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# Legal Document

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United States Court of Federal Claims  
Case No. 1:04-cv-00036-CCM  
**ATLANTIC CITY ELECTRIC COMPANY, v. USA**

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IN THE UNITED STATES COURT OF FEDERAL CLAIMS

ATLANTIC CITY ELECTRIC COMPANY, )  
 )  
 Plaintiff, )  
 )  
 v. ) No. 04-0036C  
 ) (Judge George Miller)  
 THE UNITED STATES, )  
 )  
 Defendant. )

DEFENDANT'S UNOPPOSED MOTION  
FOR AN ENLARGEMENT OF TIME OF ONE DAY

Pursuant to Rule 6(b) of the Rules of the United States Court of Federal Claims ("RCFC"), defendant, the United States, respectfully requests that the Court grant an enlargement of one day, to and including September 24, 2004, within which defendant may file its reply to the plaintiff's response to the Government's pending motion to dismiss in this case. Defendant's reply to that response brief is currently due on September 23, 2004. The Court previously granted the Government's motion for an enlargement of time of 30 days for this purpose, a large part of which was based upon the Government's involvement in the multi-week trial in Yankee Atomic Electric Co. v. United States, No. 98-126C (Fed. Cl.). Counsel for plaintiff, Richard Conway, has represented that plaintiff does not oppose this motion.

This case is one of 60 cases currently pending before this Court that involves an alleged breach of the "Standard Contract For Disposal Of Spent Nuclear Fuel And/Or High-Level Radioactive Waste" ("Standard Contract") published at 10 C.F.R. § 961.11. The plaintiff in this action alleges that it was a "minority

interest owner" of the nuclear power reactors identified in its complaint and that it entered into a purchase and sale agreement to sell its interests to other parties. It alleges that the sale price for its minority interest in these reactors was "significantly diminished" by the Government's failure to comply with its obligations to remove spent nuclear fuel from the facilities in which it held a minority interest. Plaintiff seeks just compensation for its alleged losses, but has not pled damages under a breach of contract theory.

Defendant has actively attempted to develop an appropriate response to the plaintiff's complaint in this case. We previously filed a motion to dismiss the plaintiff's complaint for failure to state a claim upon which relief could be granted, and, on August 6, 2004, the plaintiff responded to that motion. Since the trial in Yankee Atomic concluded on August 31, 2004, counsel for the Government have been actively developing the Government's reply brief. We have substantially completed that reply, but, unfortunately, we have been unable to complete the extensive review process that is necessary before we can file it with the Court. We are working to confirm that all of the information contained in our reply is accurate and, until this afternoon, expected that we would be able to complete that process by the end of the day today. Unfortunately, it appears that we will need an additional day to complete that confirmation

and review process, and we respectfully request that we be granted one additional day of time within which to file our reply.

For the foregoing reasons, we respectfully request that the Court grant our unopposed motion for an enlargement.

Respectfully submitted,

PETER D. KEISLER  
Assistant Attorney General

DAVID M. COHEN  
Director

s/ Harold D. Lester, Jr.  
HAROLD D. LESTER, JR.  
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s/ Joshua E. Gardner  
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September 23, 2004

Attorneys for Defendant

CERTIFICATE OF FILING

I hereby certify that on this 23rd day of September 2004, a copy of foregoing "DEFENDANT'S UNOPPOSED MOTION FOR AN ENLARGEMENT OF TIME OF ONE DAY" was filed electronically. I understand that notice of this filing will be sent to all parties by operation of the Court's electronic filing system. Parties may access this filing through the Court's system.

s/Harold D. Lester, Jr.