



RAS 8667

UNITED STATES  
NUCLEAR REGULATORY COMMISSION

WASHINGTON, D.C. 20555-0001

October 12, 2004

DOCKETED  
USNRC

October 21, 2004 (12:45PM)

OFFICE OF SECRETARY  
RULEMAKINGS AND  
ADJUDICATIONS STAFF

SERVED October 21, 2004

Docket No. 50-271-OLA

SECRETARY

The Honorable Patrick Leahy  
United States Senate  
Washington, D.C. 20510

Dear Senator Leahy:

I am responding to your letter to Chairman Nils J. Diaz, dated September 13, 2004, in which you urged the Commission promptly to grant a formal hearing with full discovery on contentions submitted from Vermont challenging the Vermont Yankee nuclear power plant's proposed operating license amendment. The amendment, if granted, would permit an approximately twenty percent increase over the maximum power level now authorized at Vermont Yankee. You also stated that you were monitoring an independent engineering assessment underway at Vermont Yankee and asked that any amended contentions based on its results be given full and fair consideration.

An Atomic Safety and Licensing Board, comprised of three administrative judges, has been established to preside over the adjudication of the Vermont Department of Public Service and New England Coalition of Brattleboro challenges to the license amendment. Under Nuclear Regulatory Commission procedural rules for adjudications, the Commission has an appellate role in proceedings commenced before its Atomic Safety and Licensing Boards. Because of that role, I trust that you will understand that all members of the Commission must remain impartial during the pendency of a case, whether it is before a Licensing Board or on appeal to the Commission, and that it would be inappropriate for any of them to discuss or comment on issues involved in this matter.

A copy of your letter and this response will be placed on the Vermont Yankee hearing docket and served on the parties to the proceeding.

Sincerely,

A handwritten signature in black ink, appearing to read "Annette L. Vietti-Cook".

Annette L. Vietti-Cook  
Secretary of the Commission

cc: Service List



UNITED STATES  
NUCLEAR REGULATORY COMMISSION  
WASHINGTON, D.C. 20555-0001

October 12, 2004

SECRETARY

The Honorable Bernard Sanders  
United States House of Representatives  
Washington, D.C. 20515

Dear Congressman Sanders:

I am responding to your letter to Chairman Nils J. Diaz, dated September 13, 2004, in which you urged the Commission promptly to grant a formal hearing with full discovery on contentions submitted from Vermont challenging the Vermont Yankee nuclear power plant's proposed operating license amendment. The amendment, if granted, would permit an approximately twenty percent increase over the maximum power level now authorized at Vermont Yankee. You also stated that you were monitoring an independent engineering assessment underway at Vermont Yankee and asked that any amended contentions based on its results be given full and fair consideration.

An Atomic Safety and Licensing Board, comprised of three administrative judges, has been established to preside over the adjudication of the Vermont Department of Public Service and New England Coalition of Brattleboro challenges to the license amendment. Under Nuclear Regulatory Commission procedural rules for adjudications, the Commission has an appellate role in proceedings commenced before its Atomic Safety and Licensing Boards. Because of that role, I trust that you will understand that all members of the Commission must remain impartial during the pendency of a case, whether it is before a Licensing Board or on appeal to the Commission, and that it would be inappropriate for any of them to discuss or comment on issues involved in this matter.

A copy of your letter and this response will be placed on the Vermont Yankee hearing docket and served on the parties to the proceeding.

Sincerely,

A handwritten signature in black ink, appearing to read "Annette Vietti-Cook".

Annette L. Vietti-Cook  
Secretary of the Commission

cc: Service List



UNITED STATES  
NUCLEAR REGULATORY COMMISSION

WASHINGTON, D.C. 20555-0001

October 12, 2004

SECRETARY

The Honorable James M. Jeffords  
United States Senate  
Washington, D.C. 20510

Dear Senator Jeffords:

I am responding to your letter to Chairman Nils J. Diaz, dated September 13, 2004, in which you urged the Commission promptly to grant a formal hearing with full discovery on contentions submitted from Vermont challenging the Vermont Yankee nuclear power plant's proposed operating license amendment. The amendment, if granted, would permit an approximately twenty percent increase over the maximum power level now authorized at Vermont Yankee. You also stated that you were monitoring an independent engineering assessment underway at Vermont Yankee and asked that any amended contentions based on its results be given full and fair consideration.

An Atomic Safety and Licensing Board, comprised of three administrative judges, has been established to preside over the adjudication of the Vermont Department of Public Service and New England Coalition of Brattleboro challenges to the license amendment. Under Nuclear Regulatory Commission procedural rules for adjudications, the Commission has an appellate role in proceedings commenced before its Atomic Safety and Licensing Boards. Because of that role, I trust that you will understand that all members of the Commission must remain impartial during the pendency of a case, whether it is before a Licensing Board or on appeal to the Commission, and that it would be inappropriate for any of them to discuss or comment on issues involved in this matter.

A copy of your letter and this response will be placed on the Vermont Yankee hearing docket and served on the parties to the proceeding.

Sincerely,

A handwritten signature in black ink, appearing to read "Annette Vietti-Cook".

