

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

ATOMIC SAFETY AND LICENSING BOARD PANEL

Before the Licensing Board:

G. Paul Bollwerk, III, Chair
William J. Froehlich
Nicholas G. Trikouros

In the Matter of

Union Electric Company

(Callaway Plant, Unit 1)

Docket No. 50-483-LR

ASLBP No. 12-919-06-LR-BD01

May 4, 2012

MEMORANDUM AND ORDER
(Initial Prehearing Order)

In the above-captioned proceeding, at issue is a December 15, 2011 application submitted by Union Electric Company (UEC) requesting that the Nuclear Regulatory Commission (NRC) issue a twenty-year renewal for the currently in-force 10 C.F.R. Part 50 license authorizing UEC to operate the Callaway Plant, Unit 1, in Callaway County, Missouri. See License Renewal Application, Callaway Plant Unit 1, Facility Operating License No. NPF-30 (Dec. 15, 2011) (ADAMS Accession No. ML113530372). Responding to a February 16, 2012 agency hearing opportunity notice, see Renewal of Facility Operating License NPF-30, [UEC], Callaway Plant, Unit 1, 77 Fed. Reg. 11,173 (Feb. 24, 2012), by a hearing petition dated April 24, 2012, public interest group Missouri Coalition for the Environment (MCE) submitted three contentions challenging the validity of the UEC licensing request, see [MCE] Hearing Request and Petition to Intervene in License Renewal Proceeding for Callaway Nuclear Power Plant (Apr. 24, 2012) at 1.

By memorandum dated April 27, 2012, the Acting Secretary of the Commission referred this petition to the Chief Administrative Judge, see Memorandum from Andrew L. Bates, Acting NRC Secretary, to E. Roy Hawkens, Chief Administrative Judge (April 27, 2012) at 1, who, in turn, referred the MCE submission to this Licensing Board to rule on standing and contention admissibility matters and preside at any hearing, see [UEC], Establishment of Atomic Safety and Licensing Board, 77 Fed. Reg. ___ (May 7, 2012).

Relative to the conduct of this proceeding, the following directives shall apply:

I. ADMINISTRATIVE MATTERS

A. Notice of Appearance

If they have not already done so, on or before Tuesday, May 8, 2012, each counsel or representative for each participant shall file a notice of appearance complying with the requirements of 10 C.F.R. § 2.314(b). In each notice of appearance, besides providing a business address and telephone number, an attorney or representative should provide a facsimile number and an internet e-mail address.

B. Limitations on Pleading Length and Reply Pleadings

1. Page Limitation

Any motion filed after the date of this memorandum and order and any related responsive pleadings shall not exceed ten pages in length (including signature page) absent preapproval of the presiding officer.¹ A request for presiding officer preapproval to exceed this

¹ Any answers/replies associated with MCE's April 2012 hearing request are not subject to this page limitation. However, any subsequent motion for admission of a new or amended contention under section 2.309(f)(2) and any response/reply thereto is subject to this page limitation. In an instance when more than one new or amended contention is being filed in connection with information that is asserted to provide the basis for a motion to admit new or amended contentions, see infra n.3, because the page limit applies regardless of the number of

(continued...)

page limitation shall be submitted in writing no less than three business days prior to the time the motion or responsive pleading is filed or due to be filed. A request to exceed this page limitation must (1) indicate whether the request is opposed or supported by the other participants to the proceeding; (2) provide a good faith estimate of the number of additional pages that will be filed; and (3) demonstrate good cause for being permitted to exceed the page limitation.

2. Reply Pleadings

In accordance with the agency's rules of practice, except in instances involving a motion to file a new/amended contention, see 10 C.F.R. § 2.309(c), (f)(2), leave must be sought to file a reply to a response to a motion. Compare 10 C.F.R. § 2.323(c) with id. § 2.309(h)(2). A request for presiding officer preapproval to file a reply shall be submitted in writing no less than three business days prior to the time the reply will be filed.² A request to file a reply must (1) indicate whether the request is opposed or supported by the other participants to the particular proceeding; and (2) demonstrate good cause for permitting the reply to be filed.

C. Motions for Extension of Time

A motion for extension of time in this proceeding shall be submitted in writing at least three business days before the due date for the pleading or other submission for which an

¹(...continued)

contentions involved, in lieu of filing multiple separate motions of ten pages seeking the admission of each individual contention, it would be preferable to seek leave of the Board to exceed the page limit. If granted, this would permit the participant to file one timely motion that deals with all the contentions being proffered relative to a particular triggering event.

² Although the agency's rules of practice regarding motions practice do not provide for reply pleadings, the Board will presume that for a reply to be timely, it would have to be filed within seven days of the date of service of the response it is intended to address. See 10 C.F.R. § 2.309(h)(2).

extension is sought.³ A motion for extension of time must (1) indicate whether the request is opposed or supported by the other participants to the particular proceeding; and (2) demonstrate appropriate cause that supports permitting the extension.

