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ADJUDICATIONS

August 24, 1998

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

Before the Atomic Safety and Licensing Board

In the Matter of	)	
	)	Docket Nos. 50-317-LR
Baltimore Gas and Electric Company	)	50-318-LR
	)	
(Calvert Cliffs Nuclear Power Plant, Units 1 and 2)	)	ASLBP No. 98-749-01-LR

BGE'S ANSWER OPPOSING
PETITIONER'S MOTION FOR ENLARGEMENT OF TIME

Baltimore Gas and Electric Company (BGE) hereby answers and opposes Petitioner's Motion for Enlargement of Time, which the National Whistleblower Center (NWC) filed on August 21, 1998. This is an inauspicious start to this adjudicatory proceeding. Two days after the Commission issued an order (CLI-98-14) stressing the importance of schedule and other techniques to ensure a prompt and efficient proceeding and establishing milestones toward a goal of the issuance of a Commission decision within 2 and one half years, and one day after the Licensing Board issued its Initial Prehearing Order establishing an initial schedule, NWC is already seeking months of delay. This request is clearly inconsistent with the NRC's policy and objectives, is totally unjustified, and should be denied.

At the outset, NWC suggests its own standard for considering its motion for an extension. Both the Commission and this Licensing Board, however, have established "unavoidable and extreme circumstances" as the standard in this proceeding. See CLI-98-14, slip op at 6; Initial

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Prehearing Conference Order at 10. NWC has not demonstrated that its request meets this standard. It does not.[1]

NWC's principal argument appears to be that this is a complex proceeding and NWC is still in the process of obtaining experts. NWC does not explain why, when BGE's application was filed in early April -- four and a half months ago -- it is only now looking for experts. Moreover, BGE pre-submitted its Integrated Plant Assessment (IPA) Methodology, its Time Limited Aging Analyses Evaluation, and its reports on IPA results. See Letter from C. Cruse to NRC, Application for License Renewal (April 8, 1998) at page 1. As shown by the list of references provided in the letter transmitting BGE's application, most of BGE's system reviews were available in 1997, and BGE's IPA methodology was available even earlier. See id. at 4. In sum, NWC has had months -- and much of the contents of the application has been publicly available for more than a year -- to prepare itself.

In addition, the Licensing Board's schedule gives NWC another three weeks to proffer its contentions. It is remarkable that NWC cannot even identify the issues that it wishes to litigate in this time frame. Further, NWC's references to the "complexity" of this proceeding (see motion at 2) and its characterization of BGE's application as "voluminous and complex" (see motion at 3) do not ring true. BGE's application is only three volumes (including the environmental report), which is much shorter than the applications in construction permit and operating license proceedings. This reflects the limited scope of the proceeding, which is

[1] NWC notes that it has filed a motion with the Commission seeking to vacate the guidance in CLI-98-14. Motion at 2 n.1. The fact remains that CLI-98-14 is currently in effect and controls this proceeding.

essentially confined to aging management and a limited number of environmental issues. See CLI-98-14 at 2.

NWC's motion should also be denied because it prevents compliance with the milestones established by the Commission in CLI-91-14. Those milestones call for a decision by the Licensing Board on the intervention petition and contentions within 90 days of the Commission's order -- i.e., by November 17. Under NWC's proposal, NWC would not even file its contentions by this date.

NWC also suggests that it may continue to submit contentions up until 15 days prior to the prehearing conference order and asks the Licensing Board to "clarify" its Prehearing Conference Order accordingly. Motion at 4. This suggestion essentially repeats the argument in NWC's petition that is has an "unlimited right" to amend its petition until 15 days prior to the prehearing conference. See NWC Petition at 4. As pointed out in BGE's Answer to NWC's Petition, the Appeals Board has held the periods for supplemental pleadings may be adjusted by the Board. Houston Lighting and Power Company (Allens Creek Nuclear Generating Station, Unit 1), ALAB-574, 11 N.R.C. 7, 13 (1980). See also 10 C.F.R. §§ 2.711(a), 2.718. The Commission's recent Policy Statement on Conduct of Adjudicatory Proceedings specifically advises Licensing Boards to use their authority to shorten the filing and response times set forth in the regulations, and states that such authority is sufficient to control the supplementation of petitions and the filing of contentions. CLI-98-12, slip op. at 4, reprinted in 63 Fed. Reg. 41,872, 41,873 (1998).

While NWC's motion is utterly baseless, it also underscores the lack of substance in NWC's previously submitted petition to intervene. NWC's claim that it needs months just to identify contentions parallels its failure to identify in its petition the aspects of the subject matter as to which NWC wishes to intervene, and more generally, NWC's failure to demonstrate standing. In light of these infirmities, BGE submits that an immediate ruling by the Licensing Board on NWC's standing and the sufficiency of its petition would be the most efficient course of action, because it might eliminate needless effort by NWC to identify contentions, as well as the burden on BGE and the NRC staff of responding. BGE would not object to NWC being afforded a brief period, such as by August 31, to file a reply to BGE and the NRC staff's answers to the initial petition. In any event, NWC's Motion for Enlargement of Time should be denied.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that copies of "BGE's Answer to Petitioner's Motion for Enlargement of Time" were served upon the persons listed below by deposit in the United States mail, first class, postage prepaid, this 24th day of August, 1998. Where indicated by an asterisk, conforming copies were also transmitted by facsimile or electronic mail this same date.

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