

UNITED STATES
NUCLEAR REGULATORY COMMISSION

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BEFORE THE COMMISSION

OFFICE OF SECRETARY
DOCKETING & SERVICE
BRANCH

In the Matter of

)

Innovative Weaponry, Inc.
Albuquerque, New Mexico

)

)

)

Docket No. 030-30266 -HP

EA 96-170

LICENSEE'S MOTION TO CONSOLIDATE PROCEEDINGS

James R. Tourtellotte
Attorney for Innovative Weaponry, Inc.

April 28, 1997

SECY-EHD-006

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Innovative Weaponry, Inc.)	
Albuquerque, New Mexico)	EA 96-170

LICENSEE'S MOTION TO CONSOLIDATE PROCEEDINGS

INTRODUCTION

This matter is based upon the challenge of a Confirmatory Order which came out of an NRC enforcement action. Licensee, Innovative Weaponry, Inc. (IWI), filed a Request for Hearing and related pleadings. NRC staff has filed responses and other pleadings. The pleadings are before the Commission for their consideration.

On April 10, 1997, the Director, Office of Enforcement, issued an Order Imposing Civil Monetary Penalty. The Order was issued against IWI's successor licensee, 21st Century Technologies, the holding company of IWI. The April 10 Order is issued under EA 96-135.

On April 25, 1997, Licensee exercised its option to request a hearing on the Order in EA 96-135. Although the hearing request is addressed to the Director of Enforcement, it is Licensee's understanding that the decision granting or denying the request rests with the Commission. Accordingly, this request to consolidate proceedings is made to the Commission.

BACKGROUND

This case, EA 96-170 and the enforcement action in EA 96-135 are based upon a single set of derivative facts, investigations, reports and staff actions. The outcomes being challenged are different. The outcome challenged in EA 96-170 is a Confirmatory Order. In EA 96-135 it is an Order Imposing Civil Monetary Penalty. However, the underlying facts, law and parties are all the same.

DISCUSSION

Section 2.716, Consolidation of proceedings, reads as follows:

On motion and for good cause shown or on its own initiative, the Commission or the presiding officers of each affected proceeding may consolidate for hearing or for other purposes two or more proceedings, or may hold joint hearings with interested States and/or other federal agencies on matters of concurrent jurisdiction, if it is found that such action will be conducive to the proper dispatch of its business and to the ends of justice and will be conducted in accordance with the other provisions of this subpart.

Licensee submits that consolidation of EA 96-170 and EA 96-135 would "be conducive to the proper dispatch" of Commission business and would serve "the ends of justice." This is clearly evident by reason of both cases involving the same derivative facts, law and parties. Treating both cases in a single proceeding will avoid duplication of effort as well as save money, manpower and time. In short, consolidation will improve both efficiency and effectiveness of the adjudicatory process.

Licensee respectfully requests consolidation of EA 96-170 and EA 96-135 and that the consolidated case be resolved by public hearing.



James R. Tourtellotte
Attorney for Innovative Weaponry, Inc.

Proof of Service

Service is made in accordance with 10 C.F.R. § 2.701 by delivery by U.S. Mail on April 28, 1997.



James R. Tourtellotte
Attorney for Innovative Weaponry, Inc.

UNITED STATES
NUCLEAR REGULATORY COMMISSION

BEFORE THE COMMISSION

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OFFICE OF SECRETARY
DOCKETING & SERVICE
BRANCH

In the Matter of)

Innovative Weaponry, Inc.)
Albuquerque, New Mexico)

Docket No. 030-30266

EA 96-170

Certificate of Service

I hereby certify that copies of the foregoing Motion to Consolidate Proceedings have been served upon the following persons by U.S. mail, first class, except as otherwise noted and in accordance with the requirements of 10 C.F.R. § 2.701.

Director
Office of Enforcement
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

Office of the Secretary
Docketing & Control Branch
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

Office of Commission Appellate
Adjudication
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

Ellis W. Merschoff, Administrator
Region IV
U.S. Nuclear Regulatory Commission
Harris Tower
611 Ryan Plaza Drive, Suite 400
Arlington, TX 76011

Catherine L. Marco, Esq.
Eugene J. Holler, Esq.
Office of the General Counsel
Mail Stop - 0-15 B18
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

Dated at Arlington, Virginia, this
28th day of April, 1997



James R. Tourtellotte
Attorney for Innovative Weaponry, Inc.