

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION  
ATOMIC SAFETY AND LICENSING BOARD

Before Administrative Judges:

William J. Froehlich, Chairman  
Nicholas G. Trikouros  
Dr. William E. Kastenberg

In the Matter of:

FirstEnergy NUCLEAR OPERATING  
COMPANY

(Davis-Besse Nuclear Power Station, Unit 1)

Docket No. 50-346-LR

ASLBP No. 11-907-01-LR-BD01

January 17, 2012

ORDER

(Granting Motion for Extension of Time to File a Motion to Strike)

On January 13, 2012, pursuant to 10 C.F.R. § 2.323(a) and Section G.2 of the Initial Scheduling Order in this case,<sup>1</sup> FirstEnergy Nuclear Operating Company (FENOC) filed a motion requesting an extension of time to file a motion to strike portions of Intervenor's January 17, 2012 response<sup>2</sup> to FENOC's December 19, 2011 Motion to Dismiss Contention 1.<sup>3</sup>

FENOC alleges that the Intervenor's response contains materials that should be stricken as beyond the scope of FENOC's Motion to Dismiss Contention 1. FENOC believes that if the Board grants reconsideration of its Order Denying FENOC's Motion to Dismiss Contention 1, then Intervenor's response will be an active pleading in the proceeding. FENOC fears that if it were to wait to file a motion to strike at that time, FENOC's motion to strike could be challenged

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<sup>1</sup> Initial Scheduling Order (June 15, 2011) (unpublished) (ADAMS Accession No. ML111662021).

<sup>2</sup> Intervenor's Memorandum in Opposition to 'Motion to Dismiss' (Opposition to Summary Disposition of Contention 1) (Jan. 9, 2011) (Intervenor's Response).

<sup>3</sup> FirstEnergy Nuclear Operating Company's Motion to Dismiss Contention 1 (Dec. 19, 2011).

as untimely because it would have been filed more than ten days after Intervenor's response was filed.<sup>4</sup>

On January 16, 2012, the Intervenor's filed an opposition to FENOC's motion for an extension of time.<sup>5</sup>

To ensure the orderly and effective conduct of this proceeding and for good cause shown, we grant FENOC's request for 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 until ten (10) days after the Board rules on FENOC's Motion for Reconsideration.

It is so ORDERED.

FOR THE ATOMIC SAFETY AND  
LICENSING BOARD

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William J. Froehlich, Chairman  
ADMINISTRATIVE JUDGE

Rockville, Maryland  
January 17, 2012

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<sup>4</sup> 10 C.F.R. § 2.323(a).

<sup>5</sup> Intervenor's Memorandum in Opposition to 'FENOC's Motion for Extension of Time to File a Motion to Strike' (Jan. 16, 2012) and Refiled Intervenor's Memorandum in Opposition to 'FENOC's Motion for Extension of Time to File a Motion to Strike' (Jan. 16, 2012).

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CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing ORDER (Granting Motion for Extension of Time to File a Motion to Strike) have been served upon the following persons by Electronic Information Exchange.

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Docket No. 50-346-LR  
ORDER (Granting Motion for Extension of Time to File a Motion to Strike)

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[Original signed by Christine M. Pierpoint]  
Office of the Secretary of the Commission

Dated at Rockville, Maryland  
this 17<sup>th</sup> day of January 2012