

RAS 12352

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

DOCKETED 10/11/06

SERVED 10/11/06

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

October 11, 2006

ORDER

(Granting the NRC Staff's Motion for an Extension of Time and Revising Case Schedule)

On July 26, 2006, the Commission issued a Memorandum and Order which, *inter alia*, expressed its "expectation" that this Board would "issue its decision on the mandatory hearing no later than November 30."¹ Acting on the Commission's guidance, on August 1, 2006, this Board issued a Scheduling Order establishing a tentative schedule for the mandatory hearing proceeding relating to the System Energy Resources, Inc. (SERI) proposed Grand Gulf Early Site Permit (ESP).² That tentative schedule was specifically established by the Board so that we could meet the Commission's expectations with regard to the completion of this proceeding.

Thereafter, consistent with that Scheduling Order, the Board issued questions to the NRC Staff relating to the Grand Gulf Environmental Impact Statement (EIS), the answers to which were to be submitted by the NRC Staff to the Board on or before October 16, 2006.

¹ CLI-06-20, 64 NRC __, __ (slip op. at 15) (July 26, 2006).

² Licensing Board Order (Establishing Tentative Case Schedule) (Aug. 1, 2006) (unpublished).

On October 10, 2006, the NRC Staff submitted a Motion for an extension of time within which to submit its answers to the Board. Specifically, the NRC Staff asked that it be allowed until October 23, 2006, to submit its filings relating to environmental matters. In addition, the NRC Staff indicated that the applicant, SERI, does not object to the Staff's Motion. Upon consideration, we believe that the NRC Staff's request is reasonable and, accordingly, we grant their Motion.

However, in granting the Staff's Motion we recognize that to do so will necessitate minor modifications to the schedule that we set out in our Order of August 1, 2006. While the NRC Staff suggests that the granting of its Motion need not impact the remainder of the schedule, we disagree. Each remaining step in our already ambitious schedule triggers subsequent steps. Given the tightness of our current schedule, a delay at one point, without a corresponding delay in subsequent steps, does nothing to insure that we will have an adequate and complete hearing record. For instance, SERI can not comment on the Staff's answers until it has received them. Likewise, the Board can not issue a meaningful order setting out specific hearing topics until we receive, read, and evaluate the NRC Staff and SERI's responses to the questions that we have already issued. And finally, the NRC Staff can not prepare and present worthwhile testimony for the hearing until it has received and analyzed the hearing issues that the Board will issue.

We submitted questions to the NRC Staff and requested briefs from the Staff and SERI in order to secure information that we believe is necessary for us to receive, analyze, and evaluate, before we can move forward toward completing the hearing process and issuing our decision. We believe that, having granted the extension of time requested by the NRC Staff, and agreed to by SERI, good cause now exists for revisions to the schedule. Accordingly, we now establish the following schedule, which to the degree that it varies from any earlier deadlines established by this Board, supercedes those earlier deadlines:

- October 23, 2006 — The NRC Staff shall submit written answers to the Board's questions relating to the Grand Gulf EIS and the NRC Staff and SERI shall submit Briefs on the environmental issues specified in the Board's Order dated October 3, 2006
- October 30, 2006 — SERI may submit comments on the NRC Staff's responses to the Board's questions regarding the Grand Gulf EIS
- October 31, 2006 — Prehearing Conference to discuss issues relating to hearing procedures and testimony
- November 6, 2006 — The Board will issue an Order setting out specific hearing topics regarding safety and environmental issues
- November 20, 2006 — The NRC Staff will submit written direct testimony and exhibits relevant to the hearing issues specified by the Board³
- November 27, 2006 — SERI will submit any additional written direct testimony and exhibits which it believes are relevant to the hearing issues specified by the Board
- November 28, 2006 — Prehearing Conference to further discuss hearing issues and testimony
- November 29, 2006 — Hearing (which will then continue day to day thereafter until complete)

While we recognize that the change in the schedule for this proceeding specified by this Order will prevent us from meeting the Commission's expectations with regard to the date by which this proceeding will be concluded, we believe that such action is mandated by the circumstances now present.

We are instructed (10 C.F.R. § 2.334(c)) to give notice to the Commission whenever it appears that there will be a delay of more than forty-five (45) days in meeting dates for major activities in the hearing schedule. While we are confident that the delay beyond November 30 in concluding this proceeding that is necessitated by our granting the NRC Staff's request for an extension of time, will be very limited (far less than 45 days), we nevertheless will provide

³ Testimony and exhibits shall be submitted to the Board both electronically and with a pre-marked paper copy. An index of the exhibits shall accompany this submission.

written notification to the Commission regarding our modification of the schedule for this proceeding. If either the NRC Staff or SERI have any objection to the revised schedule which is set out above, or if they have any objection to any other aspect of this Order, they shall file those objections with the Board on or before October 16, 2006.

It is so ORDERED.

FOR THE ATOMIC SAFETY
AND LICENSING BOARD⁴

/RA/

Lawrence G. McDade, Chairman
ADMINISTRATIVE JUDGE

Rockville, Maryland
October 11, 2006

⁴ Copies of this Order were sent this date by Internet e-mail transmission to counsel for (1) SERI; and (2) the NRC Staff.

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

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CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing LB ORDER (GRANTING THE NRC STAFF'S MOTION FOR AN EXTENSION OF TIME AND REVISING CASE SCHEDULE) have been served upon the following persons by U.S. mail, first class, or through NRC internal distribution.

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Docket No. 52-009-ESP
LB ORDER (GRANTING THE NRC STAFF'S MOTION FOR AN
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[Original signed by Evangeline S. Ngbea]

Office of the Secretary of the Commission

Dated at Rockville, Maryland,
this 11th day of October 2006