

January 9, 2006

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matter of)	
)	
NUCLEAR MANAGEMENT)	Docket No. 50-255-LR
COMPANY, LLC)	
)	ASLBP No. 05-842-03-LR
(Palisades Nuclear Plant))	

NRC STAFF REPLY TO
PETITIONERS' RESPONSE TO BOARD ORDER

INTRODUCTION

The U.S. Nuclear Regulatory Commission Staff (Staff) hereby replies to Petitioners' "Response to the Board Order on Matter of Expert Opinion" (Response), filed January 3, 2006. The Response was filed in response to the Atomic Safety and Licensing Board's (Board) December 21, 2005, "Order and Revised Notice (Setting Deadlines to Respond to staff Notification of December 20, 2005)" (Order), concerning the status of Demetrios Basdekas. Although the Order did not precisely define the scope of the Staff's Reply, the Staff has chosen first to discuss its understanding of the facts as they now stand, and then to address the effect of this changed understanding on the admissibility of the proposed Contention 1 regarding embrittlement. The arguments made herein are in addition to, not in place of, the arguments made in the Staff's prior pleadings and at oral argument. Finally, the Staff will reply to the "preliminary objections" made by Petitioners in their Response.

As set forth below, Petitioners have not shown that Mr. Basdekas formed any opinion concerning embrittlement that was specific to Palisades. Petitioners have only cited generic statements made by Mr. Basdekas about the embrittlement issue. Therefore, any statement made in proposed Contention 1 or its bases regarding embrittlement is either generic or

a conclusory allegation without any stated foundation. Because of this, there is even greater reason to conclude that the proposed embrittlement contention fails to meet the requirements of 10 C.F.R. § 2.309(f)(1).

BACKGROUND

By letter dated March 22, 2005, Nuclear Management Company, LLC (NMC) submitted an application for renewal of Operating License No. DPR-20 for the Palisades Nuclear Plant for an additional 20 years.¹ On June 8, 2005, the NRC published a notice of acceptance for docketing and opportunity for hearing regarding the license renewal application.² Sometime in July, Mr. Basdekas tentatively agreed to serve as an expert witness for Petitioners. Response at 3. On August 8, 2005, Petitioners jointly filed a "Request for Hearing and Petition to Intervene" (Petition) on NMC's license renewal application. This Petition included several proposed contentions, the first of which concerned embrittlement. This embrittlement contention made several statements specifically about Palisades, cited Mr. Basdekas for support, and represented him as Petitioners' expert.³

¹ See Letter from Daniel J. Malone, Site Vice President, Palisades Nuclear Plant, [NMC], to U.S. NRC (Mar. 2, 2005) (Agencywide Documents and Access Management System ("ADAMS") Accession No. ML050940434).

² See [NMC], Palisades Nuclear Plant; Notice of Acceptance for Docketing of the Application and Notice of Opportunity for Hearing Regarding Renewal of Facility Operating License No. DPR-20 for an Additional 20-Year Period, 70 Fed. Reg. 33,533 (June 8, 2005).

³ The contention in its entirety reads:

The license renewal application is untimely and incomplete for failure to address the continuing crisis of embrittlement.

The Petitioners allege that the Palisades license renewal application is fundamentally deficient because it does not adequately address technical and safety issues arising out of the embrittlement of the reactor pressure vessel and unresolved Pressure Thermal Shock ("PTS") concerns that might reasonably result in the failure of the reactor pressure vessel ("RPV"). The Palisades nuclear power station is identified as prone to early embrittlement of the reactor pressure vessel, which is a vital safety component. As noted in the opinion of Petitioners' expert on embrittlement, Mr. Demetrios Basdekas, retired from the Nuclear Regulatory Commission,

(continued...)

According to Petitioners, Mr. Basdekas declined to serve as their expert on August 22, 2005, Response at 3, but Petitioners did not apprise either the Board or the other parties of this fact. According to Petitioners, they have been seeking a replacement for Mr. Basdekas, but have yet to find one. *Id.* at 12. During the September 12, 2005 teleconference, Judge Young asked whether a written opinion by Mr. Basdekas existed. Petitioners' counsel replied that nothing other than email correspondence was written, but failed to mention that Mr. Basdekas had earlier declined to be their expert. Teleconference Transcript (Sept. 12, 2005), p. 4. Petitioners also failed to mention his status in either their "Combined Reply to NRC Staff and Nuclear Management Company Answers," (Combined Reply) filed September 16, 2005, or their "Combined Response in Opposition to NRC Staff and Nuclear Management Company Motions to Strike," filed October 6, 2005.

