

January 26, 2005

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

DOCKETED
USNRC

Before the Atomic Safety and Licensing Board

January 26, 2005 (9:57am)

In the Matter of

ENTERGY NUCLEAR VERMONT
YANKEE, LLC and ENTERGY
NUCLEAR OPERATIONS, INC.
(Vermont Yankee Nuclear Power Station)

Docket No. 50-271

ASLBP No. 04-832-02-OLA
(Operating License Amendment)

OFFICE OF SECRETARY
RULEMAKINGS AND
ADJUDICATIONS STAFF

NEW ENGLAND COALITION'S MOTION
TO RECOGNIZE NEW ENGLAND COALITION'S INCORPORATION BY
REFERENCE OF THE VERMONT DEPARTMENT OF PUBLIC SERVICE [DPS]
CONTENTIONS AND ITS RIGHT TO RECEIVE DISCOVERY DISCLOSURE FROM
ENTERGY ON THE DPS CONTENTIONS

New England Coalition files this motion requesting the Atomic Safety and Licensing Board to exercise its discretion to recognize New England Coalition's incorporation by reference of the DPS contentions within New England Coalition's contentions in this matter and direct Entergy to provide New England Coalition with discovery disclosure materials provided DPS pursuant to 10 CRR §2.336.

ARGUMENT ON THE FACTS AND LAW

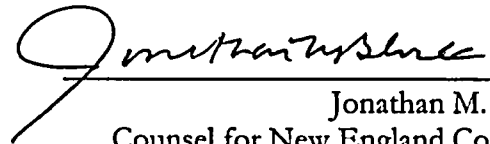
As the Board is aware from the discussions during the status teleconference conducted on January 21, 2005, Entergy has declined to provide all parties with its 10 CFR §2.336 discovery disclosure materials, stating that it only has to provide the materials relevant to a particular party's contentions to that party. New England Coalition raised the issue of receiving the disclosure materials on the DPS contentions during the status conference. At that time, the Board Chair stated that he recalled New England Coalition as having moved earlier in the proceedings to permit it to incorporate by reference the DPS contentions within New England Coalition's contentions. To the extent that such incorporation by reference was not duly noted and specifically recognized by the

Board at the time recalled by the Board chair, New England Coalition hereby specifically requests such incorporation by reference. New England Coalition contends that this action is within the Board's discretion, pursuant to 10 CFR § 2.319, to manage and control the proceedings.

CONCLUSION

Wherefore, the Board should grant New England Coalition's motion by recognizing that New England Coalition has incorporated by reference the DPS contentions filed in this case and is, therefore, entitled to receive Entergy's 10 CFR §2.336 disclosure materials on the DPS contentions, and directing Entergy to provide said material forthwith.

Respectfully submitted:



Jonathan M. Block
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cc: Service List

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NUCLEAR REGULATORY COMMISSION

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CERTIFICATE OF SERVICE

I hereby certify that copies of New England Coalition's "Motion To Recognize New England Coalition's Incorporation by Reference of the Vermont Department of Public Service [DPS] Contentions and its Right to Receive Discovery Disclosure from Entergy on the DPS Contentions" were served on the persons listed below as noted with an asterisk by electronic mail on this 26th day of January, 2005 and will be deposited in the U.S. Mail, first class, postage prepaid within the time permitted by NRC regulation for supplying paper copies of electronic filings.

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*Administrative Judge
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Atomic Safety and Licensing Board
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Washington, D.C. 20555-0001

*Secretary
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Washington, D.C. 20555-0001
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U.S. Nuclear Regulatory Commission
Washington, D.C. 20555-0001

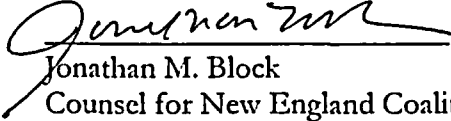
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January 26, 2005

Secretary
United States Nuclear Regulatory Commission
Washington, DC 20555-0001
ATT: Rulemakings and Adjudications Staff

RE:

In the Matter of
ENERGY NUCLEAR VERMONT YANKEE L.L.C.
and
ENERGY NUCLEAR OPERATIONS, INC.
(Vermont Yankee Nuclear Power Station)

Docket No. 50-271-OLA

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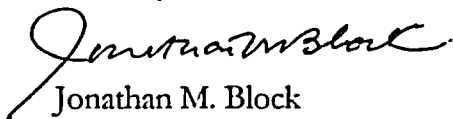
October 20, 2004

Dear Rulemakings and Adjudications Staff:

Enclosed for filing electronically please find New England Coalition's "Motion To Recognize New England Coalition's Incorporation by Reference of the Vermont Department of Public Service [DPS] Contentions and its Right to Receive Discovery Disclosure from Entergy on the DPS Contentions." The original and two copies will be mailed to your office within 48 hours.

Thank you for your cooperation in this matter.

Sincerely,



Jonathan M. Block
Attorney for New England Coalition

cc: Service List (electronically)