

## ATOMIC SAFETY AND LICENSING BOARD

Before Administrative Judges:

Alan S. Rosenthal, Presiding Officer  
Dr. Richard F. Cole, Special Assistant

In the Matter of

NUCLEAR FUEL SERVICES, INC.

(Erwin, Tennessee)

Docket No. 70-143-MLA

ASLBP No. 02-803-04-MLA

January 13, 2003

ORDER

(Scheduling Telephone Conference)

As those concerned were previously advised informally by Ms. Perini, Judge Cole and I will conduct a telephone conference in this license amendment proceeding at 9:00 a.m. (EST) on Friday, January 17, 2003. The participants in this conference will include the present hearing requestors and the licensee. In addition, although not currently a party to the proceeding, the NRC Staff is to be represented at the conference.

The sole purpose of the conference is to discuss whether further adjudicatory consideration of this matter should await the submission of the third license amendment application relating to the project hereinvolved and the receipt of any timely hearing requests addressed to either that application or the second amendment application now in hand.<sup>1</sup> In that regard, the participants in the conference should assume that Judge Cole and I have already

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<sup>1</sup>A notice of opportunity for hearing with respect to the second license amendment application, which had been submitted to the NRC Staff last October, was published in the Federal Register on January 7, 2003. 68 Fed Reg 796. The deadline for filing hearing requests in response to that notice is February 6, 2003. The submission of the third amendment application apparently might not take place for several additional months. It is my understanding that the choice to file three separate amendment applications over a relatively protracted period of time was that of the licensee.

concluded that the answer to this question does not hinge upon the extent of my authority as the assigned presiding officer. To the contrary, upon examination of that question we are totally satisfied that, in that capacity, I am fully empowered by the Commission's Rules of Practice either

(1) to rule now on the existing hearing requests that are addressed of necessity exclusively to the first license amendment application. If one or more of those requests were to be granted, Judge Cole and I would then move on to consider the merits of the permissible challenges to that application, leaving the possible consideration of challenges to the second and third amendment applications to a later day;

or

(2) to suspend sua sponte (if not in response to the pending hearing requestor motion to hold the proceeding in abeyance) all further action on my part to await the filing of the third amendment application and the receipt of any hearing requests pertaining to it.

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In short, the discussion at the conference is to focus entirely upon what course of action on my part at this juncture would appear to make the best practical sense in the totality of the rather unusual circumstances of this case. Stated otherwise, Judge Cole and I expect the participants wishing to make their views known to confine themselves to this question: will good case management be better served by a piecemeal, or instead by a unified, adjudicatory consideration of the overall BLEU project?

On or before noon on Wednesday, January 15, 2003, the parties and the NRC Staff shall provide Sharon Marks Perini by e-mail ([sam4@nrc.gov](mailto:sam4@nrc.gov)) with the name of the individuals who will participate in the conference on their behalf. No party or the Staff may have more than one active participant without obtaining prior approval, which will be sparingly granted.

Participants should call 301-231-5539 or 1-800-638-8081 a few minutes before 9:00 a.m. and dial passcode 6408#, in order to be connected to the conference.

It is so ORDERED.

BY THE PRESIDING OFFICER<sup>2</sup>

*/RA/*

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Alan S. Rosenthal  
ADMINISTRATIVE JUDGE

Rockville, Maryland

January 13, 2003

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<sup>2</sup>Copies of this order were sent this date by e-mail transmission to the counsel or other representative of each of the participants in the proceeding, as well as to counsel for the NRC staff.

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

In the Matter of )  
)  
NUCLEAR FUEL SERVICES, INC. ) Docket No. 70-143-MLA  
ERWIN, TENNESSEE )  
)  
(Material License Amendment) )

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing LB ORDER (SCHEDULING TELEPHONE CONFERENCE) have been served upon the following persons by U.S. mail, first class, or through NRC internal distribution.

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Washington, DC 20555-0001

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U.S. Nuclear Regulatory Commission  
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Administrative Judge  
Richard F. Cole, Special Assistant  
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Docket No. 70-143-MLA  
LB ORDER (SCHEDULING TELEPHONE  
CONFERENCE)

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[Original signed by Evangeline S. Ngbea]

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Office of the Secretary of the Commission

Dated at Rockville, Maryland,  
this 13<sup>th</sup> day of January 2003