ACTION

OFFICE OF THE SECRETARY
CORRESPONDENCE CONTROL TICKET

Date Printed: Apr 09, 2004 15:28

PAPER NUMBER:	LTR-04-0223	**LOGGING DATE:**	04/09/2004
ACTION OFFICE:	EDO		

To: Dyer, NRR
Ref. G20040206

AUTHOR:	Michael Dworkin
AFFILIATION:	VT
ADDRESSEE:	Nils Diaz
SUBJECT:	Vermont Public Service Board Request for Independent Engineering Assessmen tof Vermont Yankee

cys: EDO
DEDMRS
DEDH
DEDM
AO
DEDR
R1

ACTION:	Signature of Chairman
DISTRIBUTION:	Cy RF. SECY to Ack.
LETTER DATE:	03/31/2004
ACKNOWLEDGED	No
SPECIAL HANDLING:	ADAMS for Immediate Release via SECY/EDO/DPC
NOTES:	
FILE LOCATION:	ADAMS
DATE DUE:	05/11/2004
DATE SIGNED:	

112 State Street
Drawer 20
Montpelier, VT 05620-2701
Tel.: (802) 828-2358

TTY/TDD (VT): 1-800-734-8390
Fax: (802) 828-3351
E-Mail: clerk@psb.state.vt.us
Internet: http://www.state.vt.us/psb

State of Vermont
Public Service Board

March 31, 2004

Mr. Nils J. Diaz, Chairman
United States Nuclear Regulatory Commission
11555 Rockville Pike
Rockville, MD 20852
ATTN: Document Control Desk
Washington, D.C. 20555

Subject: Vermont Public Service Board Request for Independent Engineering Assessment of Vermont Yankee Nuclear Power Station License No. DPR -28 (Docket 50-271) Technical Specification Proposed Change No. 263 Extended Power Uprate

Dear Chairman Diaz:

We wrote to you on March 15, 2004, requesting that the United States Nuclear Regulatory Commission ("NRC") conduct its review of the proposed extended power uprate at the Vermont Yankee Nuclear Power Station ("Vermont Yankee") in a "way that will provide Vermont with a level of assurance about reliability equivalent to an independent engineering assessment." We asked for this assessment because of our significant concerns with the effect that the uprate may have upon the future reliability of Vermont Yankee.

Today, the owner of Vermont Yankee, Entergy Nuclear Vermont Yankee ("Entergy"), submitted a filing with the Vermont Public Service Board ("Board") that included a letter from the NRC to Vermont Senator James M. Jeffords. That letter, from William D. Travers, Executive Director for Operations, suggested that the NRC was planning to conduct a baseline inspection program for the power uprate rather than expanding the review. It is unclear whether that letter to Senator

Jeffords was intended to be the NRC's response to this Board. We have also received notice that the NRC will hold a meeting tonight in Vernon to discuss the power uprate with members of the public.

At the present time, the Board has pending motions to reconsider our Order approving the proposed power uprate. As a result, we cannot actively debate the issues raised in our Order. However, we want to make very clear that the views expressed in our previous letter are unchanged, although we have not yet considered the pending motions for reconsideration (one of which seeks a more extensive independent assessment). In particular, we reiterate our request that the NRC's review of the proposed power uprate include the following features:

- It would be independent in the same sense as the independent safety assessment of Maine Yankee, *i.e.*, it should be performed by experts "independent of any recent or significant regulatory oversight responsibility" related to Vermont Yankee.

- The assessment would be a vertical slice review of two safety-related systems and two Maintenance Rule, non-safety systems affected by the uprate. The level of effort necessary for this work has been described to us in testimony as requiring about four experts for about four weeks. This will provide a valuable check of the reliability of the systems that are reviewed and allow for correction of any problems.

- The independent engineering assessment should be (as we believe is expected) reviewed by the ACRS in the context of their evaluation of the power uprate.

We want to stress that our request is not based upon a concern about the safety of Vermont Yankee; safety is clearly an issue over which the NRC has jurisdiction and considerable expertise. Instead, our concern stems from the potential impact that the power uprate could have upon reliability, which would affect the value to Vermont of existing purchase agreements for power from Vermont Yankee. A number of nuclear plants that have undergone extended power uprates have experienced increased outages or power derates. The problems that led to these outages may not have been safety-related, but they have affected the output of these nuclear plants. Our request is based upon our obligation to ensure that such outages are unlikely at Vermont Yankee.

Because of factors that are unique to Vermont Yankee, we also do not expect that granting our request will establish poor precedent. As we said in our previous letter, the record evidence we

heard shows that the proposed uprate at Vermont Yankee is larger than those that have occurred at other nuclear plants. Moreover, Vermont Yankee is one of the older nuclear facilities.

Thank you very much for your consideration of this matter.

Sincerely,

Michael H. Dworkin by Susan M. Hudson
Michael H. Dworkin, Chairman

David C. Coen by Susan M. Hudson
David C. Coen, Board Member

John D. Burke
John D. Burke, Board Member

Cc: Mr. Ledyard B. Marsh, Director
Division of Licensing Project Management
Office of Nuclear Reactor Regulation
U.S. Nuclear Regulatory Commission
Mail Stop O-8E1A
Washington, D.C. 20555-0001

Mr. Richard B. Ennis, Project Manager
Licensing Project Directorate I
Division of Licensing Project Management
Office of Nuclear Reactor Regulation
U.S. Nuclear Regulatory Commission
Mail Stop O-8B-1
Washington, D.C. 20555-0001