

MINUTES
(Verified with meeting transcript)

**CENTRAL INTERSTATE LLRW COMMISSION
SPECIAL TELECONFERENCE MEETING
OCTOBER 3, 2013, THURSDAY, 10:00 A.M.**

In compliance with Commission By-Laws and Rules, a meeting notice announcing the date, time, location and agenda availability was mailed to the interested public September 19, 2013.

The Special Teleconference Meeting of the Central Interstate LLRW Commission was held Thursday, October 3, 2013, to take necessary action on meeting minutes, new auditor proposal, authorize legal counsel to contact major generators regarding settlement funds interest, continue discussion on topics from the June 2013 Annual meeting, and all other business to come before the Commission.

The meeting was called to order at approximately 10:00 a.m. and roll was called. Responding to the roll call was: Oklahoma Commissioner and Chair, Jon Roberts; Kansas Alternate Commissioner, John Mitchell; Louisiana Commissioner, Scott Blackwell; and Arkansas Alternate Commissioner, Jim Bacquet.

The Administrator, Rita Houskie; Outside Legal Counsel, Shawn Renner; Cochran Head Vick & Co., P.A., David Cochran and Michael Keenan; Wolf Creek Nuclear Corp., Warren Wood & Debbie Hendell; Entergy, Mark Carver were also present on the conference call.

The Chair made a brief statement on the purpose of the teleconference. He indicated that the Commission's future funding had been a topic of previous meetings as was the topic of the relocation of the Commission's office and the agenda reflected a continuation on those topics.

The Chair asked that the item relating to the new auditor proposal be moved up on the Agenda for the convenience of Mr. Cochran and Mr. Keenan.

Mr. Cochran stated that he is a managing member of Cochran Head Vick and Company with offices in Kansas City on both the Kansas and Missouri sides. They have been in business for 38 years and are considered to be the 11th largest firm in the city. They have experience in servicing industry, governments, not-for profits, etc. Their proposal is for the year ending June 30, 2014. He indicated that the proposed fee was a blended rate calculated on the hours they felt were necessary to complete the audit.

The Chair explained that the Commission is considering the relocation of the office to one of the member states and asked Mr. Cochran if their company would accept electronic submittals from the Commission to complete the audit. Mr. Cochran replied, yes.

The Chair asked if there would be licensing issues for them should the Commission move its office to a state where Cochran Head Vick & Co is not currently licensed. Mr. Cochran said that the company currently audits in 26 states of which some require temporary licenses and some do not, and that it would not be a problem should that be the case.

The last question the Chair asked was with regard to the 'confidentiality' paragraph in the proposal. Mr. Cochran explained that it was kind of a 'boiler plate' comment. It is understood that the Commission is a public entity, however, should a request be received by the company to provide Commission's records, the company would not do so without the Commission's knowledge and approval.

The Arkansas Alternate asked if the estimated 50 hours for the substantive audit procedure was a 'one-time shot' or could that be anticipated in future years as well. Mr. Cochran explained what the substantive testing was about and that it was not so much the volume of a business, but rather the enormous amount of work papers produced to pass peer reviews, to maintain quality control and meet the audit standards that have dramatically changed over the past 10 plus years.

The Administrator made inquiry into the company's annual rate reviews and how that might affect the cost of the audit in future years. Mr. Cochran indicated that a multi-year agreement could be provided with the fee increase tied to the consumer price index provided the scope of work remained the same.

Motion by Kansas, second by Louisiana to accept the Cochran Head Vick & Co. proposal and to authorize the Administrator to negotiate the final agreement.

Motion **passed** 4-0

The Chair introduced the next agenda item that related to the draft Minutes of the June 2013 Annual meeting. The Chair asked that the Minutes be amended to include at Option 11, regarding the LLW Forum membership, mention of the Arkansas Commissioner's deferral on a final decision until he could talk with his state agency. The Chair went on to ask the Arkansas Alternate if the Commissioner had shared with him any findings. The Alternate said he had not.

The Arkansas Alternate asked for clarification at Option 12, relating to dissolving the Compact, to indicate Mr. Renner and Mr. Carver expressed personal opinions regarding the State or Congressional actions needed. Arkansas also asked a general question about what criteria was used in determining what received mention in the minutes? The Administrator and the Chair responded similarly that the minutes were a condensed version of the transcript highlighting topics and actions taken by the Commission. Arkansas suggested that some discussions might be of interest to others and could be noted in the minutes. He offered to provide a listing.

