

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

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USNRC

Atomic Safety and Licensing Board

'97 JUL -3 A9:48

Before Administrative Judges:

Thomas S. Moore, Chairman
Dr. Jerry R. Kline
Lester S. Rubenstein

OFFICE OF SECRETARY
DOCKETING & SERVICE
BRANCH

SERVED JUL -3 1997

In the Matter of
21ST CENTURY TECHNOLOGIES, INC.
(License No. 30-23697-01E)

Docket No. 030-30266-CivP

ASLBP No. 97-729-01-CivP

July 3, 1997

MEMORANDUM AND ORDER
(Initial Prehearing Order)

On June 19, 1997, the Secretary of the Commission forwarded the April 25, 1997, hearing request of 21st Century Technologies, Inc. ["Technologies"] to the Chief Administrative Judge of the Atomic Safety and Licensing Board Panel for appropriate action. Technologies seeks a hearing on the Commission's April 10, 1997, order imposing a civil penalty on Technologies for failing to conduct licensed activities in full compliance with NRC requirements. On June 23, 1997, this Licensing Board was established to preside over the proceeding. In accordance with our authority under 10 C.F.R. § 2.718, we set forth the following directives regarding the conduct of this proceeding:

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I. Administrative Matters

A. Notice of Appearance. If they have not already done so, within ten days of the date of this memorandum and order, each counsel or representative for each participant shall file a notice of appearance complying with the requirements of 10 C.F.R. § 2.713(b).

B. Service on the Board. For each pleading or other submission filed before the Board or the Commission in this proceeding, in addition to submitting an original and two conforming copies to the Office of the Secretary as required by 10 C.F.R. § 2.708(d) and serving a copy on each participant in accordance with section 2.701(b), one conforming copy should be served on each Board member in accordance with the following instructions:

1. Regular Mail. To complete service via United States Postal Service first-class mail, a conforming copy should be sent to each Board member at the following addresses:

Thomas S. Moore, Chairman
Atomic Safety and Licensing Board Panel
U.S. Nuclear Regulatory Commission
Washington, DC 20555

Dr. Jerry R. Kline
Atomic Safety and Licensing Board Panel
U.S. Nuclear Regulatory Commission
Washington, DC 20555

Lester S. Rubenstein
4760 East Country Villa Drive
Tucson, AZ 85718

For regular mail service to Judge Moore and Judge Kline, the Staff may use the NRC internal mail system (Mail Stop T-3F23) in lieu of first-class mail.

2. Overnight or Hand Delivery. To complete service via overnight (e.g., express mail) or hand delivery, a conforming copy should be sent to each Board member at the following addresses:

Thomas S. Moore, Chairman
Atomic Safety and Licensing Board Panel
Third Floor, Two White Flint North
11545 Rockville Pike
Rockville, MD 20852

Jerry R. Kline
Atomic Safety and Licensing Board Panel
Third Floor, Two White Flint North
11545 Rockville Pike
Rockville, MD 20852

Lester S. Rubenstein
4760 East Country Villa Drive
Tucson, AZ 85718

3. Facsimile Transmission. To complete service by facsimile transmission (1) one copy should be sent by rapifax to the attention of each of the Board members at (301) 415-5599 (verification (301) 415-7399) for Judge Moore and Judge Kline and at (520) 299-4297 with prior notice that rapifax is to be transmitted (verification (520) 299-4297) for Judge Rubenstein, and (2) a conforming copy should be sent that same date to each Board member by regular mail at the address given in paragraph I.B.1 above.

4. E-Mail Submissions. For the Staff to complete service by E-Mail transmission to Judge Moore and Judge Kline through the NRC's Agency Upgrade of Technology for Office Systems (AUTOS) Wide Area Network (WAN) System, the Staff filing (which should include the certificate of service) should be sent as a WordPerfect file attached to a Mail Message directed to Judge Moore (TSM2) and Judge Kline (JRK2). To complete service by E-Mail transmission to Judge Rubenstein, the Staff filing (which should include the certificate of service) should be sent using the Internet directed to Judge Rubenstein (LESRRR@AOL.COM). Any attachments or exhibits to a pleading that cannot be transmitted by E-Mail should be sent to the Board by a separate facsimile transmission or other means that will ensure receipt by the due date, and a paper conforming copy of the entire pleading and any attachments or exhibits should be sent that same date to each Board member by regular mail at the address given in paragraph I.B.1 above.

