companies with questionable ethical practices. Case in point: Reliant Energy—whose subsidiary recently won \$88.5 million in contracts to provide electricity to Maryland state and local government facilities—may not have fully disclosed the long list of federal and state investigations into affiliates of the company for energy market manipulation.

The PSC regulates public utilities doing business in Maryland, including electric, telephone, water and sewage disposal companies. On May 21, 2003, the PSC granted a license to Reliant Energy Solutions East, LLC to sell power in the state. But less than a year after approving the license, an affiliate of the company that it relies on to provide power, Reliant Energy Services, Inc., was indicted for alleged manipulation of electricity markets in the California energy crisis of 2000-2001. To read more about Reliant Energy, please go to www.citizen.org/cmep/reliantenergy.

Public Citizen Challenges FERC's Authority to Let the "Market" Set Rates

On July 16, Public Citizen filed a

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court appeal challenging the legal authority of the Federal Energy Regulatory Commission (FERC) to allow utilities, in the guise of “the market,” to set electricity rates under the Federal Power Act. The filing was made jointly with the Attorneys General of Colorado, New Mexico and Rhode Island, a Utah consumers group, a representative of low income utility users in New York and the National Consumer Law Center.

The petition states that FERC is not only failing to satisfy the goal of the Federal Power Act—to protect consumers by requiring that all rates charged for wholesale electricity must be “just and reasonable”—but is also failing to satisfy the means by which Congress has directed FERC to meet that goal. The statute requires rates to be filed in advance for FERC review, with notice to the public, and that FERC can suspend rate changes and make their collection subject to refund, with interest, if it cannot determine within 60 days that the filed rates are just and reasonable.

Instead, FERC has gradually developed an experimental scheme of rate deregulation, inconsistent with the statute, which allows sellers of electricity to simply file a statement that the rates will be set by “agreement” with buyers. As long as such sellers are not caught deliberately manipulating bidding auctions (as in the case of the infamous Enron trader tapes) or in outright fraud in making contracts, whatever they agree upon is simply accepted by FERC. FERC-accepted wholesale rates are required by federal law to be passed through by state utility commissions to retail consumers, since the statute assumes that FERC will have ensured that all such rates are lawful.

Public Citizen and the other consumer advocates argue that FERC's abdication of its rate-setting responsibilities to “the market” is contrary to its authorizing statute and must be reversed by the court.

Our Two Cents: Revisiting the Blackout

Aug. 14 will mark the one year anniversary of the power blackout that affected much of the northeast and midwest U.S. Despite the billion dollar hit to the economy from the extended outage, the Bush administration and Congress have failed to implement the reforms necessary to prevent another blackout. Electricity deregulation is the primary culprit that has weakened reliability. The U.S. transmission system was designed to accommodate local electricity markets, not deregulation's large, freewheeling trading of electricity that moves power over long distances.

Short of ending America's failed deregulation experiment, Congress can pass mandatory electric reliability standards, forcing power companies to comply with enforceable reliability rules. Two congressional bills, one co-sponsored by Rep. John Dingell and the other by Sen. Maria Cantwell, are an effective first step in holding energy companies accountable and improving our nation's electric reliability. While these two bills lift language included in the still-stalled energy bill, the Bush Administration and leaders in Congress are refusing to separate this needed reliability language from the rest of the huge energy bill. That's because energy industry lobbyists don't want the sole, useful part of the energy bill to be separated from the rest of the 1,000 pages designating billions of dollars in pork to energy corporations.

Corporate Corner

\$3.2 million: What Bush received from the oil, gas, power, nuclear and mining industries in the 2004 campaign.

\$0.2 million: What Kerry received from the same industries in the 2004 campaign.