

October 27, 2005

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE COMMISSION

In the Matter of)	
)	
USEC, Inc.)	Docket No. 70-7004
)	
(American Centrifuge Plant))	

NRC STAFF'S OPPOSITION TO
PORTSMOUTH/PIKETON RESIDENTS FOR ENVIRONMENTAL
SAFETY AND SECURITY (PRESS) MOTION FOR LEAVE TO AUGMENT APPEAL

INTRODUCTION

Pursuant to 10 C.F.R. § 2.323(c) the NRC Staff ("Staff") hereby files its response in opposition to Portsmouth/Piketon Residents for Environmental Safety and Security's (PRESS) Motion for Leave to Augment Appeal ("Motion"), filed on October 17, 2005. PRESS's Motion was filed in conjunction with a Notice of Appeal of the Atomic Safety and Licensing Board's ("Board") denial of the petition for leave to intervene filed by PRESS in the above-captioned proceeding. See *USEC, Inc. (American Centrifuge Plant)*, LPB-05-28, slip op., 61 NRC ____ (Oct. 7, 2005). At the end of its brief in support of the Notice of Appeal, PRESS noted: "10 C.F.R. § 2.341(c)(2) regulations limit the length of this brief to 30 pages, but our treatment is incomplete in 30 pages, so we move for leave to augment this appeal to finish the treatment." Notice of Appeal at 29.

DISCUSSION

This motion should be denied. PRESS has not complied with the plain requirements of 10 C.F.R. § 2.323. A motion before the Commission must "state with particularity grounds and the relief sought." 10 C.F.R. § 2.323(b). In addition, the Commission must reject a motion "if it does not include a certification by the . . . representative of the moving party that the movant

has made a sincere effort to contact other parties in the proceeding and resolve the issue(s) raised in the motion, and that the movant's efforts to resolve the issue(s) have been unsuccessful." *Id.* Here, PRESS has included in support of its motion only the single sentence quoted above. The movant has not set forth sufficient grounds as to why the motion should be granted and has not offered any explanation as to why it has been unable to comply with the page limit requirement set forth in 10 C.F.R. § 2.341. In addition, PRESS's motion does not include a suggestion of any new page limit or a date by which the augmented brief should be filed; thus, it does not state the relief sought with adequate particularity. Finally, PRESS has not certified that it contacted either the Staff or the applicant to attempt to resolve the issue of the page limit before filing the Motion. PRESS did not, in fact, discuss this motion with Staff Counsel. Therefore, PRESS has not complied with the requirements of 10 C.F.R. § 2.323, and its Motion should be denied.

CONCLUSION

For the foregoing reasons, the Staff hereby submits that PRESS's Motion should be denied.

Respectfully Submitted,

/RA/

Margaret J. Bupp
Counsel for NRC Staff

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CERTIFICATE OF SERVICE

I hereby certify that copies of "NRC STAFF'S OPPOSITION TO PORTSMOUTH/PIKETON RESIDENTS FOR ENVIRONMENTAL SAFETY AND SECURITY (PRESS) MOTION FOR LEAVE TO AUGMENT APPEAL" in the above-captioned proceeding has been served on the following by deposit in the United States mail; through deposit in the Nuclear Regulatory Commission's internal system as indicated by an asterisk (*), or by electronic mail as indicated by a double asterisk (**) on this 27th day of October, 2005.

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