

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

ATOMIC SAFETY AND LICENSING BOARDS

Before Administrative Judges:

Alan S. Rosenthal, Chairman  
E. Roy Hawkens  
Dr. Anthony J. Baratta

In the Matters of

All Operating Boiling Water Reactor Licensees with Mark I and Mark II Containments: Order Modifying Licenses with Regard to Reliable Hardened Containment Vents (Effective Immediately)

All Power Reactor Licensees and Holders of Construction Permits in Active or Deferred Status: Order Modifying Licenses with Regard to Reliable Spent Fuel Pool Instrumentation (Effective Immediately)

Docket No. EA-12-050  
ASLBP No. 12-918-01-EA-BD01

Docket No. EA-12-051  
ASLBP No. 12-918-01-EA-BD01

May 24, 2012

MEMORANDUM AND ORDER

(Regarding Motion to Extend Time for Filing and to Reschedule Oral Argument)

Before the Board is the May 23, 2012 Joint Motion of the NRC Staff and Pilgrim Watch seeking (1) an extension to June 15, 2012 of the due date for the Staff's response to the Board's May 17, 2012 order; and (2) a postponement of the oral argument in this matter, now set for June 7, 2012, to no earlier than the week of June 25, 2012.<sup>1</sup> The motion is granted in part and denied in part.

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<sup>1</sup> NRC Staff and Pilgrim Watch Joint Motion for an Extension to File a Response to the Board Order Regarding Petitions under 10 C.F.R. § 2.206 and Reschedule Oral Argument at 1-2 (May 23, 2012) (Joint Motion).

The May 17 order requires the NRC Staff to provide the Board, by May 31, 2012, with “a list of those occasions since January 1975 on which the NRC official to whom a [10 C.F.R. § 2.206] petition was submitted granted the substantive relief sought in the petition.”<sup>2</sup> The Staff was further directed to provide a summary of the substance of that relief.

In the Joint Motion, we are told that, on its preliminary assessment, the Staff “has identified hundreds of petitions that require an in-depth review in order to determine whether, and to what extent, substantive relief was granted.”<sup>3</sup> Given this representation, the extension request appears reasonable. The Board is, of course, interested in obtaining a response to its inquiry that is complete in every respect.<sup>4</sup>

At the same time, the Board does not believe that the response need be received prior to the oral argument. That argument will focus principally on the questions identified in the Board’s May 9 scheduling order.<sup>5</sup> As the Board sees it, those questions can be adequately explored without having in hand the information regarding prior section 2.206 petitions. Once that information has been supplied, the parties will be provided a reasonable opportunity to present their views on its significance, if any, respecting the resolution of the issues now before the Board.

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<sup>2</sup> Licensing Board Memorandum and Order (Requesting Filing on Petitions under 10 C.F.R. § 2.206) at 1-2 (May 17, 2012) (unpublished) (emphasis in original).

<sup>3</sup> Joint Motion at 2.

<sup>4</sup> Given the Staff’s representation that it is being required to examine a substantial number of section 2.206 petitions, it should indicate in its response the precise number that were examined.

<sup>5</sup> Licensing Board Memorandum and Order (Scheduling Oral Argument) at 3-4 (May 9, 2012) (unpublished).

The deadline for the NRC Staff's response to this Board's May 17, 2012 order is hereby extended to June 15, 2012. The oral argument will be held on June 7, 2012, as now scheduled.

It is so ORDERED.

FOR THE ATOMIC SAFETY  
AND LICENSING BOARD

/RA/

Alan S. Rosenthal, Chairman  
ADMINISTRATIVE JUDGE

Rockville, Maryland  
May 24, 2012

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

In the Matter of )  
)  
ALL OPERATING BOILING WATER )  
REACTOR LICENSEES WITH MARK I )  
AND MARK II CONTAINMENTS )  
)  
AND ) Docket Nos. EA-12-050 and EA-12-051  
)  
ALL POWER REACTOR LICENSEES )  
AND HOLDERS OF CONSTRUCTION )  
PERMITS IN ACTIVE OR DEFERRED )  
STATUS )  
)  
(Fukushima-Related Orders Modifying )  
Licenses) )

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing **MEMORANDUM AND ORDER (Regarding Motion to Extend Time for Filing and to Reschedule Oral Argument)** have been served upon the following persons by Electronic Information Exchange (EIE).

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

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

Administrative Judge  
Alan S. Rosenthal, Chair  
E-mail: [alan.rosenthal@nrc.gov](mailto:alan.rosenthal@nrc.gov)

Carrie Safford, Esq.  
E-mail: [carrie.safford@nrc.gov](mailto:carrie.safford@nrc.gov)  
Christopher Hair, Esq.  
E-mail: [Christopher.hair@nrc.gov](mailto:Christopher.hair@nrc.gov)

Administrative Judge  
E. Roy Hawkens  
E-mail: [roy.hawkens@nrc.gov](mailto:roy.hawkens@nrc.gov)

Mauri Lemoncelli, Esq.  
E-mail: [Mauri.lemoncelli@nrc.gov](mailto:Mauri.lemoncelli@nrc.gov)  
Catherine Scott, Esq.  
E-mail: [clm@nrc.gov](mailto:clm@nrc.gov)

Administrative Judge  
Dr. Anthony J. Baratta  
E-mail: [Anthony.baratta@nrc.gov](mailto:Anthony.baratta@nrc.gov)

E-mail: [OGCMailCenter.Resource@nrc.gov](mailto:OGCMailCenter.Resource@nrc.gov)

Jonathan Eser, Law Clerk  
E-mail: [jonathan.eser@nrc.gov](mailto:jonathan.eser@nrc.gov)

