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

DOCKETED
USNRC

'90 JUN 22 P3:52

OFFICE OF SECRETARY
DOCKETING & SERVICE
BRANCH

In the Matter of)
)
VERMONT YANKEE NUCLEAR) Docket No. 50-271-OLA-4
POWER CORPORATION) (Operating License
) Extension)
(Vermont Yankee Nuclear)
Power Station))

STATE OF VERMONT MOTION TO
ENLARGE THE DISCOVERY PERIOD

Introduction

By Memorandum and Order dated March 9, 1990 the Atomic Safety and Licensing Board ("Board") established the period for discovery in this proceeding. That order provided that the discovery period would end on June 29, 1990. Pursuant to 10 C.F.R. §§ 2.711 and 2.730, by this motion the State of Vermont ("Vermont") requests the Board to amend its order of March 9 by enlarging the period for conducting discovery.

This motion contains two requests for enlargements of time, with two separate sets of reasons for the enlargements. The first request is for an enlargement of 25 days -- to July 24, 1990 -- in the discovery period to reflect two, stipulated enlargements to the time for Vermont Yankee Nuclear Power Corporation ("Vermont Yankee") to serve its responses to discovery requests propounded by Vermont.

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Vermont Yankee does not oppose this 25-day enlargement. This request for an enlargement of time is set forth in greater detail in Section I below.

The second request for enlargement of the discovery period is based on Vermont Yankee's failure to provide responsive answers to Vermont's first set of interrogatories. Vermont on June 14, 1990 filed a Motion to Compel with respect to these interrogatories, and by this motion seeks an enlargement in the discovery period to recapture the time lost by Vermont Yankee's nonresponsive answers. This second request for an enlargement of time is described more fully in Section II below.

As required by 10 C.F.R. § 2.730(b), attached to this Motion as Attachment A is a proposed form of order.

**I. Enlargement to Compensate for Delays in
Vermont Yankee Responses to Interrogatories**

Vermont served its first set of interrogatories on Vermont Yankee on April 27, 1990 by first class mail. Vermont Yankee requested, and Vermont agreed, to a two-week enlargement of time for Vermont Yankee to respond to the first set of interrogatories. See "Stipulation Enlarging Time" dated May 14, 1990.

Vermont served its second set of interrogatories on Vermont Yankee on June 6, 1990 by Federal Express Overnight Mail. Under 10 C.F.R. §§ 2.710 and 2.740b(b), Vermont Yankee would be obligated to respond to the second set of interrogatories by June 22, 1990. However, Vermont Yankee has requested, and Vermont has agreed, to extend the time for responses to July 3, 1990, which represents an eleven-day enlargement in the deadline for the responses.

To compensate for the total delay of 25 days in receiving Vermont Yankee's responses to Vermont's first and second sets of interrogatories, Vermont requests the

Board to extend the discovery period in this proceeding by a corresponding 25 days, to July 24, 1990. Counsel for Vermont Yankee has informed the undersigned counsel that Vermont Yankee does not oppose this 25-day enlargement to the discovery period.

II. Enlargement to Compensate for Vermont Yankee's Failure to Provide Complete and Responsive Answers to Interrogatories

On May 30, 1990 Vermont Yankee served its responses to Vermont's first set of interrogatories. For the reasons set forth in "Motion to Compel Answers to Interrogatories (Vermont Set No. 1)," Vermont Yankee's responses to 67 of the interrogatories were inadequate. On June 14, 1990 Vermont filed the above-referenced motion to compel asking the Board to require Vermont Yankee to furnish complete and responsive answers to those 67 interrogatories.

Had Vermont Yankee provided complete and responsive answers when they were due, as was its duty, then Vermont would have been served with those responses to which it is entitled on May 16, 1990. With the discovery period due to end on June 29, that means that Vermont Yankee should have filed complete and responsive answers with 44 days remaining in the discovery period.¹

Consequently, Vermont requests that the Board enlarge the discovery period to a date 44 days after the date by which the Board, pursuant to Vermont's Motion to

¹ As noted in Section I above, the date for the responses was extended by stipulation from May 16 to May 30, 1990. As also noted in Section I, the discovery period should be extended to compensate for that two-week delay in Vermont Yankee responses to Vermont's first set of interrogatories. Thus, even with the two-week enlargement for the responses, Vermont should have had 44 days remaining for additional discovery after receiving complete and responsive answers to its first set of interrogatories.

