

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

RAS 9070

DOCKETED 12/29/04
SERVED 12/30/04

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In the Matter of)	
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USEC Inc.)	Docket No. 70-7004
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(American Centrifuge Plant))	
_____)	

ORDER

On October 18, 2004, the U.S. Nuclear Regulatory Commission (NRC or the Commission) gave public notice of receiving an application by USEC Inc. for a license to possess and use source, byproduct, and special nuclear material and to enrich natural uranium to a maximum of 10 percent U-235 by the gas centrifuge process at the American Centrifuge Plant ("ACP"), to be located in Piketon, Ohio. 69 FR 61411 (October 18, 2004). The Commission's notice advised that any person who wished to participate as a party in the licensing proceeding must file a written petition to intervene by December 17, 2004. The notice also stated that copies of USEC Inc.'s application, safety analysis report, and environmental report were available for public inspection. On October 25, 2004, however, the NRC temporarily suspended public access to these and other documents, because of a concern that they had not been adequately screened to remove information that could reasonably be expected to be useful to a potential adversary. The documents relevant to USEC Inc.'s application have just been made publicly available again. Copies of USEC Inc.'s application and environmental report (except for portions thereof subject to withholding from public inspection in accordance with 10 CFR 2.390, Availability of Public Records) are available for public inspection at the Commission's Public Document Room (PDR) at One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852. These documents are also available for review and copying using any of the following methods: (1) enter the NRC's Gas Centrifuge Enrichment Facility Licensing Web site at <http://www.nrc.gov/materials/fuel-cycle-fac/lic-app-docs.html>; (2) enter

the NRC's Agency wide Document Access and Management System (ADAMS) at <http://www.nrc.gov/reading-rm/adams/citrix-based.html>, where the accession number for USEC Inc.'s application is ML043620096 and USEC Inc.'s environmental report is ML043620221; (3) contact the PDR by calling (800) 397-4209, faxing a request to (301) 415-3548, or sending a request by electronic mail to pdr@nrc.gov. Hard copies of the documents are available from the PDR for a fee.

The Commission has received six requests for an extension of the time for filing intervention petitions in the ACP proceeding. These requests, dated December 17, 2004, typically note that NRC regulations require that intervention petitions be accompanied by contentions sufficiently specific and detailed to warrant their consideration by an Atomic Safety and Licensing Board. The requesters argue that they cannot prepare such contentions or even determine whether they wish to intervene if they cannot examine the license application and supporting documentation. Accordingly, they request that the Commission extend the time for filing petitions to intervene to 60 days beyond the date that the application and related documents again become publically available.

The NRC Staff does not oppose extending the time for intervention to run from the date that USEC Inc.'s application is again publically available. USEC Inc. takes no position on whether the Commission should grant the requested time extensions. USEC Inc. Response to Requests for Extension of Time, December 23, 2004. USEC Inc. notes, however, that the Atomic Energy Act requires that a hearing on a license application for a uranium enrichment facility must be completed before the license may be issued. 42 USC §2243(b)(2). Therefore, USEC Inc. points out, any delay in the hearing process could adversely affect USEC Inc. Accordingly, USEC Inc. argues that if the Commission grants the extension requests, the extensions should apply only to those persons who filed requests by the December 17, 2004 deadline. USEC Inc. notes that the planned ACP has been well publicized and that persons contemplating the possibility of intervention had ample time to seek a time extension by December 17. USEC Inc. also urges that any such extension granted by

the Commission should be limited to the time the Application was not publically available and in any case should not be extended for the full 60 days.

The Commission believes that an extension of the time for intervention is appropriate, given the unavailability to the public of the documents on which intervention petitions must be based.

Because the application was initially available to the public for only a week, the Commission finds that the time for filing intervention petitions should be extended for a full sixty days from the date of this Order. USEC Inc.'s point is well taken that there appears to have been ample notice and opportunity for persons potentially affected by the ACP to seek more time for intervention.

Therefore, pursuant to 10 C.F.R. §2.346(b), I have granted this extension to those persons who filed requests for an extension by December 17, 2004.

IT IS SO ORDERED.

For the Commission

/RA/

Annette L. Vietti-Cook
Secretary of the Commission

Dated at Rockville, Maryland,
this 29th day of December, 2004

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CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing COMMISSION EXTENSION ORDER have been served upon the following persons by U.S. mail, first class, or through NRC internal distribution with copies by electronic mail as indicated.

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[Original signed by Evangeline S. Ngbea]

Office of the Secretary of the Commission

Dated at Rockville, Maryland,
this 30th day of December 2004