The Chair asked that the draft Minutes of the June 2013 Annual meeting be amended and held over to the next meeting.

June 12, 2013 draft Minutes were tabled.

The Chair introduced the next agenda item pertaining to the use of the Settlement Funds Interest and asked Mr. Renner to give the Commission a historical overview on the topic.

Mr. Renner presented the history of the 1998 lawsuit initiated by the major generators claiming that Nebraska and the Commission had acted in bad-faith. The Court stated that the major generators lacked standing to sue Nebraska on their own and that, in part, is why the Commission realigned itself as a plaintiff and made similar claims against Nebraska. The Commission and the major generators claimed that Nebraska should have to either, grant a license, reinstate a different licensing process with a different decider or pay money damages. The Court's decision of the bad-faith litigation was in the Commission's favor and money damages were awarded. As part of that litigation the major generators made a cross-claim against the Commission. The cross-claim, basically, said that if the Court decided to award money damages that they would be entitled to the money. On the same day the Court ruled on the bad-faith lawsuit it also denied the major generators' cross-claims against the Commission. Nebraska appealed the Court's decision. Ultimately, a settlement was reached with Nebraska. Nebraska paid the Commission approximately \$145 million on August 1, 2005. The Commission paid out, all but \$15 million, on claims made by the major generators, US Ecology and the member states. After considering its options, the Commission returned \$10 million more to the major generators in February 2006, keeping \$5 million. The major generators filed suit against the Commission arguing that they were entitled to the \$5 million. The major generators' contracted investment into the Project was approximately \$88 million and the Commission returned to them approximately \$128 million. In January 2007, the Court ruled against the major generators in favor of the Commission. The major generators did not appeal. Mr. Renner went on to highlight that the Court felt there was nothing inequitable about the Commission keeping the \$5 million, that the Commission itself had suffered damages due to the bad-faith behavior of Nebraska and that the Commission was not a mere pass-through for funding the Project. The Judge went on to say that the Nebraska generators had even less basis to make a claim due to, by then, Nebraska's withdrawal from the Compact. The Judge also referred to Mr. O'Connell's *Planning for the Future* report in which he recommended that the Commission retain sufficient funds from the settlement to ensure a sufficient income stream to maintain Compact operations so as to avoid increases to costs of the member states or the generators. Mr. O'Connell also recommended that the Commission use the interest from the STFIT accounts that hold the settlement funds and rebate funds. The Commission did pass a Resolution to use the interest from the rebate funds. As of this date, the Commission has not acted on O'Connell's recommendation to use the STFIT interest on the settlement funds.

Mr. Renner responded to questions.

The Chair asked for a motion to give Commission's legal counsel authorization to open a dialog with the major generators' attorneys regarding the \$5 million and the interest and to report back at the next Commission meeting. Arkansas asked for clarification on how much the Commission was willing to spend and Kansas asked about a timeframe to complete the task.

Motion by Kansas, second by Arkansas, **to authorize legal counsel to contact major generators for the purpose that was discussed here and if his time spent approaches \$5,000 that he notify the Chair and ask for further clarification.**

Motion **passed** 4-0

The Chair introduced the next section of the agenda relating to a general discussion on topics from the June 2013 meeting; the LLW Forum membership, the relocation of the Commission's office to one of the member state agencies, and a generator survey.

The Chair indicated that the Arkansas Commissioner had deferred his decision on the continuation of the LLW Forum membership until he had a chance to speak with his state agency and because the Commissioner was not present the Chair said he would get in touch with him about it.

The Chair reported that he had previously asked the Commissioners to visit with their state agencies regarding the concept of housing the Commission's office. He went on to report that the previous Kansas Commissioner said that she had spoken with her agency and that Kansas was open to the concept. The current Kansas Commissioner had reconfirmed that. The Chair went on to indicate that he had spoken with his agency and they were also open to the idea, however, a new executive director had been appointed and the conversation would have to take place again. The Arkansas Alternate did not know if the Commissioner had had the conversation with Arkansas and Louisiana had not yet spoken to his agency. The Chair asked that the conversation on the relocation issue be continued to the next meeting.

The Chair indicated that the survey of the generators was almost complete. That he would forward it out to the Commissioners for comment before approval at the next meeting. The purpose of the survey is to find out the status of low-level waste management in the member states before decisions on the Commission's path forward could be made.

The next telephone meeting of the Commission was scheduled for November 21, 2013 at 10:00 a.m.

The meeting was adjourned at approximately 12:13 p.m.