

ATOMIC SAFETY AND LICENSING BOARD PANEL

SERVED 01/30/06

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

January 30, 2006

ORDER and NOTICE(Regarding Petitioners' Motion of January 27, 2006, and Expected Rulings on
Motion, Standing, Contentions, and Other Pending Matters)

On the afternoon of January 27, 2006, Petitioners through their Counsel filed a Motion,¹ asking that we (1) strike the NMC and Staff January 9, 2006, Replies² to Petitioners' January 3, 2006, Response³ to our Order of December 21, 2005⁴; (2) stay the proceeding; and (3) allow Petitioners to take the deposition of Staff Counsel.⁵ Although it appears that this motion was not timely filed,⁶ the Licensing Board considers that rulings should be made on the matters

¹Petitioners' Motion to Strike Staff and NMC Responses to Board Order on Expert Witness Matter, to Stay Proceedings and to Take Deposition of NRC Staff Counsel (Jan. 27, 2006).

²Nuclear Management Company's Reply to Petitioners' Response to Board December 21, 2005 Order Regarding Expert Opinion Allegedly Supporting Contention 1 - Palisades Reactor Embrittlement (Jan. 9, 2006); NRC Staff Reply to Petitioners' Response to Board Order (Jan. 9, 2006).

³Petitioners' Response to Board Order on Matter of Expert Opinion (Jan. 3, 2006).

⁴Order and Revised Notice (Setting Deadlines to Respond to Staff Notification of December 20, 2005) (Dec. 21, 2005).

⁵Petitioners' Motion to Strike Staff and NMC Responses to Board Order on Expert Witness Matter, to Stay Proceedings and to Take Deposition of NRC Staff Counsel (Jan. 27, 2006).

⁶See 10 C.F.R. § 2.323(a), which requires that any motion "must be made no later than ten (10) days after the occurrence or circumstance from which the motion arises." Under this

sought therein, given the seriousness of some of the allegations made in connection with such matters. Further, in light of these allegations as well as the nature of the actions requested, we will require the NRC Staff and NMC to file responses to the motion.

In order not to delay any more than necessary⁷ Licensing Board rulings on Petitioners' standing to participate in this proceeding, admissibility of their contentions, and other pending matters, Staff and NMC responses shall be filed on an expedited basis, by close of business Friday, February 3, 2006.⁸ Thereafter, unless the Board determines to grant the stay requested by Petitioners, the Board anticipates issuing rulings on all pending matters in February 2006.

It is so ORDERED.

THE ATOMIC SAFETY
AND LICENSING BOARD

/RA/

Ann Marshall Young, Chair
ADMINISTRATIVE JUDGE

Rockville, Maryland
January 30, 2006⁹

standard, Petitioners' Motion should have been filed by January 19, 2006, based on the January 9, 2006, filing of the NMC and Staff Replies.

⁷Petitioners' motion is the third development in this proceeding that has affected the timing of the Licensing Board's issuance of rulings on standing, contentions, and other pending matters. The first two of these developments were Staff Counsel's November 8, 2005, filing of a letter with the Board, stating that the NRC Staff was no longer asserting one quite significant argument relating to Petitioners' Contention 1, and Staff Counsel's December 20, 2005, e-mail notification regarding a telephone call she had received from Demetrios Basdekas, who had been named as an expert witness by the petitioners in support of Contention 1. Letter from Susan L. Uttal, Counsel for the NRC Staff, to Licensing Board (Nov. 8, 2005); E-mail transmission from Susan L. Uttal, Counsel for the NRC Staff, to Board Members, Parties, and NRC Office of the Secretary (Dec. 20, 2005). We note that Petitioners' Motion of January 27 also concerns the same expert put forth for Contention 1.

⁸Under 10 C.F.R. § 2.323(c), answers to motions must be filed within 10 days of service of a written motion, "or other period as determined by . . . the presiding officer."

⁹Copies of this Order were sent this date by Internet e-mail transmission to all participants or counsel for participants.

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

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

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing LB ORDER AND NOTICE (REGARDING PETITIONERS' MOTION OF JANUARY 27, 2006, AND EXPECTED RULINGS ON MOTION, STANDING, CONTENTIONS, AND OTHER PENDING MATTERS) have been served upon the following persons by U.S. mail, first class, or through NRC internal distribution.

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LB ORDER AND NOTICE (REGARDING PETITIONERS'
MOTION OF JANUARY 27, 2006, AND EXPECTED
RULINGS ON MOTION, STANDING, CONTENTIONS,
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[Original signed by Evangeline S. Ngbea]

Office of the Secretary of the Commission

Dated at Rockville, Maryland
this 30th day of January 2006