

December 1, 2004 (3:48pm)

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSIONOFFICE OF SECRETARY  
RULEMAKINGS AND  
ADJUDICATIONS STAFFBEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matter of )

Docket No. 50-271

ENTERGY NUCLEAR VERMONT )

YANKEE LLC AND ENTERGY NUCLEAR )  
OPERATIONS, INC. )

ASLBP No. 04-832-02-OLA

(Vermont Yankee Nuclear Power Station) )

VERMONT DEPARTMENT OF PUBLIC SERVICE'S ERRATA TO  
ITS REPLY TO ANSWER OF APPLICANT TO THE DEPARTMENT'S  
REQUEST FOR LEAVE TO FILE A NEW CONTENTION

The Vermont Department of Public Service ("DPS") hereby submits errata to the "Vermont Department of Public Service Reply to Answer of Applicant to the Department's Request for Leave to File a New Contention" ("DPS Reply") submitted for filing on November 17, 2004.

On page 7 of the DPS Reply, the Department included the following four sentences:

Furthermore, at hearing DPS will contest the method Entergy uses to make it's determination. For example, Entergy does not use the 2-sigma value for decay heat uncertainty which it has stated it uses in other analyses. Nor does Entergy use the design basis value of 85 degrees F for initial service water temperature, but rather a less conservative value of 80 degrees F. At hearing DPS will show Entergy has even less time to perform the required actions than claimed.

This material should be withdrawn from the DPS Reply. It was included when originally filed because it was based upon previously reviewed material that was later changed by Entergy.<sup>1</sup>

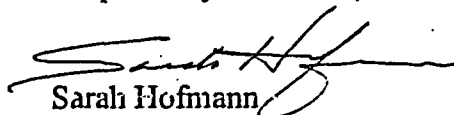
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<sup>1</sup>On November 22, 2004, the State Nuclear Engineer, William Sherman, asked to review certain calculations, including calculations pertaining to assumptions used for the Appendix R fire analysis. During the review, the Applicant stated it was no longer using the assumptions contained in the DPS Reply. Mr. Sherman stated that if the Applicant provided the applicable calculations, DPS would withdraw statements from its Reply. Applicant agreed to send the calculations to Mr. Sherman. It was

The withdrawal of these four sentences does not effect the substance of the DPS 6<sup>th</sup> contention since the basis for that contention is that calculations and tests which should be done to verify response time have not been done. These sentences were intended, as it is clear from the DPS Reply, to illustrate that whether or not the verification itself raises admissible contentions is to be decided only after the verification has been completed. The now removed detail was offered as an illustration of the kind of issue which might be raised after verification, not in support of the undeniable proposition that verification has not occurred, which is the point of the DPS 6<sup>th</sup> Contention.

The DPS is withdrawing the four sentences from page 7 of the DPS Reply. Contrary to Applicants Response to the DPS Reply, there are no new arguments before the ASLB presented by the Reply with or without these four sentences. The issue before the ASLB is that a verification necessary to meet all regulatory requirements has not been completed. The issue is not at this time whether the verification was "good" or "bad" but that it simply has not occurred at all.

Respectfully submitted,



Sarah Hofmann  
Special Counsel  
Vermont Department of Public Service

Dated this 1<sup>st</sup> day of December, 2004 in Montpelier, Vermont.

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not anticipated that the disclosure would be made in the form of a formal filing with the ASLB. DPS is nonetheless pleased that this process has clarified that the heretofore unconservative assumptions, which were used as part of Applicant's analysis basis, are no longer being used, and the four sentences can be withdrawn.

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NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

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ENTERGY NUCLEAR VERMONT	)	
YANKEE LLC AND ENTERGY NUCLEAR	)	ASLBP No. 04-832-02-OLA
OPERATIONS, INC.	)	
(Vermont Yankee Nuclear Power Station)	)	

CERTIFICATE OF SERVICE

I hereby certify that copies of the "Vermont Department of Public Service Errata to Its Reply to Answer of Applicant to the Department's Request for Leave to File a New Contention" in the captioned proceeding has been served on the following by deposit in the United States mail, first class, postage prepaid, and where indicated by an asterisk by electronic mail, this 1st day of December, 2004.

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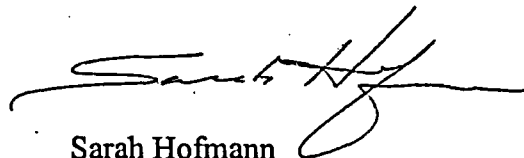
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Respectfully submitted,



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