

RAS 10862

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION **DOCKETED 12/21/05**

ATOMIC SAFETY AND LICENSING BOARD PANEL

SERVED 12/21/05

Before Administrative Judges:

Ann Marshall Young, Chair
Dr. Anthony J. Baratta
Nicholas G. Trikouros

In the Matter of

NUCLEAR MANAGEMENT COMPANY, LLC
(Palisades Nuclear Plant)

Docket No. 50-255-LR,
ASLBP No. 05-842-03-LR

December 21, 2005

ORDER and REVISED NOTICE

(Setting Deadlines to Respond to Staff Notification of December 20, 2005)

On the afternoon of December 20, 2005, NRC Staff Counsel Susan Uttal notified the Licensing Board and parties, by e-mail transmission, that she had received a telephone call from Demetrios Basdekas, who was named as an expert witness by the petitioners in support of proposed Contention 1. According to Ms. Uttal, Mr. Basdekas informed her that, "although he was contacted by the petitioners regarding being their expert witness and had told them that he might be willing to help them after looking into the matter, he subsequently declined to serve as an expert witness in this matter." Further, Mr. Basdekas informed Ms. Uttal, "he had sent an email to the petitioners advising them that he was declining to be their expert." He indicated that he had "informed the petitioners that, as a generic matter, the longer a reactor operates, the more embrittled the vessel becomes," but he had "made no statements regarding the state of the Palisades reactor as he had no site specific information on which to base an opinion."

In view of this very significant development in this proceeding, the Board would like a response from Petitioners. Taking into account the season and potential unavailability of necessary persons to respond, the Board is setting a deadline of January 3, 2006, for

Petitioners to respond to the information provided by Staff counsel; if Petitioners dispute the information provided by Staff counsel and wish to assert that Mr. Basdekas is still their expert, they shall provide an affidavit signed by him to that effect. Thereafter, the NRC Staff and Applicant NMC may have until January 9, 2006, to reply to the Petitioners' Response.

After hearing from all parties, the Board will thereafter issue a decision on all pending matters in this proceeding. In view of the significance of the information provided by Staff Counsel, this will result in this decision not being issued in December or early January as previously planned. The Board at this point does plan to issue its decision in January 2006, barring further unexpected developments.

It is so ORDERED.

THE ATOMIC SAFETY
AND LICENSING BOARD

/RA/

Ann Marshall Young, Chair
ADMINISTRATIVE JUDGE

/RA/

Anthony J. Baratta
ADMINISTRATIVE JUDGE

/RA/

Nicholas Trikouros
ADMINISTRATIVE JUDGE

Rockville, Maryland
December 21, 2005¹

¹Copies of this Order were sent this date by Internet e-mail transmission to all participants or counsel for participants.

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

In the Matter of)	
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NUCLEAR MANAGEMENT COMPANY, LLC)	Docket No. 50-255-LR
)	
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(Palisades Nuclear Plant))	

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing LB ORDER AND REVISED NOTICE (SETTING DEADLINES TO RESPOND TO STAFF NOTIFICATION OF DECEMBER 20, 2005) have been served upon the following persons by U.S. mail, first class, or through NRC internal distribution.

Office of Commission Appellate
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Washington, DC 20555-0001

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Docket No. 50-255-LR
LB ORDER AND REVISED NOTICE (SETTING
DEADLINES TO RESPOND TO STAFF
NOTIFICATION OF DECEMBER 20, 2005)

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[Original signed by Evangeline S. Ngbea]

Office of the Secretary of the Commission

Dated at Rockville, Maryland
this 21st day of December 2005