

TEMPLATE KEY:

- Brackets (“[” and “]”) designate information that will need to be inserted into the document when it is issued in a specific proceeding.
- Curly brackets (“{” and “}”) designate optional information of two possible kinds: (1) cases where the NRC is considering one or more possible alternative procedures to be adopted in the final general procedures, or (2) cases where a particular procedure would only apply under certain conditions. Contextual statements will make clear which of these two cases apply.
- Angle brackets (“<” and “>”) designate information about the template that is for information only and will not appear in the document that is issued in a specific proceeding.

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

COMMISSIONERS:

[List Commissioners]

_____)	
In the Matter of)	
)	
LICENSEE)	Docket No. 52-0XX-COL
)	
(Facility Name))	
_____)	

CLI-XX-__

MEMORANDUM AND ORDER

Today we granted the request of _____ for a hearing concerning [licensee’s] intent to operate [facility name and unit number].¹ We admitted __ contention(s), which assert(s) that that the facility as constructed does not, or upon completion of construction

¹ CLI-XX-XX, XX NRC __ (DATE) (slip op.).

will not, comply with the acceptance criteria set forth in the combined license.² This order provides a schedule and procedures for additional briefing on the contested issues, which are legal in nature. The legal issues raised by the contention(s) are: [legal issues.]

I. BACKGROUND

The Atomic Energy Act of 1954, as amended (AEA), grants us discretion to establish appropriate procedures for conducting a hearing on whether the facility as constructed complies, or upon completion will comply, with the acceptance criteria in the combined license, provided that we explain our reasoning for establishing those procedures.³ As provided by 10 C.F.R. § 2.310(j), the procedures for a hearing on conformance with the acceptance criteria are designated by the Commission on a case-specific basis. The admitted contention(s) solely involve(s) legal issues, and therefore we find that the contention(s) are(is) best suited to resolution on the briefs. We [invite/require] [the petitioner], [the licensee], [and the NRC staff] to submit additional briefs in accordance with the schedule set forth below.

² The acceptance criteria are part of the inspections, tests, analyses, and acceptance criteria (ITAAC) set forth in Appendix [X] of the combined license.

³ The procedures and schedule imposed by this order are based on a set of general procedures that were approved by the Commission after the consideration of comments from [members of the public, licensees, and state and local governmental entities]. See [*Federal Register* notice announcing final procedures and providing responses to comments]; [*Federal Register* notice soliciting comments on draft procedures]. {If the Commission makes case-specific modifications to these general procedures, then also state: As explained below, the Commission has modified these general procedures to tailor them to the specific circumstances of this proceeding.}

II. BRIEFING SCHEDULE

{The presiding officer for the resolution of these contentions will be an Atomic Safety and Licensing Board or a single legal judge (assisted as appropriate by technical advisors), as determined by the Chief Administrative Judge.

OR

The Commission will act as the presiding officer for the resolution of these contentions.}

[Nature and scope of briefs: which parties are to respond; which issue(s) are to be briefed]

[Briefing deadlines: filed concurrently/serially; multiple rounds]

In order to meet our expectation for a timely decision on the admitted contention(s),⁴ the decision on the admitted contention(s) shall be issued no later than _____, which is a strict deadline. This strict deadline will not be extended absent a showing that “unavoidable and extreme circumstances” necessitate a delay.⁵ *{If a licensing board or single legal judge is the presiding officer for the resolution of these contentions:* In addition, the presiding officer may extend the strict deadline only after notifying the Commission of its decision with an explanation of why “unavoidable and extreme circumstances” necessitate a delay. The Commission expects that the

⁴ The AEA provides that the “Commission shall, to the maximum possible extent, render a decision on issues raised by the hearing request within 180 days of the publication of the [notice of intended operation] or the anticipated date for initial loading of fuel into the reactor, whichever is later.” AEA § 189a.(1)(B)(v), 42 U.S.C. § 2239(a)(1)(B)(v).

⁵ See Policy on Conduct of Adjudicatory Proceedings, CLI-98-12, 48 NRC 18, 21 (1998). This policy statement was also published in the *Federal Register* on August 5, 1998. 63 Fed. Reg. 41,872.

presiding officer will make this notification at the earliest practicable opportunity after the presiding officer determines that an extension is necessary.}

{If a licensing board or single legal judge is the presiding officer for the resolution of these contentions: The presiding officer, in its discretion, may hold a prehearing conference to discuss the briefing schedule and whether oral argument is needed. The presiding officer's decision to hold oral argument does not obviate the need to issue a decision on the briefs by the Commission-imposed deadline. If oral argument is held, the transcript shall be provided to the parties on an expedited basis. Joint transcript corrections are due within 7 days of the oral argument.}

III. ADDITIONAL PROCEDURES

[Once finalized, cut and paste applicable general procedures from hearing procedures in Template B that do not involve testimony (and with the exception of those procedures involving interactions between the Commission and a licensing board (or single legal judge), if the Commission designates itself as the presiding officer).]

IT IS SO ORDERED.

For the Commission

[Name]
Secretary of the Commission

Dated at Rockville, Maryland,
this ___ day of [month], 20__.