

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

Before Administrative Judges:

William J. Froehlich, Chairman
Dr. Gary S. Arnold
Dr. Thomas J. Hirons

In the Matter of

Northern States Power Co.

(Prairie Island Nuclear Generating Plant, Units
1 and 2)

Docket Nos. 50-282-LR and 50-306-LR

ASLBP No. 08-871-01-LR

November 4, 2009

ORDER

(Conference Call Summary and Scheduling Order)

This proceeding concerns an application by Northern States Power Company (NSPM or Applicant) to renew its operating licenses for the Prairie Island Nuclear Generating Plant, Units 1 and 2, for an additional 20 years. On December 5, 2008, this Licensing Board granted a hearing request by the Prairie Island Indian Community (PIIC or Intervenor) and admitted seven of PIIC's contentions challenging NSPM's application.¹ Since then, Applicant and PIIC have resolved six of those contentions, such that only one contention – Contention 5 – remains at issue in this proceeding. Pursuant to a notice issued on October 13, 2009,² the Licensing Board held a telephone conference on Thursday, October 29 to discuss various scheduling matters, including (1) the NRC Staff's projected dates for issuing the draft and final versions of its supplemental environmental impact statement (SEIS); (2) the possibility for settlement of Contention 5; and (3) the possibility that Intervenor will file any new or amended contentions.

¹ Northern States Power Co. (Prairie Island Nuclear Generating Plant, Units 1 and 2), LBP-08-26, 68 NRC 905 (2008).

² Licensing Board Notice (Scheduling Status Conference) (Oct. 13, 2009) (unpublished).

This order summarizes the results of those discussions and clarifies the deadlines for the filing of new or amended contentions.

1. Supplemental Environmental Impact Statement

The Licensing Board asked the NRC Staff to provide an explanation for the delay in issuing its draft and final SEIS. Staff Counsel attributed the delay to two sources: (1) the involvement of the PIIC in the SEIS drafting process, pursuant to a June 17, 2008 Memorandum of Understanding,³ and (2) an allocation of Staff resources to other matters.⁴ Counsel assured the Board, however, that the draft SEIS will “almost certainly” be published within the next two weeks.⁵ With respect to the final SEIS, Counsel indicated that “the very earliest that we could possibly get the final SEIS out is May of next year.”⁶ Upon issuance of both the draft SEIS and the final SEIS, the NRC Staff shall promptly file a notice via EIE indicating the document’s availability and providing instructions to the parties on how to access it.

2. Safety Evaluation Report

Counsel for Applicant confirmed that the final safety evaluation report (SER) was issued on October 16, 2009 – six days earlier than anticipated.⁷ Counsel for PIIC, however, noted that because the final SER was not made readily available on the NRC website, the Intervenor was not able to “track it down” until the week of October 18, 2009.⁸

³ Counsel was certain not to attribute any blame for this delay to the Prairie Island Indian Community, which has “been very cooperative” and has “worked with us in a very timely and effective and responsive manner.” Tr. at 197.

⁴ Id.

⁵ Id.

⁶ Id. at 198.

⁷ Id. at 202.

⁸ Id. at 203.

3. Motions for Summary Disposition

As indicated in our previous scheduling order, issued on February 18, 2009, any summary disposition motions on currently admitted contentions will be deemed timely if filed within 30 days after the latter of the issuance of the draft SEIS or issuance of the SER with Open Items.⁹ According to the Milestones page on the NRC website, the SER with Open Items was issued on June 4, 2009, but the draft SEIS has yet to be issued. Thus, any motions for summary disposition will be due 30 days after the Staff issues its draft SEIS – expected within the next two weeks.

4. New or Amended Contentions

In our February 18 scheduling order, we directed that any motion for leave to file a new or amended contention, accompanied by the proposed contention itself, would be deemed timely under 10 C.F.R. § 2.309(f)(2)(iii) if filed within 30 days of the date when the document on which it was based first became available.¹⁰ Because the PIIC did not obtain access to the final SER until the week of October 18, 2009, we have agreed to extend the deadline for filing new or amended contentions based on new information contained in the final SER.¹¹ Any such contentions will now be deemed timely if filed on or before Monday, November 23, 2009.¹² Similarly, any new or amended contentions based on the draft SEIS or the final SEIS will be deemed timely if filed within 30 days after the NRC Staff files the notices indicating their availability.¹³

⁹ Licensing Board Memorandum and Order (Prehearing Conference Call Summary and Initial Scheduling Order) (Feb. 18, 2009) at 4 (unpublished).

¹⁰ Id.

¹¹ Tr. at 207.

¹² November 23 falls 30 days after Friday, October 23 – the last day of the week on which Intervenor received the final SER.

¹³ See paragraph 1 supra.

5. Settlement

The parties have indicated that settlement discussions with respect to Contention 5 will begin as soon as the draft SIES becomes available.¹⁴ The Board appreciates the parties' efforts to settle the contentions admitted in this proceeding thus far and encourages them to pursue an amicable resolution to the issues raised by Contention 5.

It is so ORDERED.

FOR THE ATOMIC SAFETY
AND LICENSING BOARD¹⁵

/RA/

William J. Froehlich, Chairman
ADMINISTRATIVE JUDGE

Rockville, Maryland
November 4, 2009

¹⁴ Tr. at 201, 204.

¹⁵ Copies of this order were sent this date by the agency's E-Filing system to counsel for all parties.

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

In the Matter of)	
)	
NORTHERN STATES POWER COMPANY)	
)	
)	Docket Nos. 50-282-LR
)	50-306-LR
(Prairie Island Nuclear Generating Plant,)	
Units 1 and 2))	
)	
(License Renewal))	

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing LB ORDER (CONFERENCE CALL SUMMARY AND SCHEDULING ORDER) have been served upon the following persons by Electronic Information Exchange.

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LB ORDER (CONFERENCE CALL SUMMARY AND SCHEDULING ORDER)

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[Original signed by Evangeline S. Ngbea]
Office of the Secretary of the Commission

Dated at Rockville, Maryland
this 4th day of November 2009