

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

DOCKETED  
USNRC

ATOMIC SAFETY AND LICENSING BOARD PANEL

September 20, 2004 (1:22PM)

Before the Chief Administrative Judge:

OFFICE OF SECRETARY  
RULEMAKINGS AND  
ADJUDICATIONS STAFF

G. Paul Bollwerk, III

**SERVED September 20, 2004**

In the Matter of

YANKEE ATOMIC ELECTRIC COMPANY

(Yankee Nuclear Power Station License  
Termination Plan)

Docket No. 50-29

ASLBP No. 04-831-01-OLA

September 20, 2004

MEMORANDUM

(Schedule for Filings in Response to Hearing Petition)

In a September 2, 2004 memorandum, the Secretary of the Commission advised me of the referral to the Atomic Safety and Licensing Board Panel of a pending August 20, 2004 hearing request of Citizens Awareness Network (CAN) challenging the November 24, 2003 request of Yankee Atomic Electric Company (YAEC) for an amendment to its 10 C.F.R. Part 50 license that would, among other things, approve a license termination plan (LTP) for its Yankee Nuclear Power Station facility. That memorandum also indicated that the Commission was retaining a pending August 20, 2004 CAN pleading entitled "Motion to Dismiss Proceedings as Improperly Noticed or Clarify and Re-Notice the Proceeding." In a September 14, 2004 memorandum, I stated that in light of the potential impact a Commission ruling on the pending CAN dismissal/re-noticing could have upon the scope and timing of this case, the appointment of an Atomic Safety and Licensing Board to preside over this proceeding was being deferred. Thereafter, by e-mail dated September 17, 2004, CAN's Executive Director, appearing pro se, asks for clarification about whether the deferral of appointment of a Licensing Board also

suspends the deadlines for filings regarding the CAN hearing petition until the Commission rules on the pending CAN dismissal/re-noticing motion.

Relative to the September 17 CAN e-mail,<sup>1</sup> under the recently adopted revisions to the agency rules of practice, the schedules for submitting a hearing petition and subsequent responsive filings are clearly specified. See 10 C.F.R. § 2.309(b), (h). In contrast, the timing of appointment of a presiding officer for a hearing is a matter within the purview of the Commission or, following a Commission referral, the Chief Administrative Judge. See id. § 2.313(a). By its terms, my September 14 memorandum addressed the matter of appointing a Licensing Board without referencing the schedule specified in the agency's rules of practice for filing responsive pleadings relative to the pending CAN hearing petition. As such, that memorandum does not denote any change in the filing schedule specified in section 2.309(h) for such submissions.

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



G. Paul Bollwerk, III  
CHIEF ADMINISTRATIVE JUDGE

Rockville, Maryland

September 20, 2004

---

<sup>1</sup> For future reference, I would note that except for minor procedural matters, participants should use e-mail as the medium for transmitting an attached electronic copy of a pleading to the presiding officer rather than attempting to have the e-mail message constitute the pleading. See 10 C.F.R. § 2.305(c).

<sup>2</sup> Copies of this memorandum were sent this date by Internet e-mail transmission to counsel or the representative for (1) applicant YAEC; (2) intervenor CAN; and (3) the NRC staff.



Docket No. 50-29  
LB MEMORANDUM (SCHEDULE FOR FILINGS  
IN RESPONSE TO HEARING PETITION)

David A. Repka, Esq.  
William A. Horin, Esq.  
Winston & Strawn LLP  
1400 L Street, NW  
Washington, DC 20005  
E-mail: [drepka@winston.com](mailto:drepka@winston.com);  
[whorin@winston.com](mailto:whorin@winston.com)

Gerald Garfield, Esq.  
Day, Berry & Howard  
City Place 1  
Hartford, CT 06103  
E-mail: [ggarfield@dbh.com](mailto:ggarfield@dbh.com)

  
Office of the Secretary of the Commission

Dated at Rockville, Maryland,  
this 20<sup>th</sup> day of September 2004