

August 2, 2006

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matters of	)	
	)	
DALE L. MILLER	)	Docket No. IA-05-053
	)	ASLBP No. 06-846-02-EA
&	)	
	)	
STEVEN P. MOFFITT	)	Docket No. IA-05-054
	)	ASLBP No. 06-847-03-EA
	)	

NRC STAFF'S APPLICATION FOR THE ISSUANCE OF A SUBPOENA

INTRODUCTION

Pursuant to 10 C.F.R. § 2.702(a) of the Commission's regulations, the Staff of the Nuclear Regulatory Commission (Staff) requests that the Atomic Safety and Licensing Board (Board), designated in the above-captioned proceedings<sup>1</sup>, issue a subpoena, attached hereto, requiring a certain individual, named below, to attend and give testimony at a deposition.

DISCUSSION

The Staff requests the Board to issue a subpoena for David Lockwood in order to ensure the Staff's ability to depose this individual on the date specified. Mr. Lockwood was the Regulatory Affairs manager at Davis-Besse from 2000 to 2002 and is still employed by FirstEnergy Nuclear Operating Company. Mr. Lockwood's testimony is relevant to the issues raised by this enforcement action. Mr. Lockwood was Mr. Miller's direct supervisor and had overall responsibility for the completeness and accuracy of Davis-Besse's Fall 2001

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<sup>1</sup>The Staff recognizes that these proceedings have not been consolidated. However, for administrative convenience the Staff desires a subpoena covering both proceedings since Mr. Cook has been identified as a witness in both proceedings.

submissions to the NRC. Mr. Cook was identified as a person with relevant information by both Mr. Moffitt and Mr. Miller both in their initial disclosures and in responses to written discovery questions.

CONCLUSION

For the above stated reasons, the Staff requests the Board to issue the attached subpoena to Mr. Lockwood.

Respectfully submitted,

***/RA by Mary C. Baty/***

Sara E. Brock  
Mary C. Baty  
Michael A. Spencer  
Counsel for the NRC Staff

Dated at Rockville, Maryland  
this 2<sup>nd</sup> day of August, 2006

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

In the Matters of:

DALE L. MILLER

and

STEVEN P. MOFFITT

Docket No. IA-05-053

ASLBP No. 06-846-02-EA

Docket No. IA-05-054

ASLBP No. 06-847-03-EA

TO: David Lockwood  
c/o William D. Beyer  
The Brunell Building  
1340 Summer Court  
Cleveland, OH 44115

YOU ARE HEREBY COMMANDED to appear to testify at a deposition in the  
above-captioned proceeding  
to be conducted at Holiday Inn Express Hotel and Suites,  
50 NE Catawba Road, Port Clinton, OH 434352 in the Bay Harbor Room  
on the 22nd day of August, 20 06 at 1:00 PM.

BY ORDER OF THE ATOMIC SAFETY AND LICENSING BOARD

BY: \_\_\_\_\_  
Michael Farrar, Chairman ASLB

\_\_\_\_\_  
Date

ATTORNEY FOR THE NRC STAFF:

Sara E. Brock/Mary C. Baty/Michael A. Spencer

TELEPHONE: 301-415-8393/301-415-1324/301-415-4073

10 C.F.R. 2.702(f)

*On motion made promptly, and in any event at or before the time specified in the subpoena for compliance by the person to whom the subpoena is directed, and on notice to the party at whose instance the subpoena is issued, the presiding officer,*

*or, if he is unavailable, the Commission may: (1) Quash or modify the subpoena if it is unreasonable or requires evidence not relevant to any matter in issue, or (2) Condition denial of the motion on just and reasonable terms.*

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NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

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CERTIFICATE OF SERVICE

I hereby certify that copies of "NRC STAFF'S APPLICATION FOR THE ISSUANCE OF A SUBPOENA" in the above captioned proceeding have been served on the following persons by deposit in the United States mail; through deposit in the Nuclear Regulatory Commission internal mail system as indicated by an asterisk (\*); and by electronic mail as indicated by a double asterisk (\*\*) on this 2<sup>nd</sup> day of August, 2006.

Michael C. Farrar \* \*\*  
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Mail Stop: O-16 C1  
Washington, D.C. 20555

Adjudicatory File \*  
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U.S. Nuclear Regulatory Commission  
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Office of the Secretary \* \*\*  
Attn: Rulemaking and Adjudications Staff  
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*/RA/*

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Mary C. Baty  
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