Oral argument was conducted on November 3-4, 2005, in South Haven, Michigan. During oral argument, the opinion of Mr. Basdekas came up in several exchanges between Petitioners' counsel and the Board. Petitioners' counsel, however, neglected to mention that Mr. Basdekas was no longer their expert, even during a colloquy with Judge Young in which she said, "Now, you have identified an expert who is retired from the NRC, and presumably that expert would be able to say things other than just give us a lesson on the dangers of embrittlement." Oral Argument Transcript, (Nov. 3, 2005), p. 47. Not long afterward, while still discussing the embrittlement contention, the following **exchange occurred**:

³(...continued)

the longer Palisades operates, the more embrittled its RPV becomes, with decreasing safety margins in the event of the initiation of emergency operation procedures. Therefore, a hearing on the public health and safety effects of a prospective additional twenty years of operation, given

the present and prospective embrittlement trend of the RPV is imperative to protecting the interests of those members of the petitioning organization who are affected by this proceeding.

Petition at 4.

ADMIN. LAW JUDGE YOUNG: No, no. What I'm getting at is if we were to admit this contention –

MR. LODGE: Right.

ADMIN. LAW JUDGE YOUNG: *You have an expert, the expert can talk about what happened at the Palisades Plant.*

MR. LODGE: *Right.*

ADMIN. LAW JUDGE YOUNG: Okay. What's the impact of that? What difference does that make considering the standard that, if we look at, for example, 10 C.F.R. 2.309(f) Subsection 4, "You must demonstrate that the issue raised in the contention is material to the findings the NRC must make to support the action that's involved in the proceeding."

Id. at 48 (emphasis added).

On December 21, the Board issued the Board Order, which described the following portions of a conversation between Mr. Basdekas and Susan Uttal, counsel for Staff:

According to Ms. Uttal, Mr. Basdekas informed her that, "although he was contacted by the petitioners regarding being their expert witness and had told them that he might be willing to help them after looking into the matter, he subsequently declined to serve as an expert witness in this matter." Further, Mr. Basdekas informed Ms. Uttal, "he had sent an email to the petitioners advising them that he was declining to be their expert." He indicated that he had "informed the petitioners that, as a generic matter, the longer a reactor operates, the more embrittled the vessel becomes," but he had "made no statements regarding the state of the Palisades reactor as he had no site specific information on which to base an opinion."

Board Order at 1. The Order asked the Petitioners to respond to that information supplied by Staff counsel.

DISCUSSION

Petitioners have submitted nothing to rebut the information recounted in the Board's Order, i.e., that Mr. Basdekas had no site-specific information on which to base an opinion, and that he made only generic statements to Petitioners about the embrittlement issue.⁴ Therefore, it is also clear that any statement specific to Palisades that is found in the embrittlement contention is not the expert opinion of Mr. Basdekas, and no other authority is cited as support for any statement in the contention.

For these reasons, the embrittlement contention must fail the contention standards set forth in 10 C.F.R. § 2.309(f). To the extent that the statements in the contention basis are only generic facts about embrittlement, they fail to support any claim specific to the application. To the extent that the statements are purported to be specific to Palisades, they are merely conclusory allegations, lacking any foundation in expert opinion or other referenced material.

A. The Nature of Mr. Basdekas' Input for Proposed Contention 1

Mr. Basdekas' work for Petitioners appears to have consisted of little more than making generic statements about the nature of embrittlement. As reported by Staff counsel, Mr. Basdekas said that he "made no statements regarding the state of the Palisades reactor" and told the Petitioners only as "a generic matter" that "the longer a reactor operates, the more embrittled the vessel becomes." Board Order at 1. He further stated that he did not make any Palisades specific statements because "he had no site specific information on which

⁴ Although the Petitioners state that Mr. Basdekas "consulted extensively" with them and "co-wrote and edited the embrittlement contention," they produce no proof of these statements. See Response at 2. Further, the Petitioners dispute the statement made to Staff counsel by Mr. Basdekas regarding the generic nature of his comments by stating, without support, that Mr. Basdekas "did, in fact, take Palisades-specific information into account." *Id.* at 11. But, any statements made by the Petitioners regarding the content and basis of Mr. Basdekas' opinions should not be given any weight by the Board. The burden is on the Petitioners to demonstrate that they have proffered an admissible contention. See **Baltimore Gas & Electric Co. (Calvert Cliffs Nuclear Power Plant, Units 1 and 2), CLI-98-14, 48 NRC 39, 41 (1998)**. When directly queried by the Board's Order, the Petitioners failed to submit support regarding any alleged statements made by Mr. Basdekas as a basis for the embrittlement contention.

to base an opinion.” *Id.* Petitioners’ Response does little to counter this.

