

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

ATOMIC SAFETY AND LICENSING BOARD

Before the Licensing Board:
G. Paul Bollwerk, III, Chair
Dr. Richard F. Cole
Dr. Kenneth L. Mossman

In the Matter of)	Docket No. 40-9091-MLA
)	
STRATA ENERGY, INC.,)	ASLBP No. 12-915-01-MLA-BD01
)	
(Ross In Situ Recovery Uranium Project))	May 6, 2013

**NATURAL RESOURCES DEFENSE COUNCIL AND POWDER RIVER BASIN
RESOURCE COUNCIL'S JOINT MOTION FOR LEAVE TO FILE EXCESS PAGES IN
THEIR MOTION FOR NEW/AMENDED CONTENTIONS FILED CONCURRENTLY
WITH THIS MOTION**

Pursuant to 10 C.F.R. § 2.309, and the Licensing Board's Orders dated November 3, 2011 and April 10, 2012, Petitioners Natural Resources Defense Council (NRDC) and Powder River Basin Resource Council (PRBRC) (collectively, Petitioners), by and through counsel, hereby seek leave to file excess pages in Petitioners' motion for new and amended contentions filed concurrently with this motion.

Background

In its initial November 3, 2011 Memorandum and Order, the Board established a page limit of ten pages for any motion and any related responsive pleadings, including "any subsequent motion for admission of a new or amended contention under 2.309(f)(2) and responses/replies thereto." Nov. 3, 2011 Order at 3, note 1. This page limit was reaffirmed in the Board's April 10, 2012 Memorandum and Order related to decisions made at the prehearing conference. Apr. 10, 2012 Order at 4.

However, in relation to motions for new or amended contentions, the Board also stressed that “In an instance when more than one new or amended contention is being filed...in lieu of filing multiple separate motions of ten pages seeking the admission of each individual contention, it would be preferable to seek leave of the Board to exceed the page limit.” Nov. 3, 2011 Order at 3, note 1; *see also* Apr. 10, 2012 Order at 4 (“...if it is contemplated that more than one new or amended contention will be proposed, the Board has a strong preference for the submission of a timely motion to extend the page limit rather than the filing of a number of motions dealing with individual new or amended contentions.”).

Argument

In its November 3, 2011 Order, the Board established three factors that must be addressed in any request to exceed the page limitation. Nov. 3, 2011 Order at 3. Each of these factors will be discussed in turn below.

1. The request is not opposed by the other participants to the proceeding

Counsel for Petitioners have discussed this motion with Counsel for NRC Staff and Counsel for Strata Energy, Inc. and neither party has an objection to Petitioner’s request to exceed the page limitation.

2. Good faith estimate of the number of additional pages that will be filed

In their May 6, 2013 motion to admit new and amended contentions filed concurrently with this motion, Petitioners are moving for the resubmittal of their four previously admitted contentions, amended only slightly to refer directly to the NRC Staff’s Draft Supplemental Environmental Impact Statement. In addition, Petitioners are moving for the admission of one new contention, the discussion of which will be under ten pages. Petitioners state that their May 6, 2013 motion does not exceed twenty four (24) pages.

3. Good cause exists to exceed the page limitation

Petitioners' joint motion to admit new and amended contentions will be well under the page limit of fifty (50) pages that would apply if each contention was filed separately. As indicated by the Board, a joint filing will create judicial efficiencies by allowing the Board and the Parties to review a single pleading as opposed to five separate pleadings. Additionally, a single pleading will prevent the unnecessary duplication of background information that would be required in each motion if filed separately.

Petitioners recognize that this motion is untimely, as a motion to exceed the page limitation must be filed within three business days prior to the time that the motion is due to be filed. Nov. 3, 2011 Order at 3. Unfortunately, in the busy course of preparing their pleadings, Petitioners overlooked re-reading this important part of the Board's previous orders until Friday May 3, 2013. At that time, it was past business hours on the east coast, and Petitioners were not able to discuss its situation with the Board's Clerks and the other Parties until this morning – May 6, 2013. At that time, Ms. Picard, Law Clerk for the Board, advised Petitioners to go ahead and file this motion – even if untimely – because it would comply with the Board's preference for a single pleading for all new amended and new contentions. Petitioners' apologize for any inconvenience the untimely nature of this motion has caused or will cause on the Board or the Parties.

Respectfully submitted,

/s/electronic signature

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Date: May 6, 2013

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing MOTION FOR LEAVE TO FILE EXCESS PAGES in the above-captioned proceeding were served via the Electronic Information Exchange (EIE) on the 6th day of May 2013, which to the best of my knowledge resulted in transmittal of same to those on the EIE Service List for the captioned proceeding.

/s/electronic signature

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Date: May 6, 2013