

RAS 12051

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

DOCKETED 08/01/06

SERVED 08/01/06

Before Administrative Judges:

Lawrence G. McDade, Chairman
Nicholas G. Trikouros
Dr. Richard E. Wardwell

In the Matter of

SYSTEM ENERGY RESOURCES, INC.

(Early Site Permit for Grand Gulf ESP Site)

Docket No. 52-009-ESP

ASLBP No. 04-823-03-ESP

August 1, 2006

ORDER

(Establishing Tentative Case Schedule)

The Board hereby establishes the following tentative schedule for the Mandatory Hearing Proceeding relating to System Energy Resources, Inc. (SERI) proposed Grand Gulf early site permit (ESP). We stress, however, that this schedule is necessarily tentative.

As we pointed out in our Order of May 31, 2006, the Board has not yet determined what form the Mandatory Hearing in this proceeding will take.¹ We had anticipated that after we received and reviewed the materials specified in our April 19 Order that we would be able to choose the most efficient format within which to proceed, and at that time we would issue an order setting the schedule for this proceeding. However, in its Order of July 26, 2006, the Commission directed us to establish a schedule that would allow the Board to issue its decision in this proceeding by November 30, 2006. CLI-06-20, 63 NRC __ (slip op. at 15) (July 26, 2006).

¹ As the Commission pointed out “[t]he word ‘hearing’ can refer to any of a number of events, including trial-type evidentiary hearings, ‘paper hearings,’ paper hearings accompanied by oral arguments, [or] hearings employing a mixture of procedural rules.” CLI-05-17, 62 NRC 5, 42-43 (2005) (footnotes omitted). The Commission did “not dictate any particular procedure in the current case[.]” Id. at 43.

Accordingly, pursuant to the Commission's directive, we set out the following schedule which, to the degree that it varies from any earlier deadlines established by this Board, supercedes those earlier deadlines:

- August 7, 2006 — NRC Staff will submit to the Board ACRS documents²
- August 11, 2006 — NRC Staff will submit to the Board Proposed Findings of Fact and Conclusions of Law
- August 25, 2006 — SERI will submit comments on the NRC Staff's Proposed Findings of Fact and Conclusions of Law
- August 28, 2006 — Limited Appearance Session, Port Gibson, Mississippi
- August 29, 2006 — Grand Gulf ESP Site Visit by the Board
- September 13, 2006 — The Board will issue written questions to the NRC Staff relating to the Grand Gulf Safety Evaluation Report (SER)
- September 29, 2006 — The NRC Staff will submit written answers to the Board's September 13 questions relating to the Grand Gulf SER
- October 3, 2006 — The Board will issue written questions to the NRC Staff relating to the Environmental Impact Statement (EIS)
- October 16, 2006 — The NRC Staff will submit written answers to the Board's October 3 questions relating to the Grand Gulf EIS
- October 19, 2006 — Prehearing Conference to discuss issues relating to hearing procedures and testimony
- October 27, 2006 — The Board will issue an Order setting out specific hearing issues
- November 9, 2006 — The NRC Staff will submit written direct testimony relevant to the hearing issues specified by the Board
- November 13, 2006 — Prehearing Conference to further discuss hearing issues and testimony
- November 15-16, 2006 — Hearing

² Consistent with the Commission's Order dated July 26, 2006, we direct that no later than August 7, 2006, the NRC Staff produce to the Board an index describing all documents that it submitted to the ACRS and also to produce an index of and copies of all documents that the Staff received from the ACRS relating to the Grand Gulf ESP application.

As the Board continues with its examination of this matter we may well identify areas where we need additional information in order to complete our substantive review of the NRC Staff's work on safety and environmental matters, or we may determine that we have allocated too much time for a particular stage of the proceeding. Accordingly, as noted above, this schedule is necessarily tentative and may well be superceded by subsequent orders.³

As repeatedly recognized by the Commission in its various memoranda and orders relating to the Mandatory Hearing process, we are all (the Applicant, the NRC Staff, the Board and the Commission) trying to develop procedures that will insure efficient and meaningful Mandatory Hearings. This process is complicated by the fact that these are "essentially new process[es] where the agency lacks recent experience."⁴ Accordingly, as we all proceed through this Mandatory Hearing experience, flexibility and a spirit of cooperation will be required if we are to complete this proceeding within the time frame expected by the Commission.

It is so ORDERED.

FOR THE ATOMIC SAFETY
AND LICENSING BOARD⁵

/RA/

Lawrence G. McDade, Chairman
ADMINISTRATIVE JUDGE

Rockville, Maryland
August 1, 2006

³ As noted in our earlier Orders, until our preliminary review of the record is complete, we will not know whether oral or written testimony or exhibits will be necessary in order for the Board to meaningfully evaluate the NRC Staff's review of SERI's ESP Application.

⁴ CLI-06-20, 63 NRC at __ (slip op. at 8) (July 26, 2006).

⁵ Copies of this Order were sent this date by Internet e-mail transmission to counsel for (1) applicant SERI; and (2) the NRC Staff.

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

In the Matter of)
)
SYSTEM ENERGY RESOURCES, INC.) Docket No. 52-009-ESP
)
)
(Early Site Permit for Grand Gulf ESP Site))

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing LB ORDER (ESTABLISHING TENTATIVE CASE SCHEDULE) 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
Nicholas G. Trikouros
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

Robert M. Weisman, Esq.
Patrick A. Moulding, Esq.
Office of the General Counsel
Mail Stop - O-15 D21
U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001

Diane Curran, Esq.
Harmon, Curran, Spielberg
& Eisenberg, L.L.P.
1726 M Street, NW, Suite 600
Washington, DC 20036

Docket No. 52-009-ESP
LB ORDER (ESTABLISHING TENTATIVE CASE SCHEDULE)

Kathryn M. Sutton, Esq.
Paul M. Bessette, Esq.
Morgan, Lewis & Bockius, LLP
1111 Pennsylvania Avenue, NW
Washington, DC 20004

[Original signed by Adria T. Byrdsong]
Office of the Secretary of the Commission

Dated at Rockville, Maryland,
this 1st day of August 2006