

RAS 11559

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION
ATOMIC SAFETY AND LICENSING BOARD

DOCKETED 04/19/06

SERVED 04/19/06

Before Administrative Judges:

Lawrence G. McDade, Chairman
Dr. Paul B. Abramson
Dr. Richard E. Wardwell

In the Matter of

USEC, Inc.

(American Centrifuge Plant)

Docket No. 70-7004-ML

ASLBP No. 05-838-01-ML

April 19, 2006

ORDER

(Request for Documents and Briefings)

Before the Board is the application of USEC, Inc. (USEC) for authorization to possess and use source, byproduct, and special nuclear material in order to enrich natural uranium to a maximum of ten percent uranium-235 (U^{235}) by the gas centrifuge process. USEC proposes to do this at a facility – denominated the American Centrifuge Plant (ACP) – to be constructed near Piketon, Ohio.

More specifically, on August 23, 2004, USEC filed an application with the Nuclear Regulatory Commission (NRC) to obtain a thirty-year 10 C.F.R. Part 70 license to operate its proposed ACP. Thereafter a public interest group, the Portsmouth/Piketon Residents for Environmental Safety and Security (PRESS) and an individual, Geoffrey Sea (Sea), filed petitions to intervene. Based on the pleadings submitted, and after hearing argument from the putative intervenors, this Board determined that neither Petitioner had presented an admissible contention.¹ Both PRESS and Sea appealed the Board's Order and, on April 3, 2006, the

¹ LBP-05-28, 62 NRC 585 (2005).

Commission affirmed the Board's rulings as to both Petitioners.² Therefore, the only matter remaining before this Board is satisfaction of the Mandatory Hearing requirement with regard to USEC's License Application (LA). 42 U.S.C. § 2243(b)(1); 10 C.F.R. §§ 70.23(a), 70.31(e).

In order to facilitate the Board's preparation for the Mandatory Hearing, the NRC Staff shall provide to the Board the following documents with the most recent revisions/amendments thereto, and summaries thereof:

- 1) Emergency Plan
- 2) Physical Security Plan
- 3) Fundamental Nuclear Material Control Plan
- 4) Environmental Report
- 5) Environmental Impact Statement (EIS)
- 6) Integrated Safety Analysis
- 7) Safety Evaluation Report (SER)
- 8) NRC Staff Requests for Additional Information and USEC's replies thereto, and any written analyses of those replies that have been prepared by the NRC Staff
- 9) Minutes and/or transcripts of any Advisory Committee on Reactor Safeguards (ACRS) or Advisory Committee on Nuclear Waste (ACNW) meetings relevant to USEC's LA, and any reports, letters, or memoranda prepared by or on behalf of the ACRS or the ACNW which relate to the USEC LA.

All of the documents provided in response to this Order shall be accompanied by an index identifying them with an ADAMS accession number if the documents are available on ADAMS and, if not, by some other appropriate identifier.

In addition to the documents stated above, the NRC Staff shall provide the Board with a narrative summary identifying all regulatory guidance documents that were used, or are being used, in its review of USEC's American Centrifuge Plant License Application. This submission shall include copies of the applicable Standard Review Plans (SRPs) and regulatory guides and shall explain in depth, referring subsection-by-subsection to the SRPs or regulatory guides, how these documents were used by the Staff in its review of the USEC LA. This submission shall

² CLI-06-09, 63 NRC __ (slip op.) (Apr. 3, 2006); CLI-06-10, 63 NRC __ (slip op.) (Apr. 3, 2006).

highlight those areas where relevant portions of the published guidance documents were not used. The NRC Staff shall explain what was done to review the LA in those areas where it was not able to, or otherwise did not, follow relevant portions of the published guidance, and explain in full why the chosen course of review was followed. Additionally, this narrative shall include a summary describing the key areas of the NRC Staff's review of USEC's LA (safety and environmental issues) with references to the EIS and the SER, and shall identify the particular individual who was in charge of each portion of the review. Further, to the extent not already included in response to the foregoing provisions of this Order, the NRC Staff shall attach copies of all documents referenced or discussed within the narrative summary.

