

21024

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

DOCKETED
USNRC

ATOMIC SAFETY AND LICENSING BOARD

'99 NOV 30 A8:07

Before Administrative Judges:

Alan S. Rosenthal, Chairman
Dr. Charles N. Kelber
Dr. Peter S. Lam

OFFICE OF SECURITY
RULEMAKING AND
ADJUDICATIONS STAFF

SERVED NOV 30 1999

In the Matter of

GPU NUCLEAR CORPORATION

(Oyster Creek Nuclear
Generating Station)

Docket No. 50-219-OLA-2

ASLBP No. 00-773-02-OLA

November 29, 1999

MEMORANDUM AND ORDER
(Initial Prehearing Order)

In this proceeding, GPU Nuclear Corporation (GPUN) has applied under 10 C.F.R. § 50.90 for an amendment to the operating license for its Oyster Creek Nuclear Generating Station (Oyster Creek) located nine miles south of Toms River in Ocean County, New Jersey. The requested amendment would allow the use of the reactor building crane to handle loads up to and including forty-five tons during power operations. On October 4, 1999, the NRC staff issued a notice of its consideration of the amendment application. The notice afforded an opportunity for a formal adjudicatory hearing on the application and was published in the Federal Register on October 8, 1999. See 64 Fed. Reg. 54925 (1999).

PPR ADOCK 05000219

D502

By filing dated November 5, 1999, petitioner Nuclear Information and Resource Service (NIRS) has requested a hearing on the GPU application. On November 22, 1999, the Secretary of the Commission referred the hearing request to the Atomic Safety and Licensing Board Panel for appropriate action in accordance with 10 C.F.R. § 2.772(j). On November 24, 1999, this Licensing Board was appointed to preside over the proceeding. See 64 Fed. Reg. ____ (1999).

GPUN and the NRC staff have responded to the NIRS hearing request. Both acknowledge that NIRS has established standing and therefore do not oppose the hearing request and the grant of intervention subject to the submission of at least one admissible contention pursuant to 10 C.F.R. § 2.714(b).

In accordance with its authority under 10 C.F.R. § 2.718, the Licensing Board establishes the following directives regarding the conduct of this proceeding:

I. SCHEDULE FOR FURTHER FILINGS REGARDING
PETITIONER'S HEARING REQUEST/INTERVENTION PETITION
AND FOR PREHEARING CONFERENCE

A. Supplement to Hearing Requests/Intervention Petitions and Responses

Pursuant to 10 C.F.R. § 2.714 (a)(3), (b)(1), on or before Tuesday, December 21, 1999, petitioner NIRS may file a supplement to its hearing petition/intervention request, which must include its list of contentions and supporting

bases. Any contention submitted after this date will be considered a late-filed contention that must meet the requirements for admission set forth in section 2.714(a)(1)(i)-(v).

Applicant and staff responses to the petitioner's supplement shall be filed on or before Monday, January 24, 2000.

B. Prehearing Conference

The Licensing Board intends to hold a prehearing conference at the Atomic Safety and Licensing Board Panel Hearing Room, Room T-3B45, Third Floor, Two White Flint North Building, 11545 Rockville Pike, Rockville, Maryland, at a date to be later determined. During this prehearing hearing conference the Board will entertain participant oral arguments concerning the admissibility of the petitioner's contentions.

II. ADMINISTRATIVE MATTERS

A. Notice of Appearance

If they have not already done so, within five 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). In each notice of appearance, besides providing a business address and telephone number, if an attorney or representative has a facsimile number and/or an Internet e-mail address, the attorney or representative should

provide that information as well. Counsel who have already submitted a notice of appearance that does not provide facsimile or e-mail information should file a supplemental statement with that information within five days of the date of this issuance.

B. Service on the Licensing Board Members and Other Participants

1. Service on Licensing Board Members

For each pleading or other submission filed before the Licensing Board or the Commission in this proceeding, subject to the requirement of section II.B.1.g below, 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 every other participant in accordance with section 2.701(b), a participant should serve conforming copies on the members of the Licensing Board by one of the following methods:

a. Regular Mail. To complete service on the members of the Licensing Board via United States Postal Service first-class mail, a participant should send conforming copies to each of the Licensing Board members at the following address:

Atomic Safety and Licensing Board Panel
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555-0001

For regular mail service, the staff may use the NRC internal mail system (Mail Stop T-3F23) in lieu of first-class mail.

b. Overnight or Hand Delivery. To complete service on the members of the Licensing Board via overnight (e.g., express mail) or hand delivery, a participant should send conforming copies to each of the Licensing Board members at the following address:

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

It should be noted that use of the Board's regular mail address (see section II.B.1.a above) on an overnight/hand delivery (such as Federal Express) may delay receipt of the filing.

c. Facsimile Transmission. To complete service on the members of the Licensing Board by facsimile transmission, a participant should (a) send one copy by rapifax to the attention of the members of the Licensing Board at (301) 415-5599 (verification (301) 415-7393); and (b) that same date, send conforming copies to each of the Licensing Board members by regular mail at the address given in section II.B.1.a above.

d. E-Mail. To complete service on the members of the Licensing Board by e-mail transmission, a participant should (a) send the filing (which should include the certificate of service) as a file attached to an e-mail message directed to each of the Licensing Board members (Internet IDs: axr@nrc.gov, cnk@nrc.gov, psl@nrc.gov); and (b) send paper

conforming copies that same date to each of the Licensing Board members by regular mail at the address given in section II.B.1.a above.

