

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

Before Administrative Judges:

Ann Marshall Young, Chair
Dr. Gary S. Arnold
Dr. Alice C. Mignerey

In the Matter of

LUMINANT GENERATION COMPANY, LLC
(Comanche Peak Nuclear Power Plant,
Units 3 and 4)

Docket Nos. 52-034-COL and 52-035-COL

ASLBP No. 09-886-09-COL-BD01

November 10, 2009

ORDER

(Regarding November 12, 2009, Oral Argument)

In preparation for the oral argument to be held November 12, 2009, in this proceeding, the Licensing Board expects at the oral argument to focus on, among other things, the following questions:

1. To the extent that Intervenor claim in their five new contentions and brief on the mootness of Contention 7 that 10 C.F.R. §§ 52.80(d) and 50.54(hh)(2) inherently or implicitly include certain requirements not explicitly stated therein,¹ what arguments and authority, including relevant canons of statutory construction and appropriate guidance documents in the nature of “legislative history,” support such interpretation of these regulations?
2. To the same extent, what arguments and authority support a contrary interpretation?

The parties shall be prepared to address these issues.

In addition, at the beginning of the session the Board will address Intervenor’s Motion for Order That Arguments/Hearings Related to the Fires and Explosions Contentions That Address Factual and Legal Arguments Related Thereto and NEI 06-12 Be Conducted in Public Pursuant

¹ See, e.g., Intervenor’s Consolidated Response to the Answers of Applicant and NRC Staff to the Intervenor’s Contentions Regarding Applicant’s Submittal Under 10 C.F.R. § 52.80 and 10 C.F.R. § 50.54(hh)(2) (Sept. 11, 2009) at 1-2.

to 10 C.F.R. § 2.328 (Nov. 2, 2009), and, to the extent necessary, will hear brief argument on the motion.

It is so ORDERED.

FOR THE ATOMIC SAFETY
AND LICENSING BOARD

/RA/

Ann Marshall Young, Chair
ADMINISTRATIVE JUDGE

Rockville, Maryland
November 10, 2009²

² Copies of this memorandum and order were filed this date with the agency's E-Filing system for service to all parties.

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CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing ORDER (REGARDING NOVEMBER 12, 2009, ORAL ARGUMENT) have been served upon the following persons by Electronic Information Exchange.

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[Original signed by Nancy Greathead]

Office of the Secretary of the Commission

Dated at Rockville, Maryland
this 10th day of November 2009