

ANNE MILGRAM
ATTORNEY GENERAL OF NEW JERSEY
Attorney for Petitioner
R.J. Hughes Justice Complex
25 Market Street
P.O. Box 093
Trenton, New Jersey 08625-0093

By: Eileen P. Kelly
Deputy Attorney General
(609) 633-0651

UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT
No. 07-2271

NEW JERSEY DEPARTMENT OF)
ENVIRONMENTAL PROTECTION,)
)
Petitioner,)

v.)

UNITED STATES NUCLEAR)
REGULATORY COMMISSION,)
UNITED STATES OF AMERICA,)
& AMERGEN ENERGY COMPANY,)
L.L.C.,)

Respondents.)

NOTICE OF MOTION ON CONSENT
FOR
SECOND EXTENSION OF TIME TO FILE
PETITIONER'S REPLY BRIEF

TO: MARCIA M. WALDRON, Clerk,
U.S. Court of Appeals for the
Third Circuit
21400 U.S. Courthouse
601 Market Street
Philadelphia, PA 19601-1790
Attn: Shannon L. Craven,
Case Manager

CHARLES E. MULLINS, Senior Attorney
Office of the General Counsel
U.S. Nuclear Regulatory Commission
11555 Rockville Pike
Rockville, MD 20852-2738


BRAD FAGG, Esq.
Morgan, Lewis & Bockius, LLP
1111 Pennsylvania Avenue
Washington, DC 20004

Petitioner, New Jersey Department of Environmental Protection, hereby moves this Court for a 14-day extension, to and including March 4, 2008, of the time in which to file its brief and appendix in the above-referenced matter. Petitioner will rely on the attached certification of Senior Deputy Attorney General Eileen P. Kelly.

Respectfully submitted,

ANNE MILGRAM
ATTORNEY GENERAL OF NEW JERSEY
Attorney for Petitioner

By:


Eileen P. Kelly
Deputy Attorney General

DATED: February 11, 2008

ANNE MILGRAM
ATTORNEY GENERAL OF NEW JERSEY
Attorney for Petitioner, New Jersey
Department of Environmental Protection
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(By: Eileen P. Kelly
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UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT
No. 07-2271

NEW JERSEY DEPARTMENT OF)	
ENVIRONMENTAL PROTECTION,)	
)	
Petitioner,)	CERTIFICATION OF EILEEN P. KELLY
)	IN SUPPORT OF MOTION ON CONSENT
v.)	FOR SECOND EXTENSION OF TIME TO
)	FILE PETITIONER'S REPLY BRIEF
UNITED STATES NUCLEAR)	
REGULATORY COMMISSION,)	
UNITED STATES OF AMERICA,)	
& AMERGEN ENERGY COMPANY,)	
L.L.C.,)	
)	
Respondents.)	

Eileen P. Kelly, upon her oath, certifies as follows:

1. Petitioner, New Jersey Department of Environmental Protection, ("New Jersey" or "Petitioner"), seeks an extension of time for the filing of its reply brief in this matter. The Petitioner's merits brief was filed on September 21, 2007. The responding briefs of the United States Nuclear Regulatory Commission and Amergen Energy Company were filed on January 17,

2008, making Petitioner's brief due to be filed on January 31, 2008. This time was extended to February 19, 2008, the Tuesday following Presidents' Day, upon consent by Senior Attorney Charles E. Mullins, counsel for Respondent U.S. Nuclear Regulatory Commission, and Brad Fagg, Esq., counsel for Respondent AmerGen Energy Company, L.L.C. Mr. Mullins and Mr. Fagg have similarly consented to this request for extension.

2. I am employed by the New Jersey Department of Law and Public Safety, Division of Law, which represents Petitioner New Jersey Department of Environmental Protection in this case. I have been assigned to prepare the brief in this matter.

3. As I stated in my previous certification in support of a first extension of time, this case involves important legal issues with significance beyond New Jersey or this case. In light of the complexity of the issues and the extensive briefing provided by the respondents, which New Jersey must review and analyze in order to prepare its reply, the completion of New Jersey's brief will require a significant expenditure of time. The amount of time needed is even greater because New Jersey's draft brief will likely be subjected to review at levels beyond the normal supervisory review, including but not limited to representatives of the Office of the Commissioner of Environmental Protection. Each of these reviews requires additional turnaround time once the brief has been prepared. The completion of this review is made more challenging

by the fact that two State holidays, Lincoln's Birthday and Presidents' Day, fall within this period.

4. In addition to my responsibilities related to this Brief, I also represent the State Agriculture Development Committee, ("SADC"), which administers the State's farmland preservation and Right to Farm programs. In addition to its day to day requests for advice, the SADC has currently asked me to prepare an Order to Show Cause pertaining to violation of its farmland preservation deeds of easement, which may need to be filed on an emergent basis, and to assess another similar enforcement action. I am also preparing an amicus curiae brief in the matter of Curzi v. Raub, Docket No. A-005380-05T1, which involves the interpretation of New Jersey's Right to Farm Act. The SADC has also required my assistance in formulating responses to comments on two rule adoptions currently pending in the Office of Administrative Law.

5. In addition, currently I am handling a number of matters for the Department of Environmental Protection ("DEP") and the New Jersey Meadowlands Commission. Among other things, I have been called upon to advise the Commissioner with regard to the preparation and adoption of a Final Decision in an air pollution penalty case, the due date for which has been extended due to the unusual complexity of the issues involved. Other matters include an Air Pollution Control Act permit appeal, and the provision

of general advice on several matters to the air pollution control program.

5. Under these circumstances, New Jersey respectfully requests an additional 14 days, until and including March 4, 2008, for the filing of its brief and appendix in this matter. Senior Attorney Charles E. Mullins, counsel for Respondent U.S. Nuclear Regulatory Commission, (who, I understand, consents as well on behalf of the U.S. Department of Justice), and Brad Fagg, Esq., counsel for Respondent AmerGen Energy Company, L.L.C., have graciously consented to this request for extension of time.

I certify that the foregoing statements made by me are true. I am aware that if any of the foregoing statements made by me is wilfully false, I am subject to punishment.


Eileen P. Kelly

DATED: February 11, 2008

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& AMERGEN ENERGY COMPANY,)
L.L.C.,)
)
Respondents.)

CERTIFICATION OF
SERVICE

I, Delores Pope, hereby certify:

1. I am a secretary in the Environmental Permitting and Counseling Section of the Division of Law, part of the New Jersey Department of Law and Public Safety.

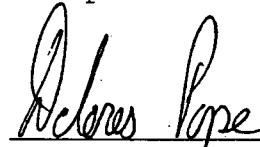
2. On February 11, 2008, at the direction of Sr. Deputy Attorney General Eileen P. Kelly, I caused to be placed a copy of

the Notice of Motion on Consent for Second Extension of Time to File Petitioner's Brief and Appendix, with supporting certification, to be served by overnight delivery service upon the following parties:

Charles E. Mullins, Sr. Attorney,
Office of the General Counsel
U.S. Nuclear Regulatory Commission
11555 Rockville Pike
Rockville, MD 20852-2738

Brad Fagg, Esquire
Morgan, Lewis & Bockius, LLP
1111 Pennsylvania Avenue
Washington, DC 20004

I certify that the foregoing statements made by me are true. I am aware that if any of the foregoing statements made by me are wilfully false, I am subject to punishment.



Delores Pope

Dated: February 11, 2008