

Virginia's Energy Future Debated

On Oct. 2, about 70 activists from around Virginia gathered at the University of Virginia in Charlottesville to discuss the future of energy policy in their state, an event organized by the People's Alliance for Clean Energy (PACE). The impetus for the conference was Dominion's steps toward construction of two new reactors at their North Anna plant in Louisa, on the shores of Lake Anna. Conference attendees felt both Dominion and Virginia can do better.

Paul Gunter, director of the Reactor Watchdog Project for the Nuclear Information and Resource Service, opened the day with an overview of nuclear issues in Virginia, past, present, and future. This was followed by a series of workshops ranging from Health and Nuclear Power, to Reactor Safety and Security, to Renewable Energy on College Campuses and legislation in Virginia, and a discussion of some of the immediate environmental impacts new reactors would have on Lake Anna and downstream. The event was keynoted by Brice Smith, of the Institute for Energy and Environmental Research, who made a tight case against nuclear power and likewise one for a rapid transition to renewable sources of energy.

Momentum in Virginia is building, and there is a particular interest in passing a truly clean Renewable Energy Portfolio bill in Virginia, which would require a certain percentage of the commonwealth's energy be generated by renewable sources by a target date. To

DID YOU KNOW...?

The Power of the Public Utility Holding Company Act

Are Texas and Ohio in the same region of the U.S.? This is a question before the SEC on remand from the Court of Appeals requiring the SEC to explain its approval of the gigantic utility holding company merger of American Electric Power (AEP) and Central & Southwest (CSW) under PUHCA, which is designed to break up huge holding companies. The court said:

"The [SEC] may have some legitimate basis for concluding that AEP's service territories in Indiana, Kentucky, Michigan, Ohio, Tennessee, Virginia, and West Virginia fall in the same "region" as CSW's service territories in Arkansas, Louisiana, Oklahoma, and Texas, but we cannot find it in the record before us."

The court decision included a map of the two systems, perhaps to help clarify the SEC's geography.

get involved, email bhoffman@citizen.org or visit www.northanna.org.

Congress Lax on Nuclear Security Legislation

Three years after September 11th, Congress has not enacted any legislation to reduce the terrorist threat at nuclear power plants. Yet, these plants have known vulnerabilities and the recent 9/11 Commission Report stated that al Qaeda specifically discussed targeting U.S. nuclear plants. The Senate may finally have a floor vote this week on S.1043, the Nuclear Infrastructure Security Act of 2003. Although the bill was unanimously approved by the Senate Environment and Public Works Committee in May 2003, it has not yet been brought to the floor for a vote.

S. 1043 would be a step in the right direction for improving security at nuclear power plants. It requires the NRC to conduct rulemaking to upgrade security requirements for nuclear facilities and requirements for emergency response; establishes a training program for National Guard and State and local law enforcement agencies; establishes regional security coordinators for nuclear facilities; and requires enhanced systems to manage the security of sensitive radioactive materials.

Take Action! CONTACT your senators via the Capitol Switchboard at (202) 224-3121. URGE them to support the Nuclear Infrastructure Security Act (S.1043) as a step in the right direction. TELL them that further delay on security at nuclear power plants is unacceptable; the Senate should act on this matter before the 108th Congress adjourns.

Court Case Forces NRC to Conduct Public Rulemaking

The public's right to comment on security regulations at nuclear power plants has been restored as the result of a lawsuit filed by Public Citizen and the California environmental group San Luis Obispo Mothers for Peace.

The groups earlier this year sued the NRC, accusing the agency of violating federal law on rulemaking procedures when it issued new rules in 2003 on the "design basis threat" (DBT) – the terrorist attack scenario that nuclear plants are required to be able to guard against – without first notifying the public and allowing an opportunity for public comment.

The U.S. Court of Appeals for the D.C. Circuit has now issued an order that effectively tells the agency to provide the rulemaking proceeding sought

Read our new Dominion corporate profile:

<http://www.citizen.org/documents/DominionCorpProfile04.pdf>

QUICK QUOTE:

"I knew coming into this job that we'd have to do some cleanup here. And if a spiteful court opinion is part of that mix, then, you know, I'm a big boy."

