

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

ATOMIC SAFETY AND LICENSING BOARD

Before Administrative Judges:

Paul S. Ryerson, Chairman
E. Roy Hawkens
Paul B. Abramson

In the Matter of

HONEYWELL INTERNATIONAL, INC.

(Metropolis Works Uranium Conversion Facility)

Docket No. 40-3392-MLA

ASLBP No. 11-910-01-MLA-BD01

September 9, 2011

ORDER

(Providing Direction on Pre-filed Evidentiary Material)

On August 23, 2011, the Board established a schedule for this proceeding.¹ This order provides further direction concerning pre-filed testimony and exhibits, including the use of the Digital Data Management System (DDMS) for the evidentiary hearing.

I. Use of the DDMS

The Board intends to utilize the DDMS for the purpose of marking and entering pre-filed testimony and exhibits into the record. Pre-filed testimony and exhibits shall conform to the formatting requirements set forth below.

Provided that they properly number their pre-filed testimony and exhibits, and properly pre-file those documents using the agency's E-Filing system, the parties need not provide the Board or opposing counsel with paper copies of their pre-filed documents prior to or during the hearing. Nonetheless, parties should have available at the hearing one properly marked paper copy of each pre-filed document for use in the event that the DDMS fails to function.

¹ Licensing Board Order (Initial Scheduling Order) (August 23, 2011) (unpublished).

In addition, any party that seeks to introduce new written testimony or exhibits at the evidentiary hearing, or to revise any pre-filed testimony or exhibits at the evidentiary hearing, shall provide at the evidentiary hearing a properly marked electronic copy of any such documents,² along with enough properly marked paper copies of any such documents for distribution to opposing counsel, all Board members, and the Board's law clerk.

II. Submission of Pre-Filed Testimony and Exhibits

All pre-filed testimony and exhibits intended for use by the parties at the hearing shall be filed as follow:

a. Individual Files. In accordance with 10 C.F.R. § 2.304(g), each item of pre-filed testimony and each exhibit must be submitted via the agency's E-filing system as an individual electronic file. All pre-filed testimony and exhibits will be received into evidence in exhibit form, pursuant to 10 C.F.R. § 2.1207(b)(2).

b. Exhibit Numbering and Sequencing. Each party shall number their pre-filed testimony and exhibits in a format that consists of a three-character party designation, followed by a six-character zero-filled number. The three-character designation to be used by each of the parties is as follows: Honeywell International, Inc. – HNY, NRC Staff – NRC. A typical number sequence for Honeywell International, Inc.'s exhibits would thus be as follows:

HNY000001

HNY000002

* * * * *

HNY000100

² Any such electronic copies must also comply with the agency's E-filing guidance. See U.S. Nuclear Regulatory Commission, Guidance for Electronic Submissions to the NRC, Rev. 6 (May 17, 2010), available at <http://www.nrc.gov/site-help/e-submittals/guide-electronic-sub-r6.pdf>.

To the extent practicable, the parties shall order and number their pre-filed testimony and exhibits in the sequence in which they plan to identify and present them for inclusion in the record.

c. Exhibit Number Location. The exhibit number should be placed in the upper right hand corner of the first page of the pre-filed testimony or exhibit. A separate cover sheet should be used only if there is no space on the first page of the document where the exhibit number can be legibly placed.

d. Exhibit Date. All pre-filed testimony and exhibits must be marked with their dates of filing or dates of revision on the first page below the exhibit number.

e. Revised Exhibits. If a party needs to revise a previously submitted pre-filed testimony or exhibit, it should be re-filed with the letter “R” in the fourth character place (e.g., NRC000001 would become NRCR00001). If a second or subsequent revision of the same document is necessary, the pre-filed testimony or exhibit should be re-filed with a sequential designation in the fifth character place (e.g., NRCR20001).

f. Large File-Size Exhibits. If a pre-filed testimony or exhibit needs to be separated into multiple segments to ensure that it does not exceed the agency’s guidance on recommended file sizes for submissions,³ each segment should be labeled by placing an alpha designation in the first character place of the exhibit number in a way that will reflect the relationship of that part to the other parts of the exhibit. For example, if an NRC Staff exhibit that would otherwise have the exhibit number NRC000001 were submitted in three parts because of the file size, each portion would have a different exhibit number in the following sequence: NRC00001A, NRC00001B, and NRC00001C.

g. Duplicate Exhibits. To the extent practicable, only one copy of each document should be offered into evidence in this proceeding. Thus, if Honeywell International, Inc. offers

³ See id. at 14–15.

into evidence a certain document, the NRC Staff should not then offer into evidence the same document, but should instead rely on the document already proffered by the Honeywell International, Inc. Accordingly, the parties should confer to determine whether any of their pre-filed exhibits are duplicated. The parties should then decide which party will first offer the exhibit into evidence. The other party intending to use that exhibit should revise its evidentiary submissions to reference the initial submitting party's exhibit number.⁴

h. Exhibit List. At the time that new or revised pre-filed testimony or exhibits are filed, each party should submit an electronic copy of its pre-filed exhibit list (preferably in Microsoft Word format) to the Board's law clerk, Kirsten Stoddard (Kirsten.Stoddard@nrc.gov), using the exhibit list template included in Attachment A of this Order.⁵ Upon request, the Board's law clerk will provide the parties with the template of the exhibit list.

i. Citations in Pre-Filed Testimony. Pre-filed testimony that includes citations to or discussions of outside sources—other than citations to legal authorities, including cases, statutes, and regulations—should be accompanied by an evidentiary exhibit that includes the relevant portions of the material cited.

It is so ORDERED.

FOR THE ATOMIC SAFETY
AND LICENSING BOARD
/RA/

Paul S. Ryerson, Chairman
ADMINISTRATIVE JUDGE

Rockville, Maryland
September 9, 2011

⁴ When duplicate pre-filed party exhibits have been identified, and the party that is recognized as the one that will initially offer the document subsequently decides not to offer the document, that party must provide timely notice of its intent to the other party.

⁵ Parties may also wish to share exhibit lists amongst themselves in order to avoid duplicate exhibits.

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)

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing Licensing Board **ORDER (Providing Direction on Pre-filed Evidentiary Material)**, dated September 9, 2011, have been served upon the following persons by Electronic Information Exchange.

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HONEYWELL INTERNATIONAL INC. (Metropolis Works Uranium Conversion Facility) –
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[Original signed by Linda D. Lewis] _____
Office of the Secretary of the Commission

Dated at Rockville, Maryland
this 9th day of September 2011