

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

Before Administrative Judges:

William J. Froehlich, Chairman
Nicholas G. Trikouros
Dr. William E. Kastenberg

In the Matter of:

FIRSTENERGY NUCLEAR OPERATING
COMPANY

(Davis-Besse Nuclear Power Station, Unit 1)

Docket No. 50-346-LR

ASLBP No. 11-907-01-LR-BD01

November 2, 2011

ORDER

(Granting Motion for Modification of Initial Scheduling Order)

On November 1, 2011, FirstEnergy Nuclear Operating Company (FirstEnergy) moved pursuant to 10 C.F.R. § 2.323(a) that the Board modify Section A.2 of its Initial Scheduling Order to require that updates to mandatory disclosures and to the NRC Staff's hearing file be due no later than the last calendar day of each month instead of by the 15th of each month.¹ FirstEnergy requests that no alteration be made to Section A.2's requirement that these updates "cover all documents or other material or information required to be disclosed that are in the possession, custody, or control of each party (or its agents) as of the last day of the preceding month."² In essence, FirstEnergy is requesting a full calendar month to produce the updates rather than the 15 calendar days currently required under the Initial Scheduling Order. FirstEnergy states that "good cause" supports this motion because a "dry-run" of identifying, collecting, and reviewing potentially-relevant documents from more than 50 custodians, seven different corporate sources of records in six different locations, and at least one off-site contractor revealed that FirstEnergy

¹ FENOC's Unopposed Motion for Modification of Paragraph A.2 of the Board's Initial Scheduling Order at 1 (Nov. 1, 2011) (citing Initial Scheduling Order at 4-5 (June 15, 2011) [hereinafter ISO]).

² Id. at 1-2 (quoting ISO at 5).

needs a full calendar month to update the mandatory disclosures.³

Counsel for FirstEnergy states he has consulted with counsel for the NRC Staff and the Joint Intervenors⁴ as required by 10 C.F.R. § 2.323(b), that they would want the relief also granted to them, and that no party opposes this motion.⁵ Further, FirstEnergy relates that the NRC Staff requests modification of Section F.2 of the Initial Scheduling Order so that the Staff's requirement to submit a monthly status report of its best estimate for the issuance dates of the draft and final versions of the SER and SEIS is made concurrent with the monthly updates at the end of each month, instead of the 15th of each month.⁶

For good cause shown, and consistent with the intent of 10 C.F.R. § 2.334(b), the Board hereby grants the unopposed motion. Sections A.2 and F.2 of the Initial Scheduling Order of June 15, 2011 are modified so that updates to disclosures, updates to the hearing file, and monthly status reports are due no later than the last calendar day of each month. All other provisions of the Initial Scheduling Order remain in effect.⁷

It is so ORDERED.

FOR THE ATOMIC SAFETY
AND LICENSING BOARD⁸

/RA/

William J. Froehlich, Chairman
ADMINISTRATIVE JUDGE

Rockville, Maryland
November 2, 2011

³ Id. at 2-3.

⁴ Joint Intervenors consist of Beyond Nuclear, Citizens Environment Alliance of Southwestern Ontario, Don't Waste Michigan, and the Green Party of Ohio.

⁵ Id. at 2.

⁶ Id. (citing ISO at 15).

⁷ Counsel are reminded that, for timely service of their disclosures by the NRC's E-Filing System, they must file no later than 11:59 p.m. Eastern Time on the due date. 10 C.F.R. § 2.306(c)(2).

⁸ A copy of this Notice was sent this date by the NRC's E-Filing System to counsel and representatives for FirstEnergy, Joint Intervenors, and the NRC Staff.

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)

CERTIFICATE OF SERVICE

I hereby certify that copies of the ORDER (Granting Motion for Modification of Initial Scheduling Order) have been served upon the following persons by Electronic Information Exchange.

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[Original signed by Christine M. Pierpoint]
Office of the Secretary of the Commission

Dated at Rockville, Maryland
this 2nd day of November 2011