

June 17, 2004

Richard Cushing Donovan, Clerk
U.S. Court of Appeals for the First Circuit
John Joseph Moakley United States Courthouse
1 Courthouse Way, Suite 2500
Boston, Massachusetts 02210

RE: *Citizens Awareness Network v. USNRC*, No. 04-1145, and
Public Citizen, et al., v. USNRC, No. 04-1359

Dear Mr. Donovan:

Enclosed you will find the original and three copies of the "Federal Respondents' Consent Motion for a Seven-Day Extension of Time to File Their Answering Brief." Please date stamp the enclosed copy of this letter to indicate date of receipt, and return the copy to me in the enclosed envelope, postage pre-paid, at your convenience.

Respectfully submitted,

/RA/

Steven F. Crockett
Special Counsel
Office of the General Counsel

Enclosures: As stated

cc: service list

seven-day extension of briefing time. We ask this Court to grant our motion for the following reasons:

1. By order of this Court, the opening briefs were filed on June 7, 2004, and our answering brief currently is due on July 7, 2004. Our brief must answer four separate opposing briefs -- two by different petitioners, one by intervenors supporting petitioners, and one by *amici curiae* supporting petitioners.

2. We just learned yesterday afternoon (June 16), by word of mouth, that *amici curiae* had filed a brief on June 14. We had no prior notice of an intent to file an *amicus curiae* brief. The *amicus* brief still has not been served on us, although we made arrangements with an intervenor on our side of the case to obtain a copy today. The *amicus curiae* brief raises new arguments not addressed in the petitioners' and intervenors' earlier-filed briefs.

3. Petitioners in this case (and their supporting intervenors and *amici curiae*) challenge an important new set of NRC regulations reforming the agency's administrative hearing process. *See Changes to Adjudicatory Process; Final Rule*, 69 Fed. Reg. 2182 (Jan. 14, 2004). The new NRC rule is comprehensive -- comparable in coverage to the Federal Rules of Civil and Appellate Procedure -- and its text and explanation take up approximately 100 pages of the *Federal Register*. The opposing briefs raise an array of statutory, constitutional, and reasonableness challenges to the new NRC rule.

4. The NRC attorney with chief responsibility for drafting our answering brief, Steven F. Crockett, has worked diligently on the brief for several weeks, starting even before we received the opening briefs. But because we now must answer four opposing briefs -- one of which we did not receive until today -- we are concerned that we may not be able to complete all necessary research and drafting in this multiple-issue case prior to the current July 7 deadline. This Court would benefit from a fully-considered, rather than rushed, government brief.

5. These consolidated cases arise from petitions for judicial review under the so-called Hobbs Act. *See* 28 U.S.C. § 2341 *et. seq.* The Hobbs Act authorizes both the NRC (represented by its own lawyers) and the United States (represented by Justice Department lawyers) to appear as respondents. *See* 28 U.S.C. § 2348. Typically, and again in this case, the NRC and the Justice Department collaborate on a single brief rather than burden the Court with separate briefs. But the collaboration requires sufficient time for the NRC and the Justice Department to consult with each other and to complete all necessary reviews, including supervisory and policy reviews in both agencies.

6. The July 4 national holiday occurs just before our current July 7 briefing deadline. This may make complicate our effort to complete our internal reviews and to finalize and produce the respondents' brief.

7. This Court has not set an oral argument date for this case, so a one-week extension of briefing time should not disrupt any court schedules.

8. All parties to these consolidated cases have consented to the grant of a seven-day extension of briefing time.

9. We plan to seek no further extensions of time.

CONCLUSION

For the foregoing reasons, the NRC and the United States respectfully ask this Court to grant a seven-day extension of time, to and including July 14, 2004, within which to file federal respondents' answering brief.

Respectfully submitted,

_____/RA/_____
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CERTIFICATE OF SERVICE

I hereby certify that on June 17, 2004, a copy of the "FEDERAL RESPONDENTS' CONSENT MOTION FOR A SEVEN-DAY EXTENSION OF TIME TO FILE THEIR ANSWERING BRIEF" was served by mail, postage prepaid, upon the following counsel:

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