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UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION '94 JUN -3 P4:56

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD SECRETARY
DOCKETING & COMPLIANCE
DIVISION

In the Matter of)
)
)
NUCLEAR SUPPORT SERVICES, INC.) EA 93-236
)
)

JOINT MOTION OF NSSI AND NRC
STAFF FOR FURTHER DELAY IN
COMMENCEMENT OF PORTION OF PROCEEDING

INTRODUCTION

On May 4, 1994, the Licensing Board issued an order granting the joint motion of NSSI and the NRC Staff to delay the commencement of a portion of the proceeding in order to accommodate settlement negotiations.¹ The parties have made productive use of the extension and have made substantial progress in settling their differences regarding the provisions of paragraphs IV.B.2, IV.B.3 and IV.B.5 of the Order captioned "EA 93-236," which were the subject of NSSI's "Motion to Set Aside Immediate Effectiveness of Part IV.B of NRC's Order Captioned EA 93-236," filed April 29, 1994 ("Motion"). The Licensing Board's Order of May 4, 1994 extended the time for the filing of the Staff's response to NSSI's motion until June 3, 1993. The parties now seek a further extension

¹ Memorandum and Order (Consolidating Proceedings and Granting Extension of Time), May 4, 1994.

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until June 17, 1994, in the hope that they will have been able to settle their differences by that time.²

BACKGROUND

On March 22, 1994, the Deputy Executive Director for Nuclear Reactor Regulation, Regional Operations and Research issued an Order to NSSI requiring, *inter alia*, that:

B.2. Nuclear Support Services, Inc., shall complete a review of all NSSI personnel security files processed during the period of November 1989 through May 31, 1991, to ensure that, based upon the information in the files, any NSSI personnel recommended for unescorted access to NRC-licensed nuclear plants during that period met applicable 10 CFR part 26 Fitness-for-Duty requirements and access authorization requirements for unescorted access in accordance with requirements applicable to NSSI's clients' security plans as prescribed in such clients' contracts with NSSI.

B.3. Nuclear Support Services, Inc., shall advise the NRC, in writing, of the results of the review required by conditions B.1 and 2. within 60 days of the date of this Order [May 21, 1994].

B.5. Nuclear Support Services, Inc. shall provide an audit plan to the NRC, to verify the accuracy of information obtained by NSSI in its background inquiries which formed the basis for its access decisions during the period from November 1989 to May 31, 1991. The plan shall be submitted within 30 days of the date of this Order [April 22, 1994] and include the sample size, the milestones and schedule for completing the audit, qualifications of the auditors, and the basis for concluding that the audit plan will provide assurance that NSSI's records are complete and accurate. Following NRC approval of the plan, it shall be implemented. The results of the audit shall be provided to the applicable licensees and the NRC within 7 days of the completion of the audit.

² James Lieberman, Director, Office of Enforcement, is sending a letter to NSSI's president extending the time for NSSI to complete the review of its security files required by paragraph IV.B.2 of the Order until July 5, 1994, and the time for NSSI to submit the audit plan required by paragraph IV.B.5 of the Order until June 30, 1994.

59 Fed. Reg. at 14430-431 (March 28, 1994).

Subsequent to the issuance of the Order, representatives of NSSI and the Staff met to discuss the review and audit called for by the Order. *See* Motion at 3. Thereafter, by letter dated April 14, 1994, from the NRC Director, Office of Enforcement to NSSI's Chairman and President, the time for NSSI to submit an audit plan was extended to May 16, 1994. *Id.* Subsequently NSSI submitted a proposal for conduct of the review and audit and discussions between the parties regarding it have been useful in narrowing the differences between the parties.

DISCUSSION

The parties believe there is good cause for further delaying the commencement of that portion of the proceeding challenging the immediate effectiveness of ¶¶ IV.B.2, IV.B.3 and IV.B.5 and further extending the time for the Staff to respond to NSSI's Motion. The parties plan to continue discussions in an effort to resolve their remaining differences concerning the scope and timing of the review and audit provided for in paragraph IV.B of the NRC Staff's Order. As the discussions may result in an agreement that obviates any need for a ruling on the immediate effectiveness of the part of the Order that is challenged by NSSI's Motion, the parties should be granted a further extension of fourteen days to continue discussions.

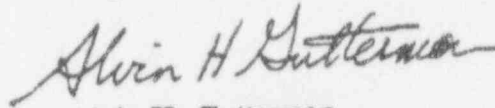
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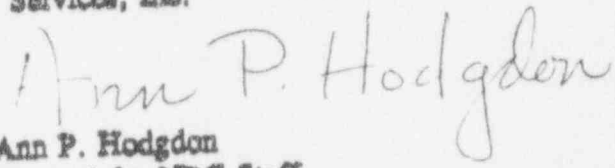
CONCLUSION

For the reasons set forth above, the time for the Staff's reply to NSSI's Motion should be extended until June 17, 1994.

Respectfully submitted,



Alvin H. Gutterman
Counsel for Nuclear Support
Services, Inc.³



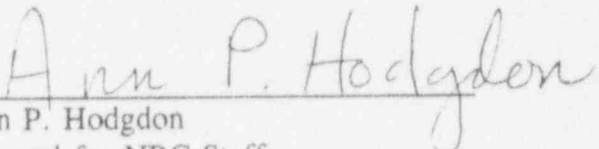
Ann P. Hodgdon
Counsel for NRC Staff

Dated at Rockville, Maryland
this 2nd day of June, 1994

³ On this day, Mr. Gutterman is separately filing a notice of appearance as counsel on behalf of NSSI and Mr. Robert C. Dalley.

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