

December 17, 2004 (4:33pm)

From: Ewan Todd <ewan@mathcode.net>
To: HEARINGDOCKET@nrc.gov
Date: Fri, 17 Dec 2004 16:33:05 -0500
Subject: Attention: Rulemaking and Adjudications Staff

OFFICE OF SECRETARY
RULEMAKINGS AND
ADJUDICATIONS STAFF

Docket No. 70-7004

In the matter of USEC, Inc. (American Centrifuge Plant)

Petition to Intervene by Ewan Todd ("the petitioner").

Following 10 CFR 2.309 and the Nuclear Regulatory Commission (NRC), its Federal Register notice, identified as CLI-04-30, entitled "NOTICE OF RECEIPT OF APPLICATION FOR LICENSE; NOTICE OF AVAILABILITY OF APPLICANT'S ENVIRONMENTAL REPORT; NOTICE OF CONSIDERATION OF ISSUANCE OF LICENSE; AND NOTICE OF HEARING AND COMMISSION ORDER," dated 7th October, 2004, the petitioner desires to participate as a party, and establishes one contention, which may be the basis for filing new contentions, if it is appropriate, according to 10 CFR 2.309 (f)(2)(i), which states that

"... contentions may be amended or new contentions filed after the initial filing only with leave of the presiding officer upon a showing that--

(i) The information upon which the amended or new contention is based was not previously available ..."

Standing (10 CFR 2.309 (d) (i - iv))

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The petitioner is a tax payer in the State of Ohio. The State of Ohio has announced it's intentions to support the development and operation of the American Centrifuge Plant ("ACP") with a variety of financial incentives. The petitioner resides approximately 50 miles North of the proposed development. The petitioner has spoken publicly on the ACP and has otherwise taken a close interest in the project. The effect of any decision or order that may be issued in the proceeding on the petitioner's interest includes financial effects and, potentially, implications for the petitioner's livelihood.

Contention (10 CFR 2.309 (f) (1 - 2))

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Issue of Law.

A. We refer to 10 CFR 2.309 (f) (1) (vi), which states that,

"For each contention, the request or petition must:

...
(vi) Provide sufficient information to show that a genuine dispute exists with the applicant/licensee on a material issue of law or

fact. This information must include references to specific portions of the application (including the applicant's environmental report and safety report) that the petitioner disputes and the supporting reasons for each dispute, or, if the petitioner believes that the application fails to contain information on a relevant matter as required by law, the identification of each failure and the supporting reasons for the petitioner's belief."

B. 10 CFR 2.309 (f) (2), which states, in part, that

"Contentions must be based on documents or other information available at the time the petition is to be filed, such as the application, supporting safety analysis report, environmental report or other supporting document filed by an applicant or licensee, or otherwise available to a petitioner."

C. CLI-04-30, which states on page 2 that the applicant's application is available for public review at "the NRC's Agency wide Document Access and Management System (ADAMS) at <http://www.nrc.gov/reading-rm/adams.html>."

Basis of Contention

The ACP application documents are currently unavailable in ADAMS, as asserted in CLI-04-30. Therefore it is impossible for any potential party to the proceeding to comply with the requirements of 10 CFR 2.309 (f) (1) (vi) or 10 CFR 2.309 (f) (2), detailed above, should they wish to intervene.

Scope

The petitioner takes it as self-evident that, since the contention goes to the heart of the process itself, it is within the scope of the proceeding.

Material to findings

The soundness of the NRC record in this proceeding will be compromised if the intervention process is rendered unavailable, as it is currently.

Facts

The ACP application is not available in ADAMS.
The availability of the documents, via ADAMS, was asserted in CLI-04-30.

Show that a genuine dispute exists; refer to the application

It is impossible to comply with this requirement.

Proposed remedy

The petitioner suggests an appropriate remedy. The content and legal ramifications of CLI-04-30 should be reinitiated by posting the notice again in the Federal Register once the application becomes available on ADAMS, thereby "restarting the clock."

Regards,

Ewan Todd



Mon 20 Dec, 2004

Copies

1. Email to HEARINGDOCKET@nrc.gov
17 Dec 2004.
2. Hardcopy, signed, to
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