

In the United States Court of Federal Claims

No. 07-876 C

(Filed June 16, 2008)

YANKEE ATOMIC POWER)
COMPANY,)
Plaintiff,)
v.)
THE UNITED STATES,)
Defendant.)
)

ORDER

Defendant's Motion to Stay, filed March 28, 2008, seeks a stay of all proceedings in this matter, including, but not limited to, defendant's obligation to respond to the Complaint, until resolutions of the appeals in *Yankee Atomic Electric Co. v. United States*, No. 07-5025 (Fed. Cir.) ("*Yankee I*"); *Sacramento Municipal Utility District v. United States*, No. 07-5052 (Fed. Cir.) ("*SMUD*"); *Pacific Gas & Electric Co. v. United States*, Nos. 07-5046 (Fed. Cir.) ("*PG&E*"); and *Nebraska Public Power District v. United States*, No. 07-5083 (Fed. Cir.) ("*NPPD*"). These appeals have all been fully briefed, argued and are under submission.

Defendant contends that significant issues that may be resolved in these appeals may impact the instant action. In all these cases nuclear utilities seek damages for partial breach of contract. Plaintiff Yankee Atomic was one of three plaintiffs in *Yankee I*. *Yankee I* awarded damages incurred through 2001. This action is for damages incurred thereafter.

To avoid hardship, plaintiff's Opposition to Defendant's Motion to Stay All Proceedings, filed April 14, 2008, argues that this action should be stayed only until there is a decision in *Yankee I*, because there is no justification for a stay pending resolution of cases involving different parties and issues.

Defendant did not file a Reply.

The court concludes that a stay of the proceedings in this case until the Federal Circuit issues a mandate resolving the appeal in *Yankee I* is warranted. Defendant has

not met its burden to justify a stay in this case beyond the resolution of the *Yankee I* appeal. *Landis v. N. Am. Co.*, 299 U.S. 248, 255 (1936) (“Only in rare circumstances will a litigant in one cause be compelled to stand aside while a litigant in another settles the rule of law that will define the rights of both.”).

Accordingly, it is **ORDERED** that:

(1) Proceedings in this matter shall be stayed until thirty days after the final decision by the Federal Circuit in the pending *Yankee I* appeal;

(2) Defendant’s Motion to Stay is **GRANTED** to the extent provided in (1) and is, otherwise, **DENIED**.

s/ James F. Merow

James F. Merow

Senior Judge