

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

DOCKETED 08/31/05

RAS 10392

SERVED 08/31/05

ATOMIC SAFETY AND LICENSING BOARD PANEL

Before Administrative Judges:

Ann Marshall Young, Chair
Dr. Anthony J. Baratta
Nicholas G. Trikouros

In the Matter of

NUCLEAR MANAGEMENT COMPANY, LLC
(Palisades Nuclear Plant)

Docket No. 50-255-LR,
ASLBP No. 05-842-03-LR

August 31, 2005

ORDER

(Regarding Schedule and Guidance for Proceedings)

1. This proceeding involves the application of Nuclear Management Company, LLC's (Nuclear Management's or NMC's) to renew the operating license for its Palisades Nuclear Plant for an additional twenty-year period commencing in 2011. In response to a June 8, 2005, notice of opportunity for hearing on the proposed license renewal, on August 8 Petitioners Nuclear Information and Resource Service (NIRS), West Michigan Environmental Action Council (WMEAC), Don't Waste Michigan (DWM), the Green Party of Van Buren County (Green Party), the Michigan Land Trustees (MLT), and a number of individuals belonging to these organizations (Member-Intervenors) filed a Request for Hearing and Petition to Intervene in accordance with 10 C.F.R. § 2.309. On August 15 the Acting Secretary of the Commission referred the hearing request and intervention petition to the Chief Administrative Judge of the Atomic Safety and Licensing Board Panel for appropriate action, in accordance with 10 C.F.R. § 2.346(i). On August 25 this Licensing Board was established to preside over the proceeding.

2. This proceeding will be conducted in accordance with relevant provisions of 10 C.F.R. Parts 2, 51 and 54. Participants may also wish to consult relevant Commission case law in two adjudicatory proceedings involving license renewals: Florida Power & Light Company (Turkey Point Nuclear Generating Plant, Units 3 and 4) (see CLI-01-17, 54 NRC 3 (2001)); and

Duke Energy Corporation (McGuire Nuclear Station, Units 1 and 2, Catawba Nuclear Station, Units 1 and 2) (see, e.g., CLI-01-20, 54 NRC 211 (2001); CLI-02-14, 55 NRC 278 (2002); CLI-02-17, 56 NRC 1 (2002); CLI-02-26, 56 NRC 358 (2002); CLI-02-28, 56 NRC 373 (2002); CLI-03-11, 58 NRC 130 (2003); CLI-03-17, 58 NRC 419 (2003)).

3. Absent extensions granted for good cause, the Licensing Board expects, pursuant to 10 C.F.R. § 2.309(h), any answer to the Request for Hearing and Petition to Intervene to be filed no later than September 2, 2005; and any reply to any answer to be filed within seven (7) days after service of any such answer upon the Petitioners.

4. The Licensing Board will conduct a telephone conference with the parties on Wednesday, September 7, 2005, at 10:00 a.m. until 12:00 noon as necessary, to discuss the issues in the proceeding, any preliminary matters, and any questions the parties may have with regard to the proceeding. To be connected in to this conference, participants shall dial 1-800-638-8081 a few minutes before 10:00 a.m. and at the prompt enter passcode **2379#**.

5. The Licensing Board will hear oral argument on the Petitioners' standing and contentions in a location to be announced in or near South Haven, Michigan, on Tuesday and the morning of Wednesday, September 13-14, 2005, as necessary.

6. Any participant who must request the rescheduling of either of these events shall do so no later than 5:00 p.m. EDT Friday, September 2, providing the reasons therefor and stating all dates in September they will be available for a telephone conference, and/or all dates in October and November they will be available for oral argument on standing and contentions. Thereafter, all other participants shall file responses to any request(s) to reschedule, and also provide their relevant dates of availability, no later than 12:00 EDT Tuesday, September 6.

7. Counsel for all participants who have not yet done so shall file notices of appearance pursuant to 10 C.F.R. § 2.314(b).

8. **Service on Licensing Board Members.** For each pleading or other submission filed in this proceeding, in addition to submitting an original and two conforming copies to the Office of the Secretary and serving a copy on every other participant in accordance with 10 C.F.R. § 2.305, a participant should serve conforming copies on the members of the Licensing Board by one of the following methods:

a. **E-Mail.** To complete service on the members of the Licensing Board by e-mail transmission, a participant should (a) send the filing (which should include the certificate of service) as a file attached to an e-mail message directed to each of the Licensing Board members (Internet IDs: AMY@NRC.GOV, AJB5@NRC.GOV, N.TRIKOUROS@ATT.NET); and (b) send paper conforming copies that same date to the Licensing Board members by regular first-class mail, at the following address:

Atomic Safety and Licensing Board Panel
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555-0001

For regular mail service, the NRC staff may use the NRC internal mail system (Mail Stop T-3F23) in lieu of first class mail.

Any attachments or exhibits to a pleading that cannot be transmitted by e-mail should be sent to the Licensing Board members by facsimile transmission or other means that will ensure receipt by the due date, with paper conforming copies mailed that same day.

b. **Facsimile Transmission.** To complete service on the members of the Licensing Board by facsimile transmission, a participant should (a) send one copy by rapifax to the attention of the members of the Licensing Board members at 301/415-5599 (verification (301/415-7393)); and (b) send paper conforming copies that same date by regular mail at the address listed above.

c. **Overnight or Hand Delivery.** To complete service on Licensing Board members via overnight (e.g., express mail, Federal Express, etc.) or hand delivery, a participant should send conforming copies to the Licensing Board members at the following address:

Atomic Safety and Licensing Board Panel
Third Floor, Two White Flint North
11545 Rockville Pike
Rockville, MD 20852

It should be noted that use of the Board's regular Washington, D.C., mailing address (see above) on an overnight/hand delivery may delay receipt of the filing.

d. **Service on Other Participants.** Whichever of the methods outlined above is used for service on the Licensing Board, the participant serving the pleading should make service on all other participants and the Office of the Secretary by the same or a comparable method.

9. **Motions for Extension of Time.** For any motion for extension of time, except upon a showing of good cause, the participant requesting the extension shall (a) ascertain whether and when any other participant intends to oppose or otherwise respond to the motion and apprise the Licensing Board of that information in the motion; (b) serve the motion on the Licensing Board so that it is received at least three business days before the due date for the pleading or other submission for which an extension is sought; and (c) state in the motion, specifically and in detail, the reasons the extension is viewed to be necessary.

It is so ORDERED.

FOR THE ATOMIC SAFETY
AND LICENSING BOARD

/RA/

Ann Marshall Young, Chair
ADMINISTRATIVE JUDGE

Rockville, Maryland
August 31, 2005¹

¹Copies of this Order were sent this date by Internet e-mail to all counsel or representatives for participants.

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

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)
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(Palisades Nuclear Generating Station))

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing LB ORDER (REGARDING SCHEDULE AND GUIDANCE FOR PROCEEDINGS) have been served upon the following persons by 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
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Docket No. 50-255-LR
LB ORDER (REGARDING SCHEDULE AND GUIDANCE
FOR PROCEEDINGS)

Jonathan Rogoff, Esq.
General Counsel
Nuclear Management Company, LLC
700 First Street
Hudson, WI 54016

[Original signed by Evangeline S. Ngbea]

Office of the Secretary of the Commission

Dated at Rockville, Maryland
this 31st day of August 2005