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UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

DOCKETED  
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'98 SEP 17 A9:46

COMMISSIONERS:

Shirley Ann Jackson, Chairman  
Nils J. Diaz  
Edward McGaffigan, Jr.

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REGULATORY AFFAIRS  
ADJUDICATION STAFF

**SERVED SEP 17 1998**

\_\_\_\_\_)  
In the Matter of )  
 )  
BALTIMORE GAS & ELECTRIC COMPANY )  
 )  
(Calvert Cliffs Nuclear Power Plant, )  
Units 1 and 2) )  
\_\_\_\_\_)

Docket Nos. 50-317-LR  
50-318-LR

CLI-98-19

MEMORANDUM AND ORDER

This proceeding involves an application by Baltimore Gas & Electric Company ("BG&E") to renew its operating license for both units of its Calvert Cliffs Nuclear Power Plant -- an action opposed by the National Whistleblower Center ("NWC"). On August 19, 1998, the Commission issued CLI-98-14, 48 NRC \_\_\_\_, referring NWC's petition for intervention and hearing to the Atomic Safety and Licensing Board and setting out a suggested expedited procedural schedule for the case. On August 20<sup>th</sup>, the Board issued a Memorandum and Order scheduling further filings in this proceeding. In that order, the Board established a September 11<sup>th</sup> deadline for the filing of contentions (slip op. at 3). On August 21<sup>st</sup>, NWC asked the Board for an enlargement of time until December 1<sup>st</sup> within which to file its contentions. On August 27<sup>th</sup>, the Licensing Board issued an order denying NWC's request. NWC failed to submit contentions by September 11<sup>th</sup>. Instead, it filed with the Commission a petition for review of the Board's August 27<sup>th</sup> order.

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We ordinarily do not review interlocutory Board orders denying extensions of time, but we do so here as an exercise of our general supervisory jurisdiction over agency adjudications. On consideration of NWC's petition for review, we conclude that at the time it requested a hearing in early August, it might not have anticipated that the Board would set a date as early as September 11<sup>th</sup> as the deadline for filing contentions, perhaps in part because the agency's Notice of an Opportunity for a Hearing stated, somewhat ambiguously, that a petitioner had to file contentions "not later than" 15 days prior to the first prehearing conference (63 Fed. Reg. 36,936 (July 8, 1998)). In addition, NWC has represented that its experts were unable to complete their review of the Calvert Cliffs application by the September 11<sup>th</sup> deadline. To ensure that NWC has an adequate opportunity to introduce matters of safety or environmental concern into the Calvert Cliffs proceeding, we have decided to grant NWC until September 30<sup>th</sup> to file contentions. However, NWC's contentions, to be admissible, must satisfy the Commission's standards for acceptability of contentions set forth in 10 C.F.R. § 2.714 and, after September 30<sup>th</sup>, our late-filed criteria will come into play. The Board should be prepared to terminate the adjudication promptly should NWC submit no admissible contentions.<sup>1</sup>

We recognize that our grant of an extension of time to NWC may require the Board to postpone, by two weeks or so, the issuance of its initial decision on standing and on the admissibility of contentions. Given the threshold stage of this proceeding, however, this short delay will not compromise the Commission's ultimate goal to resolve all license renewal issues within 30 months of our initial hearing notice.

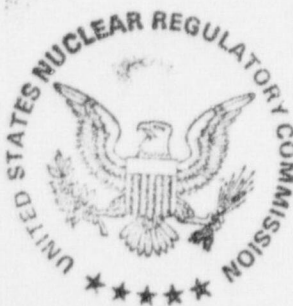
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<sup>1</sup> We note that, by September 30<sup>th</sup>, NWC will have had 134 days since the NRC published its May 19, 1998 notice of acceptance for docketing of BG&E's application (63 Fed. Reg. 27,601), 112 days since the NRC announced the beginning of the public scoping process under the National Environmental Policy Act (63 Fed. Reg. 31,813 (June 10, 1998)), and 84 days since the NRC published the Notice of Opportunity for Hearing (63 Fed. Reg. 36,966 (July 8, 1998)). Both the docketed application and detailed information about the license renewal process have been available publicly since at least the May 19<sup>th</sup> notice.

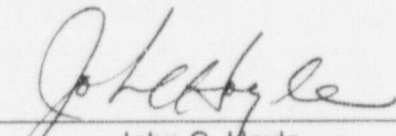
Our decision today to relax the Board's September 11 deadline by no means suggests any dissatisfaction with the Board's handling of the matter. The Board acted entirely reasonably both in establishing the September 11 deadline and, in the absence of Commission guidance, in refusing to extend it, particularly in refusing to extend it until November, as NWC originally requested. We urge the Board to continue its effort to move this proceeding forward expeditiously. Our decision today also reflects no agreement with NWC's position that the Commission's initial decision to expedite this case and to provide the Board scheduling milestones is somehow unlawful. We recently set out the Commission's views on these matters in CLI-98-15, 48 NRC \_\_ (1998), and reaffirm them here. Finally, for the reasons given by the Board itself in its August 27<sup>th</sup> order, it possesses considerable authority to modify general deadlines set out in our rules and we expect it to continue to exercise that authority when appropriate.

For the foregoing reasons, we grant NWC's petition for review and give NWC additional time, until September 30, 1998, to file contentions in this proceeding.

IT IS SO ORDERED.



For the Commission

  
John C. Hoyle  
Secretary of the Commission

Dated at Rockville, Maryland,  
this 17th day of September, 1998.



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NUCLEAR REGULATORY COMMISSION

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CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing COMMISSION MEMORANDUM AND ORDER (CLI-98-19) have been served upon the following persons by deposit in the U.S. mail, first class, as indicated by asterisk or through deposit in the Nuclear Regulatory Commission's internal mail system, with copies by electronic mail as indicated.

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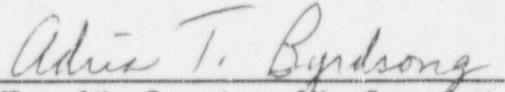
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Docket Nos. 50-317/318-LR  
COMMISSION MEMORANDUM AND ORDER  
(CLI-98-19)

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Dated at Rockville, MD this  
17th day of September 1998

  
Office of the Secretary of the Commission