If a participant has a pleading it wishes to send by e-mail that includes attachments it is unable to convert to electronic form, it should do one of the following:

- i. If the attachments the participant is unable to convert to electronic form are fifteen pages or less, contemporaneous with the transmission of the pleading by e-mail the attachments should be sent by a separate facsimile transmission. The e-mail and facsimile transmissions should note that separate transmission modes are being used. The paper conforming copies of the pleading and attachments should be sent to each of the Licensing Board members by regular mail at the address given in section II.B.1.a above.
- ii. If the attachments the participant is unable to convert to electronic form are more than fifteen pages, the pleading should be sent by e-mail and the paper conforming copy of the pleading with the attachments should be sent to each of the Licensing Board members by express mail or other means that will ensure delivery on the next business day. The e-mail should note that there will be next-day service of the pleading with the attachments.

e. Timely Service by Hand Delivery, Facsimile Transmission, or E-Mail. To be timely, any pleading or other submission served on the Licensing Board members by hand delivery, facsimile transmission, or e-mail must be received by the Licensing Board no later than midnight Eastern Time on the date due.

f. Service on Other Participants. Whichever of the methods outlined above (e.g., facsimile or e-mail with conforming paper copies to follow by mail) is used for service on the Licensing Board, the participant serving the pleading should make service on all other participants and the Office of the Secretary (Internet ID: hearingdocket @ nrc.gov) by the same or a comparable method.

g. Service of all Filings. Absent some other directive from the Board, all filings in this case directed to the Board shall be served on the Board and the other participants so as to ensure receipt on the day of filing. Absent some other directive from the Board, the participants may use any of the methods outlined above so long as the filing is timely received by the Board and the other participants.

C. Limitations on Pleading Length and Reply Pleadings

1. Page Limitation

Any motion filed after the date of this memorandum and order and any related responsive pleadings shall not exceed ten pages in length (including signature page) absent preapproval of the Board.¹ A request for Board preapproval to exceed this page limitation shall be sought in writing no

¹ The intervention petition supplement and any responses thereto permitted under section I.A are not subject to this page limitation. However, any subsequent motion for admission of a late-filed contention and responses thereto are subject to this page limitation.

less than three business days prior to the time the motion or responsive pleading is filed or due to be filed. A request to exceed this page limitation must (1) indicate whether the request is opposed or supported by the other participants to the proceeding; (2) provide a good faith estimate of the number of additional pages that will be filed; and (3) demonstrate good cause for being permitted to exceed the page limitation.

2. Reply Pleadings

In accordance with the agency's rules of practice, leave must be sought to file a reply to a response to a motion. See 10 C.F.R. § 2.730(c). A request for Board preapproval to file a reply shall be sought in writing no less than three business days prior to the time the reply will be filed.² A request to file a reply must (1) indicate whether the request is opposed or supported by the other participants to the proceeding; and (2) demonstrate good cause for permitting the reply to be filed.

² Although the agency's rules of practice do not provide for reply pleadings, the Board will presume that for a reply to be timely, it would have to be filed within ten days of the date of service of the response it is intended to address.

D. Motions for Extension of Time

A motion for extension of time filed with the Board in this proceeding shall be submitted in writing at least three business days before the due date for the pleading or other submission for which an extension is sought. A motion for extension of time must (1) indicate whether the request is opposed or supported by the other participants to the proceeding; and (2) demonstrate good cause that supports permitting the extension.

E. Opposing a Request to Exceed the Page Limitation, to File a Reply, or to Extend the Time for Filing a Pleading

Any written opposition to a request to exceed the page limit, to file a reply, or to extend the time for filing a pleading shall be served on the Board, the Office of the Secretary, and counsel for the other participants by facsimile transmission, e-mail, or other means that will ensure receipt on the next business day after the filing of the request.

F. 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.

Exhibits and attachments to a motion and any related responsive pleadings are not subject to the page limitation set forth in section II.C.1 above.

It is so ORDERED.

FOR THE ATOMIC SAFETY
AND LICENSING BOARD

Alan S Rosenthal 11/29/99
Alan S. Rosenthal
ADMINISTRATIVE JUDGE

Rockville, Maryland

November 29, 1999

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

In the Matter of

GPU NUCLEAR CORPORATION

(Oyster Creek Nuclear Generating
Station)

Docket No.(s) 50-219-OLA-2

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing INITIAL PREHEARING 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
Alan S. Rosenthal, Chairman
Atomic Safety and Licensing Board Panel
Mail Stop - T-3 F23
U.S. Nuclear Regulatory Commission
Washington, DC 20555

Administrative Judge
Charles N. Kelber
Atomic Safety and Licensing Board Panel
Mail Stop - T-3 F23
U.S. Nuclear Regulatory Commission
Washington, DC 20555

Administrative Judge
Peter S. Lam
Atomic Safety and Licensing Board Panel
Mail Stop - T-3 F23
U.S. Nuclear Regulatory Commission
Washington, DC 20555

Catherine L. Marco, Esq.
Office of the General Counsel
Mail Stop - O-15 D21
U.S. Nuclear Regulatory Commission
Washington, DC 20555

Ernest L. Blake, Jr., Esq.
F. Alvin Taylor, Esq.
Shaw Pittman
2300 N Street, NW
Washington, DC 20037

Paul Gunter, Director
Reactor Watchdog Project
Nuclear Information and Resource
Service
1424 16th Street, NW, Suite 404
Washington, DC 20036

Dated at Rockville, Md. this
30 day of November 1999


Office of the Secretary of the Commission