

**RAS 8641**

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

**DOCKETED 10/18/04**

**SERVED 10/18/04**

Before Administrative Judges:

Alex S. Karlin, Chairman  
Dr. Anthony J. Baratta  
Lester S. Rubenstein

In the Matter of

ENTERGY NUCLEAR VERMONT YANKEE  
L.L.C.  
and  
ENTERGY NUCLEAR OPERATIONS, INC.

(Vermont Yankee Nuclear Power Station)

Docket No. 50-271-OLA

ASLBP No. 04-832-02-OLA

October 18, 2004

MEMORANDUM AND ORDER  
(Oral Argument Schedule)

On October 13, 2004, this Board conducted a telephonic prehearing conference that included representatives of Entergy Nuclear Vermont Yankee L.L.C. and Entergy Nuclear Operations, Inc. (collectively, "Entergy"), the Vermont Department of Public Services ("State"), the New England Coalition ("NEC"), and the NRC Staff, (collectively, the "Participants"), to discuss the need for oral argument on issues related to the contentions and other preliminary legal matters raised in their pleadings. Each Participant advised the Board as to its estimate of the amount of time it would need for any such oral argument. After considering this input, the Board concludes that it will hold oral argument on October 21 and 22, 2004 on the issues specified below.

In light of the potential amount of public interest in this proceeding, the location of the oral argument has been changed. Instead of holding it at the previously noticed location, the

October 21 and 22 oral argument will now be held at Brattleboro Area Middle School, located at 109 Sunny Acres, Brattleboro, VT 05301.

The Board will conduct the oral argument pursuant to the schedule specified below. First, we will hear argument on several preliminary legal issues raised in the pleadings.<sup>1</sup> Second, the Board will hear argument on specific contentions.<sup>2</sup> The petitioner (the State or NEC) will have a total of 20 minutes for each contention. Entergy will have 15 minutes and the NRC Staff will have 10 minutes. Finally, the Board will hear argument as to the form (Section 274(l) of the Atomic Energy Act and Subpart L vs. Subpart G) of any evidentiary hearing that may be held. At the outset of each section or individual contention, the petitioner may reserve up to one-half of its time for rebuttal. All time periods include the time for responding to questions from the Board.

In formulating their arguments, Participants should keep in mind that the Board will have read their pleadings and should focus solely on the critical points in controversy as those issues have emerged in the pleadings. The main purpose of the oral argument is to allow the Board to elicit legal and factual points that will assist it in deciding the issues presented by the pleadings. Oral argument will commence at 9:00 AM on October 21, 2004 and will be conducted in accordance with the following schedule:

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<sup>1</sup> The preliminary legal issues raised in the pleadings include: (1) standards for the admissibility of contentions, (2) whether and how the "brief explanation of the basis for the contention" required under 10 C.F.R. § 2.309(f)(1)(ii) defines or limits the scope of any admitted contention; and (3) the scope of an extended power uprate license amendment proceeding.

<sup>2</sup> The Participants are encouraged to enter into stipulations, as discussed in the prehearing conference, that will serve to reduce or eliminate issues or contentions.

1. Call to order, introductory remarks.
2. Preliminary Legal Issues
  - State: 20 minutes
  - NEC: 20 minutes
  - Entergy: 20 minutes
  - NRC Staff: 20 minutes
3. State Contention 2
4. State Contention 4
5. State Contention 1
6. NEC Contention 6
7. State Contention 3
8. NEC Contention 4
9. State Contention 5 (if necessary)
10. NEC Contention 1
11. NEC Contention 2
12. NEC Contention 3
13. NEC Contention 5
14. NEC Contention 7
15. Form of Evidentiary Hearing Issues
  - State: 20 minutes
  - NEC: 15 minutes
  - Entergy: 20 minutes
  - Staff: 15 minutes
16. Adjourn

The purpose of this proceeding is to evaluate the admissibility of the petitioners' contentions and the legal issues presented in the Participants' pleadings and therefore oral argument will only be heard from the Participants. All members of the public are welcome to attend and observe this proceeding. As this is an adjudicatory proceeding, the Board intends to conduct an orderly hearing and signs, banners, posters, and displays are prohibited in accordance with the attached NRC policy. See 66 Fed. Reg. 31719 (June 12, 2001). All interested persons should arrive early and allow sufficient time to pass through security screening.