- FERC chairman Pat Wood, responding to a federal court's decision to overturn FERC's ruling on how much of a refund should be granted to California consumers due to market manipulation (*Energy Daily*, September 20, 2004).

in the lawsuit. Technically, the order holds the case "in abeyance" to give the agency an opportunity to make good on its assurance to the court that it now intends to conduct a proper rule-making. If the agency fails to live up to that commitment, the lawsuit would be revived.

Yet to be determined is whether the agency's rulemaking will provide a meaningful opportunity for public comment, given the NRC's penchant for secrecy regarding security matters, and whether the comments received by the agency are taken into account in re-crafting the rule.

Groups Charge NRC (Again) with Illegally Eliminating Public Participation

New rules issued by the NRC violate the public interest and should be overturned, Public Citizen and the Nuclear Information and Resource Service (NIRS) told the 1st U.S. Circuit Court of Appeals in Boston on Sept. 13. The two public interest groups charged that the new rules are illegal because they do not require an on-the-record, public hearing during reactor licensing proceedings, as called for by federal law.

Early this year, the NRC modified agency regulations, under 10 C.F.R. Part 2, with the stated goal of injecting added certainty and efficiency into the licensing process. But Public Citizen and NIRS say the new "Part 2" regulations,

as they are commonly called, violate the Atomic Energy Act by eliminating the right to an on-the-record hearing in most agency adjudicatory proceedings. The new rules also require intervenors to submit legal arguments simultaneously with their petitions if they want to challenge the licensing proceedings, giving them a mere 60 days from the NRC's initial notice of hearing to pore through thousands of pages of a license application and craft arguments.

Other intervenors in this case include Citizens Awareness Network and the National Whistleblowers Center. Attorneys general from Massachusetts, New York, California, New Hampshire, Wisconsin and Connecticut filed amicus briefs in support of the lawsuits.

Recent Mergers Causing High Gas Prices

As oil prices hover around \$50/barrel, blame is being pinned on political unrest in oil-exporting nations and on hurricanes, implying that much of the price increase is beyond the reach of U.S. policymakers. Such an assumption is false. As the "Saudi Arabia of consumption" (by virtue of the United States consuming 25% of the world's daily oil production), the U.S. sets world oil prices. Uncompetitive downstream domestic oil & gas markets, under-regulated activities of energy trading speculators, and the refusal of the White House and Congress to send clear signals to the market that the U.S. is serious about curbing demand are significantly responsible for rising prices.

Public Citizen has documented how recent mergers that created ExxonMobil, ChevronTexaco and ConocoPhillips have resulted in uncompetitive markets, leading to easier price gouging. We showed how under-regulated energy trading markets, like those exploited by Enron, allow Wall Street investment banks and hedge funds to engage in oil speculation, giving them fat profits at the expense of higher prices

for consumers. And the failure of the Bush administration and congressional leadership to reduce oil demand by improving fuel economy standards leave us with a lower fuel economy standard today (20.8 miles per gallon) than in 1987 (22.1 mpg).

Apparently the \$75 million in contributions from the oil industry to federal politicians since 2000 - with four-fifths of that going to Republicans - has bought the industry the immunity from stronger regulation.

Ninth Circuit Reverses FERC on Refunds

A recent decision by the U.S. Court of Appeals for the Ninth Circuit reversed a decision of the Federal Energy Regulatory Commission (FERC) finding that it could not order certain refunds to California consumers because of limitations imposed by the Federal Power Act. The Court correctly pointed out that FERC could not interpret that act to permit a market-rate deregulation program that read consumer protections such as refunds out of the statute. Instead, the Court found that FERC's refund authority was implicit in its authority to permit market-rates to begin with.

This decision adds judicial support to an even broader statutory objection pending in the D.C. Circuit Court of Appeals filed by Public Citizen, the Colorado Office of Consumer Counsel, the Attorneys General of New Mexico and Rhode Island, the Utah Committee of Consumer Services, the Public Utility Law Project of New York, and the National Consumer Law Center.

Corporate Corner

\$2.8 billion: What a federal court ruled must be paid by energy companies in additional refunds to California consumers due to market manipulation. Prior to the court overturning FERC, the Commission had only authorized \$3.3 billion in refunds - far short of the \$9 billion requested by the State of California.