Annette L. Vietti-Cook  
Secretary of the Commission

cc: Service List

# United States Congress

September 13, 2004

The Honorable Nils J. Diaz  
Chairman  
U.S. Nuclear Regulatory Commission  
Washington, DC 20555-0001

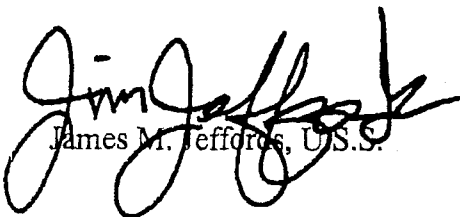
Dear Chairman Diaz:

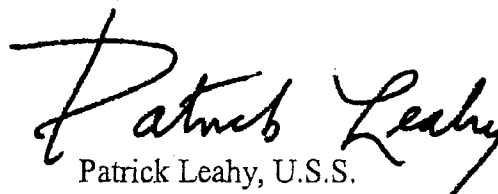
On July 1, 2004, the Nuclear Regulatory Commission (NRC) published in the Federal Register a notice of opportunity to request a hearing on the Vermont Yankee nuclear power plant's pending extended power uprate application. The notice set a deadline of August 30, 2004 for any hearing requests on this matter. We understand that you have received several contentions from Vermont in compliance with the deadline. We write to urge that you promptly grant a formal hearing and full discovery to review these contentions.

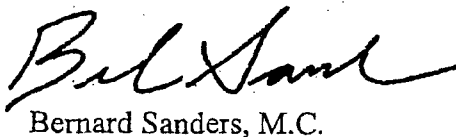
You have also assured us that requesters may amend or add to their contentions based upon information obtained through the independent engineering assessment now being undertaken at Vermont Yankee. We are monitoring the independent engineering assessment, and urge that any amended contentions based upon its results are given full and fair consideration.

We believe that the NRC has the discretion to accommodate these requests. The issues raised by Vermont are important concerns that should be addressed in a public hearing. Vermonters need to know that the NRC has fully addressed these concerns and that these questions have been answered.

Sincerely,

  
James M. Jeffords, U.S.S.

  
Patrick Leahy, U.S.S.

  
Bernard Sanders, M.C.

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 LETTER FROM ANNETTE L. VIETTI-COOK TO SENATORS LEAHY AND JEFFORDS AND REPRESENTATIVE SANDERS RESPONDING TO THEIR 09/13/04 LETTER TO CHAIRMAN DIAZ RE FORMAL HEARING IN THE VERMONT YANKEE PROCEEDING have been served upon the following persons by U.S. mail, first class, or through NRC internal distribution.

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

Administrative Judge  
Alex S. Karlin, Chair  
Atomic Safety and Licensing Board Panel  
Mail Stop - T-3 F23  
U.S. Nuclear Regulatory Commission  
Washington, DC 20555-0001

Administrative Judge  
Anthony J. Baratta  
Atomic Safety and Licensing Board Panel  
Mail Stop - T-3 F23  
U.S. Nuclear Regulatory Commission  
Washington, DC 20555-0001

Administrative Judge  
Lester S. Rubenstein  
Atomic Safety and Licensing Board Panel  
Mail Stop - T-3 F23  
U.S. Nuclear Regulatory Commission  
Washington, DC 20555-0001

Brooke D. Poole, Esq.  
Robert M. Weisman, Esq.  
Marisa C. Higgins, Esq.  
Office of the General Counsel  
Mail Stop - O-15 D21  
U.S. Nuclear Regulatory Commission  
Washington, DC 20555-0001

Raymond Shadis  
New England Coalition  
P.O. Box 98  
Edgecomb, ME 04556

Docket No. 50-271-OLA  
LETTER FROM ANNETTE L. VIETTI-COOK  
TO SENATORS LEAHY AND JEFFORDS  
AND REPRESENTATIVE SANDERS  
RESPONDING TO THEIR 09/13/04 LETTER  
TO CHAIRMAN DIAZ RE FORMAL HEARING  
IN THE VERMONT YANKEE PROCEEDING

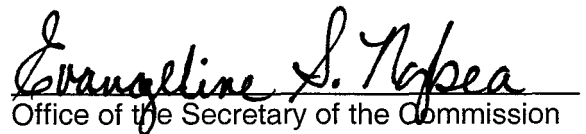
John M. Fulton, Esq.  
Assistant General Counsel  
Entergy Nuclear Operations, Inc.  
440 Hamilton Avenue  
White Plains, NY 10601

Anthony Z. Roisman, Esq.  
National Legal Scholars Law Firm  
84 East Thetford Rd.  
Lyme, NH 03768

Jonathan M. Block, Esq.  
94 Main Street  
P.O. Box 566  
Putney, VT 05346-0566

Sarah Hofmann, Esq.  
Special Counsel  
Department of Public Service  
112 State Street - Drawer 20  
Montpelier, VT 05620-2601

Jay E. Silberg, Esq.  
Matias F. Travieso-Diaz, Esq.  
Douglas J. Rosinski, Esq.  
Shaw Pittman LLP  
2300 N Street, NW  
Washington, DC 20037-1128

  
Office of the Secretary of the Commission

Dated at Rockville, Maryland,  
this 21<sup>st</sup> day of October 2004