

**RAS 7705**

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION  
ATOMIC SAFETY AND LICENSING BOARD

**DOCKETED 05/03/04**

**SERVED 05/03/04**

Before Administrative Judges:

G. Paul Bollwerk, III, Chairman  
Dr. Charles N. Kelber  
Dr. Peter S. Lam

In the Matter of

FIRSTENERGY NUCLEAR OPERATING CO.

(Davis-Besse Nuclear Power Station, Unit 1)

Docket No. 50-346-CO

ASLBP No. 04-825-01-CO

May 3, 2004

ORDER

(Granting Motion to Extend Time for Filing Reply)

Upon consideration of the April 29, 2004 motion of petitioners Michael Keegan, Donna Lueke, Joanne DiRando, and the Nuclear Information and Resource Service (NIRS)<sup>1</sup> for an extension of time to file a 10 C.F.R. § 2.309(h)(2) reply to the April 23, 2004 responses of licensee FirstEnergy Nuclear Operating Company (FENOC) and the NRC staff to the petitioners' March 29, 2004 hearing request objecting to the staff's March 8, 2004 immediately effective confirmatory order modifying the 10 C.F.R. Part 50 operating license for the Davis-Besse Nuclear Power Station, Unit 1, and there being on opposition thereto, it is

ORDERED, that the petitioners' April 29, 2004 time extension motion is granted in that they shall have up to and including Thursday, May 13, 2004, within which to file a reply to the FENOC and staff responses to their hearing petition.

Relative to the petitioners' motion, we make the additional observation that, as the Commission noted in its recent Statement of Considerations accompanying the final rule on the

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<sup>1</sup> In an additional April 29, 2004 filing, the petitioners clarified that NIRS, rather than its Reactor Watchdog Project Director Paul Gunter, is seeking to intervene in this proceeding.

revised 10 C.F.R. Part 2 procedural provisions that are applicable to this proceeding, a section 2.309(h)(2) reply “should be narrowly focused on the legal or logical arguments presented in the applicant/licensee or NRC staff answer.” 69 Fed. Reg. 2182, 2203 (Jan. 14, 2004).

FOR THE ATOMIC SAFETY  
AND LICENSING BOARD<sup>2</sup>

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G. Paul Bollwerk, III  
ADMINISTRATIVE JUDGE

Rockville, Maryland

May 3, 2004

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<sup>2</sup> Copies of this order were sent this date by Internet e-mail transmission to counsel or the representative for (1) licensee FENOC; (2) the individual petitioners/NIRS; and (3) the staff.

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

In the Matter of	)	
	)	
FIRSTENERGY NUCLEAR	)	Docket No. 50-346-CO
OPERATING COMPANY	)	
	)	
(Davis-Besse Nuclear Power Station,	)	
Unit 1)	)	

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing LB ORDER (GRANTING MOTION TO EXTEND TIME FOR FILING REPLY) have been served upon the following persons by deposit in the U.S. mail, first class, or through NRC internal distribution.

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Washington, DC 20555-0001

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Docket No. 50-346-CO  
LB ORDER (GRANTING MOTION TO EXTEND  
TIME FOR FILING REPLY)

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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 3<sup>rd</sup> day of May 2004