

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

Before Administrative Judges:

Alan S. Rosenthal, Chairman
E. Roy Hawkens
Dr. Nicholas Tsoulfanidis

In the Matter of

BABCOCK & WILCOX NUCLEAR
OPERATIONS GROUP, INC.

(Lynchburg, VA Facility)

Docket No. 70-27 EA

ASLBP No. 10-902-01-EA-BD01

August 17, 2010

ORDER

(Cancelling Telephone Prehearing Conference and Holding the Proceeding in Abeyance)

On August 11, 2010, this Board issued an Order granting the Request for Hearing,¹ that Licensee (Babcock & Wilcox Nuclear Operations Group, Inc.) submitted in response to NRC Staff's June 15, 2010 Order² imposing a civil monetary penalty based on a Severity Level III violation that Staff identified at Licensee's Lynchburg, Virginia facility.³ In that August 11 Order, the Board additionally scheduled an August 24, 2010 telephone prehearing conference.⁴

On August 13, 2010, Licensee and NRC Staff jointly submitted a motion asking the Board to defer the telephone prehearing conference and to hold this administrative enforcement

¹ Request for Hearing (July 27, 2010).

² Order Imposing Civil Monetary Penalty - \$32,500 (June 15, 2010) (ADAMS Accession No. ML101580256); see also Notice of Violation and Proposed Imposition of Civil Penalty (Feb. 23, 2010); NRC Inspection Report No. 70-27/2008-002 and Notice of Violation (July 31, 2008) (ADAMS Accession No. ML082140005).

³ Licensing Board Order (Granting Licensee's Hearing Request, and Scheduling Telephone Prehearing Conference) (Aug. 11, 2010) at 2 (unpublished).

⁴ Id.

proceeding in abeyance pending the outcome of proposed settlement negotiations.⁵ In that connection, the motion stated it was the intent of the parties to begin settlement discussions by early next month, and to advise the Board jointly of the status of their efforts in a written report to be filed monthly, commencing on September 30, 2010.⁶

Given the Commission's policy of encouraging settlement of disputed issues in lieu of adjudication, see 10 C.F.R. § 2.338, the motion is granted. Accordingly, the telephone prehearing conference scheduled for August 24, 2010 is cancelled and the proceeding will be held in abeyance pending further order of the Board.

We see no reason, however, why settlement negotiations should not be instituted forthwith, with a view towards their completion within a month of this date. In that regard, unless they advise the Board in the interim either that the matter has been settled or that it has been agreed that settlement is not possible, the parties shall jointly submit a status report on Monday, September 20, 2010, setting forth in detail the then status of negotiations and providing an estimate of their completion date.

It is so ORDERED.

FOR THE ATOMIC SAFETY
AND LICENSING BOARD⁷

/RA/

Alan S. Rosenthal
ADMINISTRATIVE JUDGE

Rockville, Maryland
August 17, 2010

⁵ Joint Motion to Defer Telephone Prehearing Conference and Hold Proceeding in Abeyance (Aug. 13, 2010) at 1.

⁶ Id. at 2-3.

⁷ Copies of this Order were sent this date by the agency's e-filing system to counsel for: (1) Licensee Babcock & Wilcox Nuclear Operations Group, Inc.; and (2) the NRC Staff.

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BABCOCK & WILCOX NUCLEAR) DOCKET NO. 70-27-EA
OPERATIONS GROUP, INC.)
(Lynchburg, VA Facility))
)

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing Board **ORDER (Cancelling Telephone Prehearing Conference and Holding the Proceeding in Abeyance)**, dated August 17, 2010, have been served upon the following persons by Electronic Information Exchange.

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BABCOCK & WILCOX NUCLEAR OPERATIONS GROUP, INC. – 70-27-EA
**ORDER (Cancelling Telephone Prehearing Conference
and Holding the Proceeding in Abeyance)**

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

Dated at Rockville, Maryland
this 17th day of August 2010