

December 17, 2007 (3:18pm)

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

OFFICE OF SECRETARY
RULEMAKINGS AND
ADJUDICATIONS STAFF

ATOMIC SAFETY AND LICENSING BOARD

In the Matter of:)	December 17, 2007
AmerGen Energy Company, LLC)	
(License Renewal for Oyster Creek Nuclear Generating Station))	Docket No. 50-219-LR
)	
)	

**AMERGEN'S ANSWER OPPOSING CITIZENS' MOTION FOR
EXTENSION OF TIME TO FILE ANY APPEAL**

Pursuant to 10 C.F.R. §§ 2.307(a) and 2.323(c), AmerGen Energy Company, LLC ("AmerGen") opposes Citizens'¹ Motion requesting a nine-day extension of time to appeal the Board's anticipated initial decision.² Citizens' base their request on the nine-day vacation of their lead counsel, Mr. Webster. As discussed below, the Motion is filed with the wrong tribunal, is premature, and Mr. Webster's vacation in any event does not justify a day-for-day extension.

Citizens' Motion is before the wrong decision-makers. The Commission is tasked with entertaining any appeals from a Board's initial decision, *see* 10 C.F.R. §§ 2.341(b), 2.1212, so it seems logical for the Commission to decide whether to grant an extension of time for any appeal

¹ "Citizens" are: Nuclear Information and Resource Service; Jersey Shore Nuclear Watch, Inc.; Grandmothers, Mothers and More for Energy Safety; New Jersey Public Interest Research Group; New Jersey Sierra Club; and New Jersey Environmental Federation.

² Citizens' Motion for an Extension of Time to File Any Appeal (Dec. 10, 2007).

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under 10 C.F.R. § 2.307. So this Motion, when it is ripe, should be placed before the Commission, not the Board.

Citizens' Motion also is premature. The Board has not issued its initial decision, so there is nothing from which to request an extension. Moreover, Citizens' Motion presumes that the Board will rule in AmerGen's favor in a manner that Citizens would wish to appeal. The Board has not yet ruled, so the Motion is premature and it would not be a good use of the Board's resources to entertain it at this time.

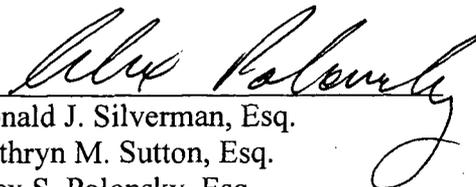
Finally, Mr. Webster's vacation does not justify a nine-day extension. Mr. Webster is not the only lawyer working on this proceeding for Citizens. Ms. Julia LeMense, from the Rutgers Environmental Law Clinic, participated at the hearing and is on the service list. And the Motion itself acknowledges that there are others at the Rutgers Environmental Law Clinic who can work on this appeal (*e.g.*, reference to Mr. Webster as "lead counsel" and admission that the law clinic has some capacity to provide other lawyers).

In addition, Citizens ignore the fact that they will have 20 days to file any appeal. 10 C.F.R. § 2.341(b)(1) provides Citizens with 15 days from service of the initial decision to file any appeal. The Board is expected to serve its initial decision via First Class Mail; the electronic copy is a courtesy. Accordingly, 10 C.F.R. § 2.306 would provide Citizens with an additional five days to account for First Class Mail, even though Citizens would have the initial decision electronically the day it was issued.

Thus, to give Citizens a nine day extension would be an unjustified windfall. If the Board issued its initial decision on December 20, 2007, the appeal would be due on January 9, 2008. This means that, if the Board granted Citizens' Motion, Mr. Webster would have 19 days to polish his appeal after he returned from vacation on December 30, 2007.

For all these reasons, AmerGen urges the Board to deny Citizens' Motion for an extension of time.

Respectfully submitted,



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Dated in Washington, D.C.
this 17th day of December 2007

**UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION**

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CERTIFICATE OF SERVICE

I hereby certify that copies of "AmerGen's Answer Opposing Citizens' Motion for Extension of Time to File Any Appeal" were served this day upon the persons listed below, by e-mail and first class mail, unless otherwise noted.

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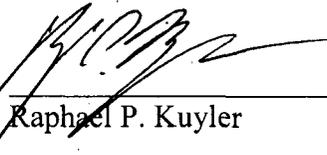
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