

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

Before Administrative Judges:

Michael M. Gibson, Chairman
Dr. Gary S. Arnold
Dr. Randall J. Charbeneau

In the Matter of

NUCLEAR INNOVATION NORTH AMERICA
LLC

(South Texas Project Units 3 and 4)

Docket Nos. 52-12-COL and 52-13-COL

ASLBP No. 09-885-08-COL-BD01

May 24, 2013

ORDER

(Granting NINA's Motion to Toll Deadline for Filing of New Contention)

On May 8, 2013, Applicant Nuclear Innovation North America LLC (NINA) submitted an unopposed motion to toll the deadline for it to file a new contention challenging the Nuclear Regulatory Commission (NRC) Staff's determination that NINA is subject to foreign ownership, control, or domination (FOCD) and thus is ineligible to receive a license under 10 C.F.R. § 50.38.¹ Because the Intervenor's currently-admitted Contention FC-1 encompasses the issues that NINA would seek to raise in its own contention, NINA seeks to toll the deadline until thirty (30) days after a circumstance arises such that Contention FC-1 is dismissed, withdrawn, or otherwise disposed of without a decision on the merits.²

Pursuant to our authority under 10 C.F.R. § 2.319 to manage the hearing process and avoid delay, we grant NINA's motion. Accordingly, in the event that the FOCD issues presented by Contention FC-1 are not resolved by decision of this Board, NINA shall have until thirty days after the withdrawal or dismissal of Contention FC-1 to submit its contention.

¹ NINA's Unopposed Motion to Toll Deadline to Submit a New Contention Challenging the Staff's FOCD Evaluation (May 8, 2013).

² Id. at 3-5.

To assist in our consideration of NINA's motion, we sought briefing from the parties as to (1) whether a license applicant may submit a contention under 10 C.F.R. § 2.309 in a proceeding initiated by an intervenor petition, and (2) whether a hearing demand under 10 C.F.R. § 2.103(b) is an adequate or exclusive remedy for an applicant who disputes the Staff's review of its application.³ In granting NINA's motion, we express no view on these questions at this time.

It is so ORDERED.

FOR THE ATOMIC SAFETY
AND LICENSING BOARD

/RA/

Michael M. Gibson, Chairman
ADMINISTRATIVE JUDGE

Rockville, Maryland
May 24, 2013

³ Licensing Board Order (Requesting Additional Briefing on NINA's Motion) (May 9, 2013) (unpublished).

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

In the Matter of)
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NUCLEAR INNOVATION NORTH AMERICA LLC) Docket Nos. 52-012-COL and 52-013-COL
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(South Texas Project, Units 3 and 4))
)

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing **ORDER (Granting NINA's Motion to Toll Deadline for Filing of New Contention)** have been served upon the following persons by the Electronic Information Exchange.

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Docket Nos. 52-012-COL and 52-013-COL

ORDER (Granting NINA's Motion to Toll Deadline for Filing of New Contention)

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[Original signed by Herald M. Speiser ____]
Office of the Secretary of the Commission

Dated at Rockville, Maryland
this 24th day of May, 2013