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U.S. Nuclear Regulatory Commission  
Office of Commission Appellate Adjudication  
Mail Stop: O-16C1  
Washington, DC 20555-0001

E-mail: [OCAAMail.Resource@nrc.gov](mailto:OCAAMail.Resource@nrc.gov)

U.S. Nuclear Regulatory Commission  
Office of Secretary of the Commission  
Mail Stop: O-16C1  
Washington, DC 20555-0001

E-mail: [hearingdocket@nrc.gov](mailto:hearingdocket@nrc.gov)

Pilgrim Watch  
148 Washington Street  
Duxbury, MA 02332

Mary E. Lampert, Director  
E-mail: [mary.lampert@comcast.net](mailto:mary.lampert@comcast.net)

Morgan, Lewis & Bockius, LLP  
1111 Pennsylvania, Ave. N.W.  
Washington, D.C. 20004

Paul M. Bessette, Esq.  
E-mail: [pbessette@morganlewis.com](mailto:pbessette@morganlewis.com)  
Stephen J. Burdick, Esq.  
E-mail: [sburdick@morganlewis.com](mailto:sburdick@morganlewis.com)

Pillsbury Winthrop Shaw Pittman  
2300 N Street, NW  
Washington, DC 20037

David Lewis, Esq.  
Counsel for Dominion  
E-mail: [David.lewis@pillsburylaw.com](mailto:David.lewis@pillsburylaw.com)  
Jay Silberg, Esq.  
E-mail: [jay.silberg@pillsburylaw.com](mailto:jay.silberg@pillsburylaw.com)  
Stephen L. Markus, Esq.  
E-mail: [Stephen.markus@pillsburylaw.com](mailto:Stephen.markus@pillsburylaw.com)

Hogan Lovells, US LLP  
Columbia Square  
555 Thirteenth Street, NW  
Washington, D.C. 20004

Mary Anne Sullivan, Esq.  
E-mail: [maryanne.sullivan@hoganlovells.com](mailto:maryanne.sullivan@hoganlovells.com)  
Daniel F. Stenger, Esq.  
E-mail: [daniel.stenger@hoganlovells.com](mailto:daniel.stenger@hoganlovells.com)  
Jennifer Mansh, Esq.  
E-mail: [Jennifer.mansh@hoganlovells.com](mailto:Jennifer.mansh@hoganlovells.com)  
Amy C. Roma, Esq.  
E-mail: [amy.roma@hoganlovells.com](mailto:amy.roma@hoganlovells.com)  
Ruth M. Porter, Esq.  
E-mail: [ruth.porter@hoganlovells.com](mailto:ruth.porter@hoganlovells.com)

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and to Reschedule Oral Argument)**

Balch & Bingham LLP  
1710 Sixth Avenue North  
Birmingham, AL 35203-2015

M. Stanford Blanton, Esq.  
E-mail: [SBlanton@balch.com](mailto:SBlanton@balch.com)  
Derek J. Brice, Esq.  
E-mail: [dbrice@balch.com](mailto:dbrice@balch.com)  
April Leemon, Paralegal  
E-mail: [aleemon@balch.com](mailto:aleemon@balch.com)

Hunton & Williams LLP  
Riverfront Plaza, East Tower  
951 East Byrd Street  
Richmond, VA 23219

Donald P. Irwin, Esq.  
Counsel for Detroit Edison  
E-mail: [dirwin@hunton.com](mailto:dirwin@hunton.com)  
Stephanie Meharg, Esq.  
E-mail: [smeharg@hunton.com](mailto:smeharg@hunton.com)

Detroit Edison Company  
One Energy Plaza  
Detroit, MI 48226-1279

Jon P. Christinidis, Esq.  
Office of the General Counsel  
E-mail: [christinidisj@dteenergy.com](mailto:christinidisj@dteenergy.com)

Winston & Strawn LLP  
101 California Street  
San Francisco, CA 94111

Tyson Smith, Esq.  
E-mail: [trsmith@winston.com](mailto:trsmith@winston.com)

Winston & Strawn LLP  
1700 K Street  
Washington, DC 20006

David A. Repka, Esq.  
Counsel for Pacific Gas & Electric Co.  
E-mail: [drepka@winston.com](mailto:drepka@winston.com)  
Carlos L. Sisco, Paralegal  
E-mail: [csisco@winston.com](mailto:csisco@winston.com)

Winston & Strawn LLP  
1700 K Street, NW  
Washington, DC 20006

William A. Horin, Esq.  
Counsel for Energy Northwest  
E-mail: [whorin@winston.com](mailto:whorin@winston.com)  
Rachael Miras-Wilson, Esq.  
E-mail: [rwilson@winston.com](mailto:rwilson@winston.com)

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and to Reschedule Oral Argument)**

Dominion Resources Services, Inc.  
120 Tredegar Street, RS-2  
Richmond, VA 23219

Lillian M. Cuoco, Esq.  
Senior Counsel  
E-mail: [Lillian.cuoco@dom.com](mailto:Lillian.cuoco@dom.com)

Florida Power & Light Company  
801 Pennsylvania Avenue, NW  
Suite 220  
Washington, DC 20004

Mitchell Ross, Esq.  
E-mail: [mitch.ross@fpl.com](mailto:mitch.ross@fpl.com)  
Steven Hamrick, Esq.  
[steven.hamrick@fpl.com](mailto:steven.hamrick@fpl.com)

Dated at Washington, DC  
this 24<sup>st</sup> day of May 2012

Original signed by Nancy Greathead  
Office of the Secretary of the Commission