1. Mr. Basdekas’ Lack of Site-Specific Knowledge

Consider the second statement first. Mr. Basdekas simply said that he did not have site-specific information on which to base an opinion. Petitioners claim that this acknowledgment reflects “considerable modesty,” Response at 4, but the possession of site-specific knowledge for the purposes of analysis is a simple question of fact, not an attribute or accomplishment about which one could be modest. Petitioners then give a summary of Mr. Basdekas’ educational and professional accomplishments and a laundry list of statements made by Mr. Basdekas on the generic issue of Pressurized Thermal Shock, all of which were made a couple of decades ago and none of which are specific to Palisades. See Response at 5-10.

Petitioners claim that they “relied, when they filed Contention 1, and will rely in part at hearing, on this extensive record of publicly-available evidence of [Basdekas’] expert efforts.” Response at 4. Even if Petitioners did consider these decades old statements concerning the generic issue of embrittlement, they failed to allude to the documents containing them in their Petition of August 8, 2005, filed five months ago.⁵ According to 10 C.F.R. § 2.309(f)(1)(v), Petitioners must provide:

a concise statement of the alleged facts or expert opinions which support the requestor’s/petitioner’s position on the issue and on which the petitioner intends to rely at hearing, together with references to the specific sources and documents on which the requestor/petitioner intends to rely to support its position on the issue.”

Petitioners failed to meet this contention requirement for Mr. Basdekas’ decades old statements and opinions, and are only now introducing them five months after they filed their initial petition. These generic statements, therefore, are irrelevant both to the question of Mr. Basdekas’

⁵ Petitioners also failed to allude to these documents in their Combined Reply of September 16, in which they also introduced new facts and theories to bolster their contentions.

knowledge of Palisades specific information and to the admissibility of the embrittlement contention.

Nothing in the Petitioners' response counters Mr. Basdekas' assertion that he did not have site specific information on Palisades. In fact, at oral argument in November, Petitioners' counsel made the following statement: "And we do believe that that adequately articulates an admissible contention, that the longer it operates, the more dangerous it is, and that an expert has analyzed the facts, an expert that *presumably* at this point is familiar enough with the plant has made that statement, offered that opinion as to Palisades." Oral Argument Transcript, (Nov. 3, 2005), pp. 41-42 (emphasis added). Petitioners' counsel could only have been presumed to be referring to the familiarity his former expert had with the specifics of the plant.

2. Mr. Basdekas Made No Statements Specifically Regarding Palisades.

Mr. Basdekas stated to Staff counsel that he made no statements specific to the Palisades reactor and only told Petitioners the generally true statement that the "longer a reactor operates, the more embrittled the vessel becomes." Board Order at 1. In countering this, the Petitioners first point to the wording of the contention and simply say that it alludes to Palisades. See Response at 11.

The entire statement of the embrittlement contention, including basis, is comprised of a one sentence statement of the contention and a four sentence basis. The first sentence in the basis appears simply to restate the contention, except that this restatement of the contention also contradicts the contention. (Inadequately addressing an issue presumes that the issue was addressed in some way, which contradicts the assertion that the application failed to address embrittlement.⁶) The last sentence in the contention is merely a prayer for a hearing. Whatever substance the basis has resides in the middle two sentences. As detailed below,

⁶ The contention, as stated, is wrong because the application does indeed address embrittlement and was timely. **See Palisades Nuclear Plant Application for Renewed Operating License, § 4.2, (Mar. 22, 2005).**

these sentences make three substantive claims, two of which are directly attributed to Mr. Basdekas. The only claims directly attributed to Mr. Basdekas are as follows:

As noted in the opinion of Petitioners' expert on embrittlement, Mr. Demetrios Basdekas, retired from the Nuclear Regulatory Commission, the longer Palisades operates, the more embrittled its RPV becomes, with decreasing safety margins in the event of the initiation of emergency operation procedures.

