

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

Before Administrative Judges:

Ronald M. Spritzer, Chairman
Dr. Gary S. Arnold
Dr. William W. Sager

In the Matter of

CALVERT CLIFFS 3 NUCLEAR PROJECT,
LLC, and UNISTAR NUCLEAR OPERATING
SERVICES, LLC

(Combined License Application
for Calvert Cliffs Unit 3)

Docket No. 52-016-COL

ASLBP No. 09-874-02-COL-BD01

April 28, 2009

Notice of Hearing
(Application for Combined License)

Pursuant to 10 C.F.R. § 2.312, the Board hereby provides notice that a hearing will be conducted in this proceeding. The Board may conduct oral argument,¹ hold pre-hearing conferences,² and conduct evidentiary hearings.³ The public is invited to attend any oral argument, pre-hearing conference, or evidentiary hearing unless otherwise ordered by the Commission.⁴ The time and place of hearing will be fixed by subsequent order, with due regard for the convenience of the parties and their representatives, the nature of the proceeding, and the public interest.⁵ Notices of these sessions will be published in the Federal Register and/or

¹ 10 C.F.R. § 2.331.

² Id. § 2.329.

³ Id. § 2.1207.

⁴ Id. § 2.328.

⁵ Id. § 2.312(b).

made available to the public at the NRC Public Document Room, located at One White Flint, 11555 Rockville Pike (first floor), Rockville, Maryland, and through the NRC website,

<http://www.nrc.gov/>

This proceeding concerns an application by UniStar Nuclear Operating Services, LLC, and Calvert Cliffs 3 Nuclear Project, LLC, for a combined license under 10 C.F.R. Part 52 for one U.S. Evolutionary Power Reactor to be located at the Calvert Cliffs site in Lusby, Calvert County, Maryland. In response to a September 26, 2008 notice of opportunity for hearing,⁶ a petition to intervene and a request for hearing were timely filed on November 19, 2008, by Nuclear Information and Resource Service, Beyond Nuclear, Public Citizen Energy Program and Southern Maryland Citizens' Alliance for Renewable Energy Solutions, hereafter referred to collectively as "Joint Petitioners." The State of Maryland also submitted a request to participate in the proceeding as an interested State.

⁶ Calvert Cliffs 3 Nuclear Project, LLC, and UniStar Nuclear Operating Services, LLC Notice of Hearing and Opportunity To Petition for Leave To Intervene and Order Imposing Procedures for Access to Sensitive Unclassified Non-Safeguards Information and Safeguards Information for Contention Preparation on a Combined License for the Calvert Cliffs Nuclear Power Plant Unit 3, 73 Fed. Reg. 55,876 (Sept. 26, 2008).

On January 14, 2009, the Board issued an order permitting the State of Maryland to participate in this proceeding in the manner authorized by 10 C.F.R. § 2.315(c). In its Memorandum and Order of March 24, 2009, the Board found that Joint Petitioners have standing to participate in this proceeding, admitted one of their contentions as pleaded, and admitted two other contentions as modified by the Board.⁷ Based on these rulings, the Board granted Joint Petitioners' request for a hearing and admitted them as parties in this proceeding. The Board subsequently ruled that the procedures of 10 C.F.R. Part 2, Subpart L, shall be used for the admitted contentions.⁸

The admitted and partly admitted contentions are as follows:

Contention 1 Contrary to the Atomic Energy Act and NRC Regulations, Calvert Cliffs-3 would be owned, dominated, and controlled by foreign interests.

Contention 2 Admitted in part. The Board concluded that this contention raised a legitimate issue of law regarding the proper timing for Applicant to submit the financial tests required when a parent company guarantees funds for decommissioning the proposed facility. Once the Board resolves this legal question, it will then determine what further action to take concerning this contention.

Contention 7 Admitted in part. As narrowed by the Board, the contention alleges that the Environmental Report for CCNPP-3 is deficient in discussing Applicant's plans for management of Class B and C low-level radioactive wastes in light of the current lack of a licensed off-site disposal facility, and the uncertainty of whether a new disposal facility will become available during the license term.

