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For More Information Contact:

Commissioner David Wright, Chairman, (803) 896-5180
Martez Norris, Executive Director, (910) 295-6658

Law over Politics

A group of state utility regulators, attorneys general, electric utilities and others, today praised the Atomic Safety and Licensing Board (ASLB) for rejecting the Department of Energy's (DOE) attempt to withdraw with prejudice its license application from the Nuclear Regulatory Commission (NRC) for a national permanent repository at the Yucca Mountain site in Nevada. The ASLB pointed out in its Order that the DOE conceded during the June hearings that its license application is not flawed, nor is the Yucca Mountain site unsafe, but sought to withdraw its application as a "matter of policy."

The Nuclear Waste Strategy Coalition (NWSC), a diverse group of 49 member organizations including utilities, state utility commissions, cities and tribal organizations representing 32 states, said that the decision is a win for electricity consumers and a victory for the rule of law over political expediency.

The ASLB ruled on Tuesday that the DOE, at the direction of the Obama Administration, did not have authority to withdraw its license application with prejudice from the NRC.

"Members of our coalition strongly believe the DOE should proceed with the license application process so that we will find out once and for all whether the Yucca Mountain site is suitable as the nation's permanent geologic repository," said David Wright, a member of the South Carolina Public Service Commission and Chairman, Nuclear Waste Strategy Coalition. "No one has ever denied that a deep geological repository is needed."

"If the DOE succeeds in withdrawing its license application, it will also succeed in the dismantling of 30 years of scientific and technological studies and reports carried out at the Yucca Mountain site and throwing away \$10 billion in electricity consumers have invested in the project after the site was selected by Congress," Wright said. The ASLB, a three-judge panel appointed by the NRC, correctly denied the DOE's motion since the 1982 Nuclear Waste Policy Act, as amended, does not give the Secretary of Energy any authority to withdraw the license application that the Act requires the Secretary to file, and that the Secretary cannot substitute his policy for that established by the U.S. Congress.

A final decision on the DOE motion to withdraw its application is expected to be made by the five members of the NRC. "We trust the NRC Commissioners also will decide the matter based on the rule of law and therefore uphold the ASLB's courageous decision," Wright said. "We also urge Congress to maintain adequate funding to continue the licensing process in a timely and vibrant manner, and that oversight Committees ensure the DOE has maintained the required personnel, records and data to support the integrity of this process going forward. The Administration owes that to the citizens who have paid into the Nuclear Waste Fund over the past 28 years."

The NWSC is an ad hoc group of state utility regulators, state attorneys general, electric utilities and associate members representing 49 member/affiliate organizations in 32 states, committed to reforming and adequately funding the U.S. civilian high-level nuclear waste transportation, storage, and disposal program.