Petition at 4. The two substantive claims contained herein are (1) the longer Palisades operates, the more embrittled it becomes and (2) this embrittlement causes decreasing safety margins in the event of the initiation of emergency procedures.

The first claim, that Palisades becomes more embrittled the longer it operates, could be applied to any Reactor Pressure Vessel (RPV) in any nuclear reactor currently operating in the United States. The statement is true, but of no importance to whatever specific embrittlement problem may or may not exist at Palisades. Petitioners' counsel admitted this at oral argument when he said, "I believe what your Honor is referring to is the more embrittled a plant becomes - the longer it operates, the more embrittled it becomes. That is generically true." Oral Argument Transcript, (Nov. 3, 2005), p. 41.

The second substantive claim concerning safety margins is also true in the broadest, most general sense. At oral argument, Petitioners' counsel, after admitting that the embrittlement statement was generically true, said, "**The issue is whether there are decreasing safety margins in the event of initiation of emergency operating procedures which can be kind of a generic truism.**" *Id.* So, if the safety margin of a component RPV decreases as embrittlement increases, it is true for any Pressurized Water Reactor (PWR) power plant operating in the United States. While it maybe true that the longer an RPV operates, the more embrittled it becomes, and that the more embrittled a metal is, the more susceptible it is to Pressurized Thermal Shock, these are no more than generic statements that are inadequate as

the basis for an admissible contention. In addition, whether a safety margin is decreasing says nothing about whether the safety margin is adequate.

As stated above, the opinion attributed to Mr. Basdekas consists of nothing more than generic statements contested by no one, and thus does not provide support for a valid contention. Because the claims made in the contention were attributed to an expert, however, one might have been tempted to believe that the contention was merely inartfully drafted and that an expert, one Mr. Basdekas, had site specific knowledge that told him that the embrittlement at Palisades is of a special nature, or to a special extent. However, Mr. Basdekas' later statements to Staff counsel, not effectively countered by Petitioners' Response, remove that possibility.

Petitioners' counsel also points to a press release that quotes Mr. Basdekas and was allegedly approved by him. According to the press release, Mr. Basdekas said, "In my opinion, from my initial review of information, the best expert witness the concerned local residents have against the Palisades license extension is the troubled operational history and characteristics of the nuclear plant itself." Response at 11. Taking this sentence apart, one sees that Mr. Basdekas is only claiming that he gave some information an "initial review." The press release does not say whether the information was related to embrittlement or how much information was given. Therefore, it is not meaningful in the context of the proposed contention.

As for the claims Mr. Basdekas is alleged to have made for the press release, the first deals with operational history, which is not related to any of the claims made in the embrittlement contention. The second deals with the "characteristics" of the plant. These characteristics are not specified and have no obvious relation to the issue of Pressurized Thermal Shock.

3. The New Information Makes Clear that Mr. Basdekas Did Not Identify Palisades as Being Prone to Early Embrittlement.

The contention basis makes one other substantive claim: “The Palisades nuclear power station is identified as prone to early embrittlement of the reactor pressure vessel, which is a vital safety component.” Petition at 4. Staff is not sure what this claim is supposed to mean.

The claim as stated makes little literal sense because embrittlement is an ongoing process that begins as soon as a reactor, any reactor, begins operation. The exchanges at oral argument did not clarify matters greatly.

Whatever the thrust of this statement, to support the admissibility of a contention, the Petitioners’ claim must necessarily be specific to Palisades and contain facts specific to Palisades for support. The Petitioners claim that the plant has been “identified” but does not give the source for the identification. As no source was provided for the claim, it provides no support for the proposed contention.

B. There is Greater Reason to Find the Embrittlement Contention Inadmissible.

The embrittlement contention is inadmissible because it lacks a basis capable of meeting the requirements of 10 C.F.R. § 2.309. The contention’s basis consists either of statements about embrittlement that are generically true for all PWR plants or of statements specific to Palisades that are nothing more than conclusory allegations. For these reasons, the embrittlement contention lacks a basis capable of meeting the requirements of 10 C.F.R. § 2.309(f)(1).