D. Opposing a Request to Exceed the Page Limitation, to File a Reply, or to Extend the Time for Filing a Pleading

Any written opposition to a request to exceed the page limit, to file a reply, or to extend the time for filing a pleading shall be filed on the next business day after the filing of the request.

E. Attachments/Enclosures to Filings and Evidentiary Exhibits

If a participant henceforth files a pleading or other submission that has additional documents appended to it, these items should be referred to as attachments or enclosures (not exhibits) and a separate alpha or numeric designation should be given to each appended document (e.g., Attachment A, Enclosure 1), either on the first page of the appended document or on a cover/divider sheet in front of the appended document. Attachments or enclosures to a motion and any related responsive pleadings are not subject to the page limitation set forth in section II.B.1 above, but should be submitted via the agency's E-Filing system as part of a single electronic file that consists of the pleading or other submission, the certificate of service, and all the attachments or enclosures associated with the pleading or submission. In accordance with the agency's E-Filing guidance, multiple electronic files should be used for pleadings or submissions with attachments or enclosures only if the filing exceeds fifteen

³ In accordance with 10 C.F.R. § 2.323(a), unless some other time is specified in the agency's rules of practice or by the Board, motions generally are due within 10 days after the occurrence or circumstance from which the motion arises, with any response to that motion due within 10 days of service of the motion. The Board notes, however, relative to motions seeking the admission of new/amended contentions, see 10 C.F.R. § 2.309(f)(2), that to be considered timely such motions should be filed within 30 days of the date upon which the information that is the basis of the motion becomes available to the petitioner/intervenor, with any response to such a motion due within 14 days of service of the motion, and any reply to a response due within seven days of service of the response.

megabytes in size. See NRC, Guidance for Electronic Submissions to the NRC at 15 (rev. 6.1 May 27, 2011), <http://www.nrc.gov/site-help/electronic-sub-ref-mat.html>.

The label “exhibit” shall be reserved for use as a designation for those items that are submitted, whether by prefiling or at the time of an evidentiary hearing, as potential materials a participant will seek to have identified for inclusion in the evidentiary record of the proceeding. Exhibits (and prefiled written testimony) shall be submitted via the agency’s E-Filing system as separate electronic files. See 10 C.F.R. § 2.304(g).

F. Filing Date on Pleadings

The Board requests that the first page of each pleading submitted by a participant include the pleading’s filing date in the upper right hand corner or as part of the caption.

II. Initial Prehearing Conference

The Board wishes to advise the participants that it likely will hold an initial prehearing conference to hear argument regarding any disputes over MCE’s standing or the admissibility of its three proffered contentions. If the Board does convene such a proceeding, absent some other proposal by the participants,⁴ the Board will hold the prehearing conference at a venue in the vicinity of the Callaway facility. The Board is available on the following days and times to conduct a conference near the Callaway facility, which the Board anticipates should last no more than one day:

⁴ The Board notes that it appears at least one counsel for UEC, the staff, and MEC, as well as the supporting technical affiant for MEC, are located in the Washington, D.C. area. Under the circumstances, the Board would entertain a request to hold the conference in the Licensing Board Panel’s hearing room in Rockville, Maryland, if that is the participants’ preference. Also, if the conference were conducted in Rockville, the following dates (in addition to those specified in the text below) would be available: Tuesday, June 5; Friday, June 8; and Monday, June 11.

Wednesday, June 6, 2012

Thursday, June 7, 2012

Tuesday, June 12, 2012

Wednesday, June 13, 2012

The Board requests that on or before Tuesday, May 8, 2012, UEC, the staff, and MCE provide the Board with a joint report that specifies on which of the above dates all the participants are available for an initial prehearing conference. Thereafter, the Board will notify the participants about the date, location, and starting time of the conference, and any additional logistical information such as oral argument time allocations.

It is so ORDERED.

FOR THE ATOMIC SAFETY
AND LICENSING BOARD

/RA/

G. Paul Bollwerk, III
CHAIR

Rockville, Maryland

May 4, 2012

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

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)
UNION ELECTRIC COMPANY D/B/A AmerenUE)
)
) Docket No. 50-483-LR
(Callaway Power Plant, Unit 1))
)
(License Renewal))

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing MEMORANDUM AND ORDER (INITIAL PREHEARING ORDER) have been served upon the following persons by Electronic Information Exchange.

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Docket No. 50-483-LR
MEMORANDUM AND ORDER (INITIAL PREHEARING ORDER)

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[Original signed by Evangeline S. Ngbea]

Office of the Secretary of the Commission

Dated at Rockville, Maryland
this 4th day of May 2012