

**RAS 7877**  
**RAS 7878**  
**RAS 7879**

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

**DOCKETED 06/03/04**

**SERVED 06/03/04**

Before Administrative Judges:

G. Paul Bollwerk, III, Chairman  
Dr. Paul B. Abramson  
Dr. Anthony J. Baratta

In the Matter of

EXELON GENERATION COMPANY, LLC  
(Early Site Permit for Clinton ESP Site)

Docket No. 52-007-ESP

ASLBP No. 04-821-01-ESP

June 3, 2004

In the Matter of

DOMINION NUCLEAR NORTH ANNA, LLC  
(Early Site Permit for North Anna ESP Site)

Docket No. 52-008-ESP

ASLBP No. 04-822-02-ESP

June 3, 2004

In the Matter of

SYSTEM ENERGY RESOURCES, INC.  
(Early Site Permit for Grand Gulf ESP Site)

Docket No. 52-009-ESP

ASLBP No. 04-823-03-ESP

June 3, 2004

ORDER  
(Granting Extension Request)

Upon consideration of (1) the June 1, 2004 motion of petitioners Blue Ridge Environmental Defense League, Environmental Law and Policy Center, National Association for the Advancement of Colored People - Claiborne County Mississippi Branch, Nuclear Energy Information Service, Nuclear Information and Resource Service, Public Citizen, and Sierra Club

– Mississippi Chapter (Petitioners) for a five-day extension of time within which to file their 10 C.F.R. § 2.309(h)(2) reply to the responses of applicants System Energy Resources, Inc. (SERI), Exelon Generation Company, L.L.C. (EGC), and Dominion Nuclear North Anna, L.L.C. (DNNA), and the NRC staff to the petitioners' intervention requests, in which it is represented that the staff does not object to the motion and that SERI would agree to an extension but only until June 8, 2004; and (2) the respective June 1 and June 2, 2004 DNNA and EGC responses to the Petitioners' motion opposing any extension beyond June 7, 2004,<sup>1</sup> it is

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<sup>1</sup> The Licensing Board appreciates the prompt DNNA and EGC responses to the Petitioners' motion.

ORDERED, that the Petitioners' June 1, 2004 motion for extension of time is granted in that the Petitioners shall have up to and including Wednesday, June 9, 2004, within which to file any replies to the responses of applicants and the staff.<sup>2</sup>

FOR THE ATOMIC SAFETY  
AND LICENSING BOARD<sup>3</sup>

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G. Paul Bollwerk, III  
ADMINISTRATIVE JUDGE

Rockville, Maryland

June 3, 2004

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<sup>2</sup> Citing the Commission's August 1998 policy statement on the conduct of adjudications, CLI-98-12, 48 NRC 18, 21 (1998), both the Petitioners and applicants DNNA and EGC discuss the applicability of an "unavoidable and extraordinary circumstances" standard outlined in the policy statement to the Petitioners' extension request. Given the re-adoption of a "good cause" standard for time extensions in the recent changes to 10 C.F.R. Part 2, see 10 C.F.R. § 2.307(a), and the accompanying Commission recognition that it was "codifying appropriate portions of the Policy Statement in this rulemaking," 69 Fed. Reg. 2182, 2186 (Jan. 14, 2004), it is not apparent the more rigorous "unavoidable and extraordinary circumstances" extension standard is applicable, at least absent a Commission directive in a particular case, see Louisiana Energy Services, L.P., CLI-04-3, 59 NRC 10, 20 (2004). Be that as it may, given the unique status of these three proceedings in terms of the collective consideration they are being afforded to ensure consistency in issues admission and the concomitant need to ensure that the upcoming joint prehearing conference provides a focused exposition of the matters in controversy among the participants, as well as the lack of any appreciable prejudice that will accrue to the other participants by reason of the extension, the Petitioners' request is sufficient under either standard.

<sup>3</sup> As we have noted previously, although the Board designation notices for these proceedings established three separate licensing boards (albeit each with the same members), for simplicity we will refer to these Boards in the singular.

Copies of this order were sent this date by Internet e-mail transmission to counsel or the representatives for the applicants, the petitioners, and the staff in each of the above-captioned proceedings.

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

In the Matter of )  
 )  
EXELON GENERATION COMPANY, LLC ) Docket No. 52-007-ESP  
 )  
 )  
(Early Site Permit for Clinton ESP Site) )

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing LB ORDER (GRANTING EXTENSION REQUEST) have been served upon the following persons by deposit in the U.S. mail, first class, or through NRC internal distribution.

Office of Commission Appellate  
Adjudication  
U.S. Nuclear Regulatory Commission  
Washington, DC 20555-0001

Administrative Judge  
G. Paul Bollwerk, III, Chair  
Atomic Safety and Licensing Board Panel  
Mail Stop - T-3 F23  
U.S. Nuclear Regulatory Commission  
Washington, DC 20555-0001

Administrative Judge  
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Docket No. 52-007-ESP  
LB ORDER (GRANTING EXTENSION REQUEST)

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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 June 2004

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

In the Matter of )  
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DOMINION NUCLEAR ) Docket No. 52-008-ESP  
NORTH ANNA, LLC )  
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Docket No. 52-008-ESP  
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[Original signed by Evangeline S. Ngbea]

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Office of the Secretary of the Commission

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Dated at Rockville, Maryland,  
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