

**UNITED STATES COURT OF APPEALS
FOR THE FIRST CIRCUIT**

COMMONWEALTH OF)	
MASSACHUSETTS,)	
)	
Petitioner,)	Nos. 12-1404
)	and 12-1772
v.)	(Consolidated)
)	
UNITED STATES NUCLEAR)	
REGULATORY COMMISSION and)	
the UNITED STATES OF AMERICA,)	
)	
Respondents.)	

JOINT MOTION TO AMEND BRIEFING SCHEDULE

The parties to the above-captioned consolidated cases—the Commonwealth of Massachusetts, the United States Nuclear Regulatory Commission (NRC), the United States of America, and Intervenor Entergy Nuclear Operations, Inc. and Entergy Nuclear Generation Company (Entergy)—hereby jointly move to amend the briefing schedule such that the response briefs for Respondents and the Intervenor would be due on October 10, 2012, and Petitioner’s reply brief would be due on October 26, 2010. We jointly seek this modest briefing schedule amendment for the following reasons:

1. Petitioner's opening brief was filed on August 29, 2012. This Court's CM/ECF electronic Notice of Docket Activity for that filing specified a due date of October 1, 2012 for the Respondents' brief. As outlined below, Petitioner and Respondents have agreed that the briefing schedule amendment requested above would address the Respondents' need for an extension of time to prepare their response brief while avoiding conflict with a previously scheduled trip by Petitioner's counsel, and Intervenor Entergy does not object to the requested amendment.

2. In Hobbs Act cases like this one, the NRC and the United States typically join in a single response. The Department of Justice represents the United States. Collaborating on a single response requires consultation and coordination between NRC and the Justice Department, including supervisory reviews at the Department.

3. NRC's Solicitor has a small office with limited staff, and is responsible for supervising preparation of another brief for this Court in another case (*Beyond Nuclear v. NRC*, No. 12-1561) that is due on September 20, 2012. In addition, the Solicitor has longstanding commitments to attend to an ailing parent in New Jersey during a portion of the relevant time period.

4. The Commonwealth of Massachusetts's counsel has previously informed this Court by letter, dated August 29, 2012, that he expects to be out of the country from October 29, 2012 to November 16, 2012.

5. Respondents view the proposed amendment to the briefing schedule as sufficient to accommodate both the need for coordination between NRC and the Justice Department and the NRC Solicitor's other commitments, while Petitioner expects that the proposed amended schedule will provide adequate time for preparation of a reply brief prior to Petitioner's counsel's scheduled foreign trip. Intervenor Entergy also has no objection to the proposed amendment.

Conclusion

For the foregoing reasons, this Court should grant this joint motion to amend the briefing schedule in the above-captioned consolidated cases such that response briefs for Respondents and the Intervenor would be due on October 10, 2012, and the Petitioner's reply brief would be due on October 26, 2012.

Respectfully Submitted,

s/ Matthew Brock

Matthew Brock
Assistant Attorney General
Environmental Protection Division
Office of the Attorney General
One Ashburton Place
Boston, MA 02108
matthew.brock@state.ma.us

s/ James E. Adler

James E. Adler
Attorney
Office of the General Counsel
U.S. Nuclear Regulatory
Commission
11555 Rockville Pike
Rockville, MD 20852
james.adler@nrc.gov

s/ J. David Gunter II

J. David Gunter II
Attorney
Appellate Section
United States Department of Justice
Environment & Natural Resources
Division
P.O. Box 7415
Washington, DC 20044
david.gunter2@usdoj.gov

s/ David R. Lewis

David R. Lewis
Pillsbury Winthrop Shaw Pittman,
LLP
2300 N Street, N.W.
Washington, DC 20037
david.lewis@pillsburylaw.com

Dated September 13, 2012.

CERTIFICATE OF SERVICE

I hereby certify that, on September 13, 2012, copies of this Joint Motion to Amend Briefing Schedule for the above-captioned consolidated cases were served electronically by the Court's CM/ECF system on the following:

Matthew Brock
Office of the Attorney General
One Ashburton Place
Boston, MA 02108
matthew.brock@state.ma.us

David R. Lewis
Pillsbury Winthrop Shaw Pittman, LLP
2300 N Street, N.W.
Washington, DC 20037
david.lewis@pillsburylaw.com

David Gunter
United States Department of Justice
Environment & Natural Resources Division
Appellate Section
P.O. Box 7415
Washington, D.C. 20044
david.gunter2@usdoj.gov

s/ James E. Adler
James E. Adler

September 13, 2012