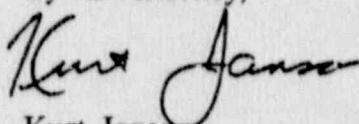
Compel dated June 14, 1990, compels Vermont Yankee to supplement its responses to Vermont's first set of interrogatories. This will permit Vermont the same number of days to complete its discovery after receiving those responses as Vermont would have had if Vermont Yankee had initially filed complete and responsive answers.²

Conclusion

For the reasons set forth in Section I, the Board should extend the discovery period in this proceeding through July 24, 1990, an enlargement that is unopposed by Vermont Yankee.

For the reasons set forth in Section II, the Board should further enlarge the discovery period to a date 44 days after Vermont Yankee supplies complete and responsive answers to Vermont's first set of discovery requests.

By its Attorney,



Kurt Janson
Special Assistant Attorney General
Department of Public Service
120 State Street
Montpelier, Vermont 05602
(802) 828-2811

Dated: June 20, 1990

² This requested enlargement of the discovery period will compensate only for the time lost due to Vermont Yankee's inadequate responses to Vermont's first set of interrogatories. Inadequate responses by Vermont Yankee to any other Vermont discovery requests may form the basis for a subsequent motion (or motions) to enlarge further the discovery period.

[Attachment A: Proposed Form of Order]

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

Before Administrative Judges:

Robert M. Lazo, Chairman
Jerry Harbour
Frederick J. Shon

In the Matter of)	
)	
VERMONT YANKEE NUCLEAR)	Docket No. 50-271-OLA-4
POWER CORPORATION)	(Operating License
)	Extension)
(Vermont Yankee Nuclear)	
Power Station))	[Date]

MEMORANDUM AND ORDER

On March 9, 1990 the Licensing Board entered an order providing that the discovery period in this proceeding shall end on June 29, 1990. On June 20, 1990 the State of Vermont ("Vermont") filed a Motion to Enlarge the Discovery Period. Vermont's motion seeks two enlargements to the discovery period. The first requested enlargement is of twenty-five days. This enlargement, which is unopposed by the licensee, would offset a total delay of twenty-five days which has occurred in the licensee's responses to Vermont's first two sets of interrogatories. Vermont's second request is to enlarge the discovery period by forty-four days beyond the date on which the licensee provides complete and responsive answers to Vermont's first set of interrogatories. This requested enlargement follows a motion to compel filed by Vermont concerning the same first set of interrogatories.

The Board hereby grants both of Vermont's requests for enlargements to the discovery period. Since the second request will extend the discovery period beyond the date sought by the first request, this order need only provide for the second of the requested enlargements. Consequently, the discovery period in this proceeding shall end on a date forty-four days from the date on which Vermont Yankee provides complete and responsive answers to Vermont's first set of interrogatories.¹

IT IS SO ORDERED

FOR THE ATOMIC SAFETY AND
LICENSING BOARD

Robert M. Lazo, Chairman
ADMINISTRATIVE JUDGE

Dated at Bethesda, Maryland,
this ____ day of ____, 1990.

¹ The date by which the licensee must provide those complete and responsive answers will be determined in a separate order addressing Vermont's motion to compel. Discovery in this proceeding shall continue pending determination of that date.

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION
before the
ATOMIC SAFETY AND LICENSING BOARD '90 JUN 22 P3:52

DOCKETED
USNRC

In the Matter of
VERMONT YANKEE NUCLEAR
POWER CORPORATION

(Vermont Yankee Nuclear
Power Station)

OFFICE OF SECRETARY
DOCKETING & SERVICE
Docket No. 50-271-OLA-4
(Operating License
Extension)

CERTIFICATE OF SERVICE

I hereby certify that on June 20, 1990, I made service of "State of Vermont Motion to Enlarge the Discovery Period", in accordance with rules of the Commission by mailing a copy thereof postage prepaid to the following:

Administrative Judge
Robert M. Lazo, Chairman
Atomic Safety and Licensing Board
U.S. Nuclear Regulatory Commission
Washington, DC 20555

Administrative Judge
Jerry Harbour
Atomic Safety and Licensing
Board
U.S. Nuclear Regulatory
Commission
Washington, DC 20555

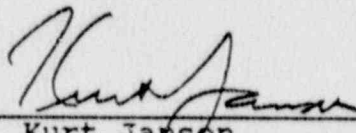
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Adjudicatory File
Atomic Safety and Licensing
Board Panel
U.S.N.R.C.
Washington, DC 20555


Kurt Janson
Special Assistant
Attorney General

Dated: June 20, 1990

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