

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

Before Administrative Judges:

Michael M. Gibson, Chairman  
Dr. Gary S. Arnold  
Nicholas G. Trikouros

In the Matter of

NORTHERN STATES POWER CO.

(Prairie Island Nuclear Generating Plant,  
Independent Spent Fuel Storage Installation)

Docket No. 72-10-ISFSI-2

ASLBP No. 12-922-01-ISFSI-MLR-BD01

May 11, 2015

ORDER

(Approving Deferral of Answers & Ruling on Contention 6 Summary Disposition Motions)

On March 27, 2015, the Northern States Power Company ("Northern States") moved for summary disposition of Contention 6, the last remaining contention in this proceeding, proffered by the Prairie Island Indian Community ("PIIC").<sup>1</sup> On April 27, 2015, PIIC filed its answer as well as a cross-motion for partial summary disposition.<sup>2</sup>

On May 7, 2015, the parties jointly informed the Board that they have begun settlement

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<sup>1</sup> Northern States Power Company's Motion for Summary Disposition of the Prairie Island Indian Community's Contention 6 (High Burnup Fuel) (Mar. 27, 2015). Contention 6 states: Northern States' License Renewal Application Is Deficient Because It Did Not Adequately Address the Potential Degradation of High Burnup Fuel Due to Aging During Storage, Subsequent Handling, and Transportation. 10 C.F.R. § 72.122 Requires Confinement Barriers and Systems to Protect Degradation of Fuel and to Not Pose Operational Safety Problems. LBP-14-16, 80 NRC \_\_, \_\_ (slip op. at 4) (Dec. 23, 2014); LBP-12-24, 76 NRC 503, 526 (2012).

<sup>2</sup> PIIC's Answer to [Northern States'] Motion for Summary Disposition of PIIC's Contention 6 (High Burnup Fuel) & Cross Motion for Partial Summary Disposition of PIIC's Contention 6 (High Burnup Fuel) (Apr. 27, 2015).

discussions on the issues raised in the two motions.<sup>3</sup> The parties therefore jointly move to defer the deadlines for the filing of answers to PIIC's cross-motion, as well as this board's ruling on both summary disposition motions.<sup>4</sup> Their joint motion requests that both be deferred until the earlier of twenty days after the NRC Staff's issuance of its Safety Evaluation Report for the Prairie Island Independent Spent Fuel Storage Facility, or twenty days after the parties notify the Board that settlement discussions have ended.<sup>5</sup> The parties maintain that settlement discussions will be beneficial to all parties.<sup>6</sup>

Licensing boards are given significant discretion in the conduct of NRC adjudicatory proceedings.<sup>7</sup> In addition, the Commission encourages the "fair and reasonable settlement" of issues in litigation before the agency.<sup>8</sup> This Board recognizes that the parties' settlement discussions may lead to the fair and reasonable settlement of some or all of the issues contained within Contention 6. We therefore grant the parties' motion to defer answer deadlines as well as this Board's ruling on the summary disposition motions. The parties shall continue to file monthly disclosure updates as indicated in the Amended Initial Scheduling Order.<sup>9</sup> In

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<sup>3</sup> Joint Motion to Defer Answers to PIIC Cross Motion for Partial Summary Disposition of PIIC's Contention 6 (High Burnup Fuel) and to Defer Ruling on [Northern States'] Motion for Summary Disposition of PIIC's Contention 6 Pending Settlement Discussions (May 7, 2015) [hereinafter Deferral Motion].

<sup>4</sup> Id. at 1–2.

<sup>5</sup> Id. at 2. The NRC Staff has informed the Board that it plans to issue its Safety Evaluation Report in July of 2015. NRC Staff's Updated Status Report of Safety and Environmental Review Schedule (Apr. 13, 2015).

<sup>6</sup> Deferral Motion at 1.

<sup>7</sup> See 10 C.F.R. § 2.319; DTE Electric Co. (Fermi Nuclear Power Plant, Unit 3), CLI-14-10, 80 NRC \_\_\_, \_\_\_ n.38 (slip op. at 9 n.38) (Dec. 16, 2014).

<sup>8</sup> 10 C.F.R. § 2.338.

<sup>9</sup> Amended Initial Scheduling Order (Feb. 1, 2013).

addition, the parties shall provide joint updates, starting on the 15th of June and continuing monthly thereafter, as to both the expected issuance date of the Safety Evaluation Report and whether good faith settlement discussions are continuing.

It is so ORDERED.

THE ATOMIC SAFETY  
AND LICENSING BOARD

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Michael M. Gibson, Chair  
ADMINISTRATIVE JUDGE

Rockville, Maryland  
May 11, 2015

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

In the Matter of	)	
	)	
Northern States Power Company	)	Docket No. 72-10-ISFSI-2
	)	
(Prairie Island Nuclear Generating Plant,	)	
Independent Spent Fuel Storage Installation)	)	
	)	
	)	

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing **ORDER (Approving Deferral of Answers & Ruling on Contention 6 Summary Disposition Motions)** have been served upon the following persons by Electronic Information Exchange.

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Prairie Island Nuclear Generating Plant, Independent Spent Fuel Storage Installation,  
Docket No. 72-10-ISFSI

**ORDER (Approving Deferral of Answers & Ruling on Contention 6 Summary Disposition  
Motions)**

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

Dated at Rockville, Maryland  
this 11<sup>th</sup> day of May, 2015