⁷Calvert Cliffs 3 Nuclear Project, LLC (Combined License Application for Calvert Cliffs Unit 3), LBP-09-04, 69 NRC ___ (Mar. 24, 2009).

⁸ Licensing Board Order (Identifying Hearing Procedures and Scheduling Conference Call) (Apr. 1, 2009) (unpublished); see also 10 C.F.R. §§ 2.1200-1213.

The Administrative Dispute Resolution Act of 1996 (ADR Act) encourages the use of alternative dispute resolution by federal agencies.⁹ The parties are encouraged to explore voluntary processes, including settlement talks with or without a neutral mediator, to resolve the issues in this case. Upon request, a settlement judge from the ASLBP could be appointed.¹⁰

Additionally, as provided in 10 C.F.R. § 2.315(a), any person not a party to the proceeding may submit a written limited appearance statement setting forth his or her position on the issues in this proceeding. These statements do not constitute evidence but may assist the Board and/or parties in defining the issues being considered. Persons wishing to submit a written limited appearance statement should do so either by (1) mail to the Office of the Secretary, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555-0001, Attention: Rulemakings and Adjudications Staff, with a copy to the Chairman of this Licensing Board at Mail Stop T-3E9, Atomic Safety and Licensing Board Panel, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555-0001; (2) e-mail to the Office of the Secretary at hearingdocket@nrc.gov, with a copy to this Board (c/o Megan Wright, megan.wright@nrc.gov); or (3) fax to the Office of the Secretary at 301-415-1101 (facsimile verification number: 301-415-1966), with a copy to the Board (c/o Megan Wright) at 301-415-5599 (facsimile verification number: 301-415-7550). At a later date, the Board may entertain oral limited appearance statements at a location or locations in the vicinity of the Calvert Cliffs facility. Notice of any oral limited appearance sessions will be published in the Federal Register and/or made available to the public at the NRC Public Document Room and on the NRC website, <http://www.nrc.gov/>

Documents relating to this proceeding are available for public inspection at the NRC's Public Document Room or electronically from the publicly available records component of

⁹ 5 U.S.C. §§ 571-584.

¹⁰ 10 C.F.R. § 2.338(b).

NRC's document system (ADAMS). ADAMS is accessible from the NRC web site at <http://www.nrc.gov/reading-rm/adams.html>. Persons who do not have access to ADAMS or who encounter problems in accessing the documents located in ADAMS may contact the NRC Public Document Room reference staff by telephone at 1-800-397-4209 or 301-415-4737, or by e-mail to pdr@nrc.gov.

It is so ORDERED.

FOR THE ATOMIC SAFETY
AND LICENSING BOARD¹¹

/RA/

Ronald M. Spritzer, Chairman
ADMINISTRATIVE JUDGE

Rockville, Maryland
April 28, 2009

¹¹ Copies of this Order were sent this date by the agency's E-Filing system to the counsel/representatives for: (1) Joint Petitioners Nuclear Information and Resource Services, Beyond Nuclear, Public Citizen Energy Program, and Southern Maryland Citizens Alliance for Renewable Energy Solutions; (2) UniStar Nuclear Operating Services, LLC and Calvert Cliffs-3 Nuclear Project, LLC; (3) NRC Staff; and (4) State of Maryland.

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NUCLEAR REGULATORY COMMISSION

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CALVERT CLIFFS 3 NUCLEAR PROJECT, LLC.)
AND UNISTAR NUCLEAR OPERATING)
SERVICES, LLC) Docket No. 52-016-COL
)
(Calvert Cliffs 3 Nuclear Project, LLC))
(Combined License))

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing NOTICE OF HEARING (Application for Combined License) have been served upon the following persons by Electronic Information Exchange.

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[Original signed by Linda D. Lewis] _____
Office of the Secretary of the Commission

Dated at Rockville, Maryland
this 28th day of April 2009