As stated in our October 1, 2004 order, oral limited appearance statements in accord with 10 C.F.R. § 2.315(a) will not be heard on October 21 and 22, 2004. If, after the oral argument is complete, contentions are admitted, then oral limited appearance statements will be heard at a later evidentiary hearing. In the interim, interested individuals may submit a written limited appearance statement related to the issues in this proceeding. All such written statements may be submitted at any time and should be sent either by (1) mail to the Office of the Secretary, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555-0001, Attention: Rulemakings and Adjudications Staff, with a copy to the Chairman of this Licensing Board at Mail Stop T-3F23, Atomic Safety and Licensing Board Panel, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555-0001; (2) e-mail to the Office of the Secretary at [hearingdocket@nrc.gov](mailto:hearingdocket@nrc.gov), with a copy to the Board Chairman ([ask2@nrc.gov](mailto:ask2@nrc.gov)); or (3) fax to the

Office of the Secretary at (301) 415-1101 (facsimile verification number: (301) 415-1966), with a copy to the Board Chairman at (301) 415-5599 (facsimile verification number: (301) 415-7550).

It is so ORDERED.

FOR THE ATOMIC SAFETY  
AND LICENSING BOARD\*\*\*

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Alex S. Karlin  
ADMINISTRATIVE JUDGE

Rockville, Maryland

October 18, 2004

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\*\*\* Copies of this order were sent this date by Internet e-mail transmission to counsel for (1) licensees Entergy Nuclear Vermont Yankee L.L.C. and Entergy Nuclear Operations, Inc.; (2) petitioners Vermont Department of Public Service and New England Coalition of Brattleboro, Vermont; and (3) the NRC Staff.

ATTACHMENT 1

**PROCEDURES FOR PROVIDING SECURITY SUPPORT FOR NRC PUBLIC  
MEETINGS/HEARINGS**

(As published at 66 Federal Register 31719 on June 12, 2001)

These procedure will be used by NRC Headquarters and regional staff and are applicable to public hearings/meetings held at NRC Headquarters buildings, other NRC space in the Washington, D. C. area and or regional locations to include space leased for the occasion.

In order to balance the orderly conduct of government business with the right of free speech, the following procedures regarding attendance at NRC public meetings and hearings have been established:

Visitors (other than properly identified Congressional, press and government personnel) may be subject to personnel screening such as passing through metal detectors and visitors' briefcases, packages, etc., may be subject to inspection.

Signs, banners, posters and displays will be prohibited from all NRC adjudicatory proceedings (Commission and Atomic Safety and Licensing Board Panel hearings) because they are disruptive to the conduct of the adjudicatory process. Signs, banners, posters and displays not larger than 18" square will be permitted at all other NRC proceedings, but cannot be waved, held over one's head or generally moved about while in the meeting room. Signs, banners, posters and displays larger than 18" will not be permitted in the meeting room because they are disruptive both to the participants and to the audience. Additionally, signs, banners, posters and displays affixed to any sticks, poles or other similar devices will not be permitted in the meeting room.

The presiding official will note any disruptive behavior on the record and warn the person to cease such behavior. If the person does not cease the behavior, the presiding official will call a brief recess to restore order or ask one of the security personnel on hand to remove the person.

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For Further Information contact:

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Office of Administration  
U. S. Nuclear Regulatory Commission  
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UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

In the Matter of	)	
	)	
ENTERGY NUCLEAR VERMONT YANKEE L.L.C.	)	Docket No. 50-271-OLA
and ENTERGY NUCLEAR OPERATIONS, INC.	)	
	)	
Vermont Yankee Nuclear Power Station)	)	
	)	
(Operating License Amendment)	)	

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing LB MEMORANDUM AND ORDER (ORAL ARGUMENT SCHEDULE) have been served upon the following persons by U.S. mail, first class, or through NRC internal distribution.

Office of Commission Appellate  
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U.S. Nuclear Regulatory Commission  
Washington, DC 20555-0001

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Washington, DC 20555-0001

Administrative Judge  
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Docket No. 50-271-OLA  
LB MEMORANDUM AND ORDER (ORAL  
ARGUMENT SCHEDULE)

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[Original signed by Evangeline S. Ngbea]

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Office of the Secretary of the Commission

Dated at Rockville, Maryland,  
this 18<sup>th</sup> day of October 2004