

RAS 11502

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

DOCKETED 04/05/06

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ATOMIC SAFETY AND LICENSING BOARDS
Before Administrative Judges:

Michael C. Farrar, Chairman
E. Roy Hawkens
Nicholas G. Trikouros

In the Matter of

DALE L. MILLER

Docket No. IA-05-053

ASLBP No. 06-846-02-EA

April 5, 2006

NOTICE OF HEARING
(Enforcement Order)

This proceeding stems from an immediately-effective Enforcement Order issued on January 4, 2006, by the Nuclear Regulatory Commission Staff against Mr. Dale L. Miller, prohibiting him from “engaging in NRC-licensed activities” for five years because of certain actions the NRC Staff believes he took in 2001 when he was employed at the Davis-Besse Nuclear Power Plant, located some 25 miles east of Toledo near Oak Harbor, Ohio. That Order, published in the Federal Register (71 Fed. Reg. 2579) on January 17, 2006, detailed the Staff’s assertions that Mr. Miller had deliberately provided materially incomplete and inaccurate information in connection with an issue affecting the continued operation of the Davis-Besse facility, and provided Mr. Miller with the opportunity, under 10 C.F.R. § 2.202(b), to request a hearing to contest the matters set out in the Order. Through counsel, Mr. Miller timely filed such a request on February 23, 2006.

This Atomic Safety and Licensing Board was established on March 16, 2006, to consider Mr. Miller’s hearing request. With the NRC Staff having indicated no objection thereto, we granted that request on March 27, 2006, in a Memorandum and Order that also granted the hearing requests of two other former Davis-Besse employees who were the

subjects of immediately-effective Staff Enforcement Orders likewise suspending them from employment in the nuclear industry.

In light of the foregoing, and consistent with 10 C.F.R. § 2.318(a) (see also id. §§ 2.203 and 2.312(a)), PLEASE TAKE NOTICE that a hearing will be conducted in this proceeding. The hearing will be governed by the specific hearing procedures set forth in 10 C.F.R. Part 2, Subpart G (10 C.F.R. §§ 2.700-2.713), which procedures supplement the general rules set forth in 10 C.F.R. Part 2, Subpart C (10 C.F.R. §§ 2.300-2.390). During the course of the proceeding, the Board may, among other measures, hold oral arguments (id. § 2.331) and pre-hearing conferences (id. § 2.329), and may conduct evidentiary hearings (id. § 2.711). The public is invited to attend any oral argument, pre-hearing conference, or evidentiary hearing unless otherwise ordered by the Commission (id. §§ 2.327-2.328). The time and place of any such sessions will be fixed by subsequent order(s); notices thereof will be published in the Federal Register and/or made available to the public at the NRC Public Document Room, located in One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland, and through the NRC website, <http://www.nrc.gov>.

In the same March 27, 2006 Memorandum and Order in which it granted Mr. Miller's hearing request, this Board convened a conference call for April 13, 2006, during which it will discuss with counsel the status of their negotiations concerning an agreement on a discovery process and schedule. Depending on those negotiations and other pending matters, the Board may shortly thereafter set an initial scheduling order for the proceeding.

Documents relating to this proceeding are available for public inspection at the NRC's Public Document Room or electronically from the publicly available records component of NRC's document system (ADAMS). ADAMS is accessible from the NRC web site at <http://www.nrc.gov/reading-rm/adams.html>.

Persons who do not have access to ADAMS or who encounter problems in accessing the documents located in ADAMS may contact the NRC Public Document Room reference staff by telephone at 1-800-397-4209 or 301-415-4737, or by e-mail to pdr@nrc.gov.

It is so ORDERED.

FOR THE ATOMIC SAFETY
AND LICENSING BOARD

/RA/

Michael C. Farrar, Chairman
ADMINISTRATIVE JUDGE

Rockville, Maryland
April 5, 2006

Copies of this Notice of Hearing were sent this date by Internet e-mail to counsel for Mr. Miller and for the NRC Staff.

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

In the Matter of)
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(Enforcement Action))

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing LB NOTICE OF HEARING (ENFORCEMENT ORDER) have been served upon the following persons by U.S. mail, first class, or through NRC internal distribution.

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[Original signed by Evangeline S. Ngbea]

Office of the Secretary of the Commission

Dated at Rockville, Maryland
this 5th day of April 2006