For Technologies to complete service by E-Mail transmission to each Board member, Technologies should use the Internet and its filing (which should include a certificate of service) should be sent in WordPerfect or some compatible word process format attached to a Mail Message directed to Judge Moore (TSM2@NRC.GOV), Judge Kline (JRK2@NRC.GOV), and Judge Rubenstein (LESRRR@AOL.COM). Any

attachments or exhibits to a pleading that cannot be transmitted by E-Mail should be sent to the Board by a separate facsimile transmission or other means that will ensure receipt by the due date, and a paper conforming copy of the entire pleading and any attachments or exhibits should be sent that same date to each Board member by regular mail at the address given in paragraph I.B.1 above.

5. Timely Service by Hand Delivery, Facsimile Transmission, or E-Mail. To be timely, any pleading or other submission served on the Board by hand delivery, facsimile transmission, or E-Mail must be received by the Board no later than 4:30 p.m. Eastern Time on the date due.

C. Motions for Extension of Time. For any motion for extension of time filed with the Board in this proceeding, except upon a showing of good cause, the moving participant shall:

1. Ascertain whether and when any other participant intends to oppose or otherwise respond to the motion and apprise the Board of that information in the motion; and

2. Provide the motion to the Board at least three business days before the due date for the pleading or other submission for which an extension is sought.

D. Exhibits/Attachments to Filings. If a participant files a pleading or other submission with the Board that has additional documents appended to it as exhibits or

attachments, a separate alpha or numeric designation for each appended document (e.g., Exhibit 1; Attachment A) should be given to each appended document, either on the first page of the appended document or on a cover/divider sheet in front of the appended document.

II. Referenced Document

On or before August 5, 1997, the Staff should provide each of the Board members with copies of the May 15, 1996, Notice of Violation ("NOV") referenced in the Staff's April 10, 1997 civil penalty order.

III. Joint Prehearing Report

On or before August 5, 1997, 21st Century Technologies, Inc., and the Staff should file a joint prehearing report that contains the following information:

A. Relative to the various legal and factual assertions that are set forth in the May 15, 1996 NOV and form the basis for the Staff's April 10, 1997 civil penalty order, the parties should provide a statement outlining the central issues for litigation in this proceeding. If the parties cannot agree on the wording or inclusion of any issue, the statement should set forth that issue separately with a notation identifying the sponsoring party. Each issue should reference any of the alleged violations that relate to that issue.

B. A statement identifying which, if any, of the issues specified in accordance with paragraph III.A each party believes is amenable to a dispositive motion and whether discovery will be needed prior to filing such a motion on that issue.

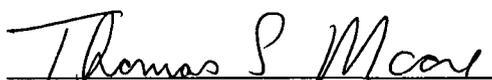
C. A statement indicating how long the parties estimate they will need to conduct discovery on the issues specified in accordance with paragraph III.A.

D. A statement indicating how long the parties estimate will be needed to conduct an evidentiary hearing on the issues specified in accordance with paragraph III.A.

E. A statement describing the status of any settlement discussions between the parties.

It is so ORDERED.

FOR THE ATOMIC SAFETY
AND LICENSING BOARD



Thomas S. Moore, Chairman
ADMINISTRATIVE JUDGE

Rockville, Maryland

July 3, 1997

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

In the Matter of
21ST CENTURY TECHNOLOGIES, INC.
(Order Imposing Civil Monetary
Penalty)

Docket No.(s) 30-30266-CIVP

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing LB M&O (INITIAL PREH. ORDER) 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 CFR Sec. 2.712.

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

Administrative Judge
Thomas S. Moore, Chairman
Atomic Safety and Licensing Board
Mail Stop - T-3 F23
U.S. Nuclear Regulatory Commission
Washington, DC 20555

Administrative Judge
Jerry R. Kline
Atomic Safety and Licensing Board
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Washington, DC 20555

Administrative Judge
Lester S. Rubenstein
Atomic Safety and Licensing Board
Mail Stop - T-3 F23
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Washington, DC 20555

Lawrence J. Chandler, Esq.
Office of the General Counsel
Mail Stop - 0-15 B18
U.S. Nuclear Regulatory Commission
Washington, DC 20555

James R. Tourtellotte, Esq.
1200 N. Nash Street, Suite 1141
Arlington, VA 22209

Dated at Rockville, Md. this
3 day of July 1997


Office of the Secretary of the Commission