1. Legal Standards Governing the Admission of Contentions

An admissible contention must meet the requirements of 10 C.F.R. § 2.309(f). See 10 C.F.R. § 2.309(a). This regulation requires a petitioner to:

- (i) Provide a specific statement of the issue of law or fact to be raised or controverted;
- (ii) Provide a brief explanation of the basis for the contention;

- (iii) Demonstrate that the issue raised in the contention is within the scope of the proceeding;
- (iv) Demonstrate that the issue raised in the contention is material to the findings the NRC must make to support the action that is involved in the proceeding;
- (v) Provide a concise statement of the alleged facts or expert opinions which support the requestor's/petitioner's position on the issue and on which the petitioner intends to rely at hearing, together with references to the specific sources and documents on which the requestor/petitioner intends to rely to support its position on the issue; and
- (vi) Provide sufficient information to show that a genuine dispute exists with the applicant/licensee on a material issue of law or fact. This information must include references to specific portions of the application (including the applicant's environmental report and safety report) that the petitioner disputes and the supporting reasons for each dispute, or, if the petitioner believes that the application fails to contain information on a relevant matter as required by law, the identification of each failure and the supporting reasons for the petitioner's belief.

10 C.F.R. § 2.309(f)(1). The Commission has emphasized that its rules on contention admissibility establish an evidentiary threshold more demanding than a mere pleading requirement and are "strict by design." *Dominion Nuclear Conn., Inc.* (Millstone Nuclear Power Station, Units 2 & 3), CLI-01-24, 54 NRC 349, 358 (2001). Failure to comply with any of these requirements is grounds for dismissing a contention.

The contentions should refer to the specific documents or other sources of which the petitioner is aware and upon which he or she intends to rely in establishing the validity of the contentions. *Millstone*, CLI-01-24, 54 NRC at 358 (citing *Duke Energy Corp.* (Oconee Nuclear Station, Units 1, 2 & 3), CLI-99-11, 49 NRC 328, 333 (1999)). The petitioner must submit more than "bald or conclusory allegation[s]" of a dispute with the applicant. *Id.* (quoting Final Rule, "Rules of Practice for Domestic Licensing Proceedings - Procedural Changes in the Hearing Process," 54 Fed. Reg. 33,168, 33,171 (Aug. 11, 1989)).

Furthermore, the scope of a license renewal proceeding is limited in the safety context to “a review of the plant structures and components that will require an *aging* management review for the period of extended operation and the plant’s systems, structures and components that are subject to an evaluation of time-limited *aging* analyses.” *Duke Energy Corp.* (McGuire Nuclear Station, Units 1 & 2; Catawba Nuclear Station, Units 1 & 2), CLI-02-26, 56 NRC 358, 363-64 (2002) (citations omitted) (emphasis in original).

2. The Embrittlement Contention is Inadmissible.

In Section A of the Discussion, *supra.*, only three substantive claims were identified in the basis for the embrittlement contention. Because the lack of support for them has been clarified, there is now greater reason to conclude that the contention is inadmissible. The arguments below will focus only on those contention requirements affected by this new understanding of Mr. Basdekas’ role.

i. Analysis of 10 C.F.R. § 2.309(f)(1)(ii) requirement.

The three substantive claims made in the section purporting to be the basis fail to “[p]rovide a brief explanation of the basis for the contention” as required by 10 C.F.R. § 2.309(f)(1)(ii). Petitioners’ basis is no basis at all. The two claims attributed to Mr. Basdekas are generic and do nothing to support Petitioners’ contention that the application failed to discuss embrittlement or that the application did not adequately address embrittlement. These statements do not show the untimeliness of the application (the application was in fact timely) or the incompleteness of the application. The statements, in short, provide no basis for the contention, thereby failing to meet the requirements of Section 2.309(f)(1)(ii).

The third claim, that Palisades has been “identified as prone to early embrittlement,” is of uncertain meaning, as discussed above. The claim says nothing about whether the renewal application fails to address, or fails to adequately address, embrittlement. The completeness and timeliness of the application is also not being implicated. Petitioners did not (and could not)

claim the expert opinion of Mr. Basdekas for this Palisades-specific claim, and no other foundation was cited in the basis section. More is required of petitioners than “bald or conclusory allegation[s].” *Millstone*, CLI-01-24, 54 NRC at 358 (quoting Final Rule, “Rules of Practice for Domestic Licensing Proceedings - Procedural Changes in the Hearing Process,” 54 Fed. Reg. 33,168, 33,171 (Aug. 11, 1989)). Furthermore, contentions must be supported by a “sufficient foundation.” *Fla. Power & Light Co.* (Turkey Point Nuclear Generating Plant, Units 3 & 4), CLI-01-17, 54 NRC 3, 16, 20 (2001) (concluding that petitioner’s contention was inadmissible, in part, because the “alleged facts’ in support of his contention amount[ed] to no more than his own predictions and speculation”) (emphasis added).