If there are any additional documents the NRC Staff believes should be utilized by the Board in preparing for and conducting the Mandatory Hearing, it shall provide the Board with a list of such documents. That list should be accompanied by a brief explanation of why the NRC Staff believes that each of the listed documents is relevant and necessary to the Board's review of USEC's LA and/or the findings which it must make as part of the Mandatory Hearing.

Four (4) paper copies of each requested document (and any additional documents deemed relevant by the NRC Staff), as well as the narrative summary, shall be provided to the Board on or before June 5, 2006. Unless previously bound (such as the EIS and SER), these documents shall be enclosed in three ring binders and accompanied by the previously-referenced index. The NRC Staff shall also provide to the Board one (1) electronic copy of the documents to be produced pursuant to this Order on CD or DVD. For those documents that have been requested but are not available as of June 5, 2006, the NRC Staff shall provide an estimate of when those documents will be provided to the Board. As soon as practicable, but no later than thirty (30) days after the Staff makes its submissions to the Board, USEC may file any exceptions, additions, or objections to the NRC Staff's submission.

Absent further Order from this Board, within sixty (60) days after the submission of the narrative summary, the documents identified by this Order, and such other documents relevant to the Board's review that are identified by the NRC Staff or by USEC in response to this Order, and which are subsequently requested by the Board, the NRC Staff shall file with the Board such preliminary proposed findings of fact and conclusions of law as it deems relevant to the findings which the Board must make in the Mandatory Hearing including, but not limited to, the issues focused on by the Staff in the above-stated narrative summary.³ This proposal shall be annotated with explicit references to the record which support the preliminary proposed findings of fact, and such citations as the NRC Staff concludes support the preliminary proposed conclusions of law. As soon as practicable, but no later than thirty (30) days after the NRC Staff files its preliminary proposals, USEC shall submit any exceptions, additions, or objections to the NRC Staff's proposed findings of fact and conclusions of law.

³ If additional documents relevant to the Board's review are identified by the NRC Staff or by USEC in response to this Order and are subsequently requested by the Board, the sixty (60) day period for filing the proposed findings of fact and conclusions of law shall run from a date to be set by the Board for submission of those additional documents. Otherwise, the sixty (60) day period for filing the proposed findings of fact and conclusions of law shall run from the date of the NRC Staff's submission of the narrative summary and the documents specifically identified by this Order.

An objection to any portion of this Order, or a request for modification to or clarification of this Order shall be filed no later than May 1, 2006.

IT IS SO ORDERED.

FOR THE ATOMIC SAFETY
AND LICENSING BOARD⁴

/RA/

Lawrence G. McDade, Chairman
ADMINISTRATIVE JUDGE

Rockville, Maryland
April 19, 2006

⁴ Copies of this order were sent this date by Internet e-mail transmission to: (1) Counsel for USEC, and (2) Counsel for the NRC Staff.

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NUCLEAR REGULATORY COMMISSION

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CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing LB ORDER (REQUEST FOR DOCUMENTS AND BRIEFINGS) 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
Lawrence G. McDade, Chair
Atomic Safety and Licensing Board Panel
Mail Stop - T-3 F23
U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001

Administrative Judge
Paul B. Abramson
Atomic Safety and Licensing Board Panel
Mail Stop - T-3 F23
U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001

Administrative Judge
Richard E. Wardwell
Atomic Safety and Licensing Board Panel
Mail Stop - T-3 F23
U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001

Lisa B. Clark, Esq.
Margaret J. Bupp, Esq.
Office of the General Counsel
Mail Stop - O-15 D21
U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001

Donald J. Silverman, Esq.
Morgan, Lewis & Bockius, LLP
1111 Pennsylvania Avenue, NW
Washington, DC 20005

Docket No. 70-7004-ML
LB ORDER (REQUEST FOR DOCUMENTS AND BRIEFINGS)

Dennis J. Scott, Esq.
USEC Inc.
6903 Rockledge Drive
Bethesda, MD 20817

Vina K. Colley
Portsmouth/Piketon Residents for
Environmental Safety and Security (PRESS)
3706 McDermott pond Creek
McDermott, OH 45652

Ewan Todd
403 E. Oakland Avenue
Columbus, OH 43202

Geoffrey Sea
1832 Wakefield Mound Road
Piketon, OH 45661

[Original signed by Evangeline S. Ngbea]

Office of the Secretary of the Commission

Dated at Rockville, Maryland,
this 19th day of April 2006