

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

July 24, 2012

MEMORANDUM AND ORDER

(Request to Show Cause as to Why New Contention
Motion Should Not Be Deemed Conceded/Unopposed)

Pending with the Licensing Board is a July 9, 2012 motion submitted by petitioner Missouri Coalition for the Environment (MCE) requesting that the Board admit a new contention challenging the purported failure of the environmental report associated with the December 2011 Callaway Unit 1 reactor operating license renewal application to address the environmental impacts of spent fuel pool leakage and fires and the unavailability of a spent fuel repository. See [MCE's] Motion for Leave to File a New Contention Concerning Temporary Storage and Ultimate Disposal of Nuclear Waste at Callaway Nuclear Power Plant (July 9, 2012) at 1. As the Board noted in its July 18, 2012 decision denying the admissibility of the three contentions submitted by MCE with its April 24, 2012 initial hearing petition, once the July 9 motion is briefed by the participants, the Board is prepared in due course to rule on the motion. See LBP-12-15, 76 NRC __, __ n.15 (slip op. at 29 n.15) (July 18, 2012).

Under the terms of the Board's May 4, 2012 initial prehearing order, responses to a motion to admit a new contention are to be filed within fourteen days of the date on which the

motion is submitted or, in this instance, on or before Monday, July 23, 2012.¹ See Licensing Board Memorandum and Order (Initial Prehearing Order) (May 4, 2012) at 4 n.3 (unpublished). The Board, however, did not receive a response to MCE's July 9 motion from either applicant Union Electric Company d/b/a Ameren Missouri (Ameren) or the NRC staff by that due date or, alternatively, a motion for an extension of time to file such a response.²

As the Board also indicated in its recent contention admissibility decision, MCE's new contention is arguably in para materia with new contentions filed in a number of other reactor license renewal, combined license, and operating license proceedings as well as a petition pending before the Commission. See LBP-12-15, 76 NRC at __ n.15 (slip op. at 29 n.15). Under the circumstances, and in light of the failure of Ameren or the staff to file timely either the aforementioned response to the July 9 MCE motion or an extension motion, before ruling on the admissibility of MCE's new contention the Board finds it appropriate to request that Ameren and the staff show cause why the admissibility of this contention should not be deemed conceded/unopposed by those participants.

¹ Under the terms of a recently adopted, albeit not yet published, change to the agency's rules of practice in 10 C.F.R. Part 2, a revised section 2.309(i)(1) will provide 25 days for the filing of a response to a motion to admit a new contention. See Memorandum from Stephen G. Burns, NRC General Counsel, to the NRC Commissioners, SECY-12-0004 (Jan. 10, 2012), encl. 1, at 119 (draft final rule Federal Register notice) (ADAMS Accession No. ML12010A065); see also Memorandum from Annette L. Vietti-Cook, NRC Secretary, to Marian Zabler, Acting NRC General Counsel & R.W. Borchardt, NRC Executive Director for Operations (June 29, 2012) (staff requirements memorandum approving final rule amending 10 C.F.R. Part 2) (ADAMS Accession No. ML12181A121). That provision is not, however, currently in effect.

² See Tennessee Valley Authority (Bellefonte Nuclear Power Plant Units 3 and 4), Docket Nos. 52-014-COL and 52-015-COL, Licensing Board Order (Extending Time to Answer Motion to Admit New Contention) (July 17, 2012) at 1-2 (granting uncontested staff motion to extend 14-day deadline for filing a response to motion to admit new contention concerning the temporary storage and ultimate disposal of nuclear waste) (unpublished).

Ameren and/or staff responses to this show cause request shall be filed on or before Friday, July 27, 2012. Any MCE reply to any submitted response shall be filed on or before Wednesday, August 1, 2012.

It is so ORDERED.

FOR THE ATOMIC SAFETY
AND LICENSING BOARD

/RA/

G. Paul Bollwerk, III
CHAIR

Rockville, Maryland

July 24, 2012

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

In the Matter of)
)
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 (Request to Show Cause as to Why New Contention Motion Should Not Be Deemed Conceded/Unopposed)** have been served upon the following persons by Electronic Information Exchange and by electronic mail as indicated by an asterisk*.

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Callaway Power Plant, Unit 1, Docket No. 50-483-LR

MEMORANDUM AND ORDER (Request to Show Cause as to Why New Contention Motion Should Not Be Deemed Conceded/Unopposed)

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[Original signed by Herald M. Speiser]
Office of the Secretary of the Commission

Dated at Rockville, Maryland
this 24th day of July, 2012