

**UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION**

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matter of)	
)	
FIRSTENERGY NUCLEAR OPERATING COMPANY)	Docket No. 50-346-LR
)	
(Davis-Besse Nuclear Power Station, Unit 1))	January 13, 2011
)	

**FIRSTENERGY’S MOTION FOR EXTENSION OF TIME
TO FILE A MOTION TO STRIKE**

Pursuant to 10 CFR 2.323(a) and Section G.2 of the Initial Scheduling Order of June 15, 2011, FirstEnergy Nuclear Operating Company (“FENOC”) requests an extension of time to file a Motion to Strike portions of Intervenor’s January 9, 2012 response to FENOC’s Motion to Dismiss Contention 1.¹ In its January 10, 2012 Order, the Board rejected Intervenor’s response as not timely.² Because the Intervenor’s Response is no longer an active pleading in this proceeding, FENOC believes a Motion to Strike now would not be appropriate. However, FENOC believes that the Intervenor’s Response contains materials that should be stricken as beyond the scope of FENOC’s Motion to Dismiss. FENOC also is filing today a Motion for Reconsideration asking the Board to reconsider the Board Order rejecting as not timely the parties’ filings related to the Motion to Dismiss. If the Board grants that FENOC’s Motion for Reconsideration, then Intervenor’s response will once again be an active pleading in the

¹ Intervenor’s Memorandum in Opposition to ‘Motion to Dismiss’ (Opposition to Summary Disposition of Contention 1) (Jan. 9, 2011) (“Intervenor’s Response”); *see also* FirstEnergy Nuclear Operating Company’s Motion to Dismiss Contention 1 (Dec. 19, 2011) (“Motion to Dismiss”).

² Memorandum and Order (Denying Motion to Dismiss Contention 1), at 4 (Jan. 10, 2012) (unpublished) (“Board Order”).

proceeding. However, if FENOC were to wait to file a Motion to Strike at that time, FENOC's Motion to Strike could be challenged as untimely because it would have been filed more than ten days after Intervenors' Response was filed. Accordingly, in an abundance of caution, FENOC now moves the Board to grant it an extension of time in which to file a Motion to Strike Intervenors' Response, until ten days after the Board rules on FENOC's Motion for Reconsideration.

As required by 10 C.F.R. § 2.323(b), counsel for FENOC contacted Intervenors' counsel in an attempt to resolve the issues in this Motion. Intervenors did not agree to the relief requested in this Motion. The NRC Staff does not oppose this Motion.

Respectfully submitted,

Signed (electronically) by Timothy P. Matthews

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COUNSEL FOR FIRSTENERGY

Dated in Washington, D.C.
this 13th day of January 2012

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CERTIFICATE OF SERVICE

I hereby certify that, on this date, a copy of “FirstEnergy’s Motion for Extension of Time to File a Motion to Strike” was filed with the Electronic Information Exchange in the above-captioned proceeding on the following recipients.

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