ii. Analysis of 10 C.F.R. § 2.309(f)(1)(v) requirement

The alleged facts and expert opinion cited by Petitioners fail to support the contention, and the only site-specific claim found in the basis is a conclusory allegation without any cited foundation. Other than an expert, who apparently has made only generic statements about embrittlement, and who will not serve as an expert witness, Petitioners cited no other authority for their claims. Furthermore, the documents, facts, and theories set forth by Petitioners in their Answer and in their Response, even if assumed to be adequate, were submitted too late to be considered at the contention stage. *See Louisiana Energy Services, L.P.* (National Enrichment Center), CLI-04-25, 60 NRC 223, 224 (2004) (concluding that the petitioners attempt to present new arguments in the reply brief was a “late attempt to reinvigorate thinly supported contentions”). Petitioners never gave reasons under 10 C.F.R. 2.309(f)(2) why these new facts and theories should be accepted, and it appears that the showing required by 10 C.F.R. § 2.309(f)(2) could not be satisfied.

iii. Analysis of 10 C.F.R. § 2.309(f)(1)(vi) requirement

The alleged facts and expert opinion cited by Petitioners fail to show that a genuine dispute exists with respect to a material issue of law or fact. The substantive claims are generic

and are contested by no one. To the extent that the claims are alleged to mean something specific to Palisades, they lack foundation and fail either to reference “specific portions of the application” or to identify particular failures to contain information and give reasoning supporting Petitioners’ belief. See 10 C.F.R. § 2.309(f)(1)(vi).

C. Reply to Preliminary Objections in Petitioners’ Response

Petitioners make several preliminary objections to the requirements of the Board Order. The Board Order asked Petitioners to respond to new information provided by Staff counsel and provide an affidavit from Mr. Basdekas if he was still their expert. Petitioners first object that the order violates the Attorney-Client and Attorney-Work Product Privileges, but Petitioners fail to state either the elements of the privileges or how the Board’s general direction to respond to new information and to potentially provide an affidavit violates either privilege. Communications between client and lawyer were not asked for, and Petitioners have already identified Mr. Basdekas as their expert. Finally, 10 C.F.R. § 2.309(f)(1)(v) requires Petitioners to identify *at the contention stage* expert opinions upon which they intend to rely.

Petitioners then claim that the Board Order is without foundation. The Board Order was proper in order to verify the basis of Petitioners’ proposed contention, which was purportedly Mr. Basdekas’ expert opinion.

CONCLUSION

For the reasons set forth above, the Board Order of December 21, 2005, was proper and violated no privileges. Furthermore, Petitioners' failure to establish that there is expert support for the proposed contention demonstrates that there is greater reason to dismiss the embrittlement contention. Therefore, proposed Contention 1 is inadmissible.

Respectfully submitted,

/RA/

Michael A. Spencer
Counsel for NRC staff

Dated at Rockville, Maryland
this 9th day of June, 2005

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matter of)		
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NUCLEAR MANAGEMENT)	Docket No.	50-255-LR
COMPANY, LLC)		
)	ASLBP No.	05-842-03-LR
(Palisades Nuclear Plant))		

NOTICE OF APPEARANCE

Notice is hereby given that the undersigned attorney herewith enters an appearance in the above-captioned matter. In accordance with 10 C.F.R. § 2.314(b), the following information is provided:

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Respectfully submitted,

/RA/

Michael A. Spencer
Counsel for NRC Staff

Dated at Rockville, Maryland
this 9th day of January, 2006

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matter of)		
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NUCLEAR MANAGEMENT)	Docket No.	50-255-LR
COMPANY, LLC)		
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(Palisades Nuclear Plant))	ASLBP No.	05-842-03-LR

CERTIFICATE OF SERVICE

I hereby certify that copies of the "NRC STAFF REPLY TO PETITIONERS' RESPONSE TO BOARD ORDER," in the above-captioned proceeding have been served on the following through deposit in the NRC's internal mail system, with copies by electronic mail, as indicated by an asterisk, by U.S. mail, first class, as indicated by double asterisk, with copies by electronic mail, or by U.S. mail, first class, as indicated by triple asterisk, this 9th day of January, 2006:

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