

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-BD01

April 20, 2010

MEMORANDUM AND ORDER

(Summarizing Prehearing Conference Call and Amending Hearing Schedule)

Pursuant to notice issued March 23, 2010,¹ the Licensing Board held a telephonic pre-hearing conference call on April 13, 2010. The purpose of the call was to discuss general case management, the progress towards settlement, and the procedural dates leading up to a hearing on the Prairie Island Indian Community's (PIIC's) aging management contention based on a weak safety culture.²

The parties reported that settlement talks have been underway and that "discussions are still constructive."³ Counsel for Northern States Power Company (NSPM) indicated that the

¹ Licensing Board Order (Convening Teleconference and Establishing Hearing Schedule) (Mar. 23, 2010) (unpublished).

² See Licensing Board Order (Narrowing and Admitting PIIC's Safety Culture Contention) (Jan. 28, 2010) (unpublished).

³ Tr. at 214; see also Joint Status Report on Settlement Discussions (Apr. 19, 2010) (stating that "[w]hile the PIIC and NSPM have not yet reached an agreement, they continue to engage in settlement discussions").

parties are exchanging terms and counter-terms, but that discussions have been complicated by the parties' concurrent efforts to resolve various state proceedings and historical bilateral concerns.⁴ Counsel for the Applicant further identified three constraints on its ability to promptly comply with the mandatory disclosure requirement at 10 C.F.R. § 2.336(a): disagreement amongst the parties over the scope of disclosures, a planned outage at the plant between April 17 and May 22, 2010, and the potential preparation of an outside safety culture assessment to be conducted in June. Counsel for NSPM expressed concerns with the hearing schedule set by the Board in its March 23 order and proposed an alternative schedule with initial disclosures due in June 2010 and an evidentiary hearing in October 2010. Counsel for PIIC agreed with NSPM that the Board's proposed hearing schedule was "ambitious" and concurred with the suggestion of a hearing date in October.⁵ Counsel for the NRC Staff did not object to the Applicant's proposed schedule.⁶ In addition, counsel for the NRC Staff reported on the progress of the Final Supplemental Environmental Impact Statement (FSEIS), with a current projected release date in early June 2010.⁷ Finally, all parties to the telephone conference agreed to the use of the Digital Data Management System (DDMS) for any hearing to be held in this docket.⁸

The road to an evidentiary hearing begins with the mandatory disclosures required by the Commission's regulations. While settlement is always welcome – and indeed encouraged – the Board desires to move expeditiously toward a hearing on the sole contention remaining in this proceeding. In light of the concerns expressed by the parties, the Board hereby amends

⁴ Tr. at 214.

⁵ Id. at 218.

⁶ Id. at 219.

⁷ Id. at 222-23.

⁸ Id. at 224-25.

the hearing schedule proposed in our March 23 order, beginning with the deadline for initial disclosures. We do not delay the hearing schedule lightly, given that the Commission's regulations call for initial disclosures just 14 days after the admission of a new contention,⁹ and we have already granted the parties nearly three months to pursue settlement discussions. Nonetheless, in light of the parties' ongoing discussions, we find it beneficial to postpone the deadline for initial mandatory disclosures until June 18, 2010. If the parties remain unable to agree upon the scope of mandatory disclosures, they are directed to file their motions for Board intervention in time for disclosures to go forward by the June 18 deadline.

The amended hearing schedule is set forth in an attachment to this order. The Board intends to adhere to this schedule and to conduct an evidentiary hearing under the procedures of 10 C.F.R. Part 2, Subpart L, no later than October 12, 2010.

It is so ORDERED.

FOR THE ATOMIC SAFETY
AND LICENSING BOARD¹⁰

/RA/

William J. Froehlich, Chairman
ADMINISTRATIVE JUDGE

Rockville, Maryland
April 20, 2010

⁹ 10 C.F.R. Part 2, Appendix B.II, Model Milestones for Hearings Conducted Under 10 CFR Part 2, Subpart L.

¹⁰ Copies of this order were sent this date by the agency's E-Filing system to counsel for all parties.

Prairie Island License Renewal Hearing Schedule¹

Mandatory disclosures due <i>no later than</i>	June 18, 2010 ²
Initial written statements of position and prefiled written testimony and exhibits due	July 30, 2010
Reponses to statements of position and rebuttal testimony due	August 13, 2010
Motions in limine and motions to strike due	August 23, 2010
Responses to motions in limine and motions to strike due	August 30, 2010
Parties to submit proposed questions for Board to ask	September 7, 2010
Motions for cross-examination due ³	September 7, 2010
Final telephone prehearing conference	September 21, 2010
Evidentiary hearing	October 12, 2010
Proposed findings of fact and conclusions of law due	November 12, 2010
Responses due	November 26, 2010
Initial decision issued	January 10, 2011

¹ The following schedule contemplates the litigation of only one contention – PIIC’s aging management contention based on a weak safety culture. If any additional new or non-timely contentions are subsequently filed, the Board may need to amend the schedule accordingly.

² Mandatory disclosures are to be updated on the last business day of each month, beginning in June 2010. Mandatory disclosures includes the witness lists and privilege logs required under 10 C.F.R. § 2.336(a) and (b).

³ These motions are filed in camera, and therefore no answers can be filed.

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 MEMORANDUM AND ORDER (SUMMARIZING PREHEARING CONFERENCE CALL AND AMENDING HEARING SCHEDULE) have been served upon the following persons by Electronic Information Exchange.

Office of Commission Appellate
Adjudication
U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001
E-mail: ocaamail@nrc.gov

U.S. Nuclear Regulatory Commission
Office of the Secretary of the Commission
Mail Stop O-16C1
Washington, DC 20555-0001
Hearing Docket
E-mail: hearingdocket@nrc.gov

U.S. Nuclear Regulatory Commission.
Atomic Safety and Licensing Board Panel
Mail Stop T-3F23
Washington, DC 20555-0001

U.S. Nuclear Regulatory Commission
Office of the General Counsel
Mail Stop O-15D21
Washington, DC 20555-0001
Edward Williamson, Esq.

Administrative Judge William J. Froehlich,
Chairman
E-mail: wjf1@nrc.gov

Beth Mizuno, Esq.
David Roth, Esq.
Brian G. Harris, Esq.
Maxwell Smith, Esq.

Administrative Judge Gary S. Arnold
E-mail: gxa1@nrc.gov

Brian Newell
E-mail: elw2@nrc.gov

Administrative Judge Thomas J. Hiron
E-mail: thomas.hiron@nrc.gov

bnm1@nrc.gov
der@nrc.gov
brian.harris@nrc.gov
maxwell.smith@nrc.gov
bpn1@nrc.gov

Matthew Rotman, Law Clerk
E-mail: mfr1@nrc.gov

OGC Mail Center : OGCMailCenter@nrc.gov

