

EDO Principal Correspondence Control

FROM: DUE: 04/08/05

EDO CONTROL: G20050217
DOC DT: 03/18/05
FINAL REPLY:

Michael H. Dworkin
David C. Coen
John D. Burke
Public Service Board (PSB)
State of Vermont

TO:

Chairman Diaz

FOR SIGNATURE OF :

** PRI **

CRC NO: 05-0164

Chairman

DESC:

ROUTING:

Request for a Meeting to Discuss Independent
Engineering Assessment of Vermont Yankee Extended
Power Uprate

Reyes
Virgilio
Kane
Merschhoff
Silber
Dean
Burns/Cyr
Collins, RI

DATE: 03/29/05

ASSIGNED TO:

CONTACT:

NRR

Dyer

SPECIAL INSTRUCTIONS OR REMARKS:

Coordinate with Region I.

Template: SECY-001

ERido: SECY-01

OFFICE OF THE SECRETARY
CORRESPONDENCE CONTROL TICKET

Date Printed: Mar 29, 2005 10:19

PAPER NUMBER: LTR-05-0164 **LOGGING DATE:** 03/28/2005
ACTION OFFICE: EDO

AUTHOR: Mr. Michael Dworkin
AFFILIATION: VT
ADDRESSEE: CHRM Nils Diaz
SUBJECT: Concerns request for a meeting to discuss independent engineering assessment of Vermont Yankee Tech. Spec. proposed change no. 263, extended power uprate

ACTION: Signature of Chairman
DISTRIBUTION: RF, SECY to Ack.

LETTER DATE: 03/18/2005

ACKNOWLEDGED No
SPECIAL HANDLING: Commission Correspondence
Immediate release via SECY/EDO/DPC

NOTES:

FILE LOCATION: ADAMS

DATE DUE: 04/12/2005 **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 18, 2005

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

Subject: Vermont Public Service Board Request for a Meeting to
Discuss 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 are writing in order to let you know that we found the June 2004, visit by representatives of the United States Nuclear Regulatory Commission ("NRC") very helpful, and that we would greatly appreciate your assistance in helping us conduct a similar meeting.

As we indicated in our letter to you dated March 15, 2004, Entergy Nuclear Operations, Inc. ("Entergy"), is seeking approvals from both the NRC and the Vermont Public Service Board ("Board") in regard to a proposed 20 percent power uprate at the Vermont Yankee Nuclear Power Station ("Vermont Yankee"). We also noted that in your February 20, 2004, letter to Michael Kansler, President of Entergy, your staff has determined that Vermont Yankee's extended power uprate ("uprate") application is now acceptable for review, and that your review is expected to be completed over the next 12 months.¹

As part of its necessary State approvals, Entergy has also submitted a request to the Board for a Certificate of Public Good permitting Vermont Yankee to increase electrical

1. Letter to Michael Kansler, President, Entergy Nuclear Operations, Inc. (TAC No. MC0761).

generation by up to 20 percent. In determining whether Entergy should receive a Certificate of Public Good, the Board must consider several statutory criteria, including economic impacts upon the people of Vermont.

Because the Board must make a determination regarding the reliability effects of the proposed uprate upon Vermont Yankee's expected output, in our March 15, 2004, letter to you, we asked that the NRC augment its scheduled review of Vermont Yankee, and that the assessment contain 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.²
- 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.³ 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 (as we believe is expected) be reviewed by the ACRS in the context of their evaluation of the power uprate.⁴

We made this request of the NRC because the record presented in our proceeding strongly suggested that an uprate of the magnitude proposed here had resulted in reliability issues at other plants and that the NRC's assessment of such potential reliability issues at Vermont Yankee would be of extraordinarily high value.

It is our understanding that the NRC has, in large part, completed its review. However, we note from your December 2, 2004, letter to Jay K. Thayer, Site Vice President at Vermont Yankee regarding NRC Inspection Report 05000271/2004008, that some of the NRC's:

specific findings included topics that were within the scope of the NRC's power uprate review, and thus, will require the submittal of additional information to the NRC's technical staff to support that review.

2. *Id.*

3. Lochbaum pf. 12/18/03 at 8-9; tr. 1/13/04 at 110-111 (Lochbaum).

4. Letter from the Vermont Public Service Board to Chairman Nils J. Diaz, March 15, 2004.

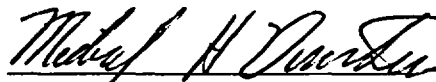
In order to better understand the findings made by the NRC in its review of Vermont Yankee's uprate, and also the status of the NRC's review of that petition, the Board respectfully requests a meeting with the NRC. Our Department of Public Service has taken the same position, and recently suggested that we "ask the NRC to come to Vermont for another conference in this docket similar to the one that occurred on June 28, 2004."⁵ We thus propose a conference among the parties of Board Docket 6812 and representatives of the NRC similar to that which we held in June of 2004. The purpose of the conference is to allow the NRC representatives to describe further the engineering assessment that the NRC conducted for the proposed power uprate of Vermont Yankee and the significance of, and schedule for resolution of, any currently "open" issues. In addition, we would appreciate hearing the NRC's expected schedule for review by the Advisory Committee on Reactor Safeguards.

As was the case with the June 2004, meeting between the NRC's representatives and the Parties in the Board's investigation, the conference is intended solely to provide information to the Board and the parties, and would not be part of the evidentiary record in this Docket. Participants would neither be under oath nor subject to cross-examination.

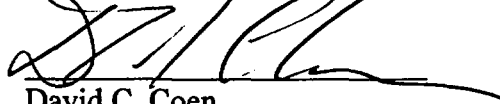
Thank you very much for your consideration of this matter. We would welcome a response at your earliest convenience.

Sincerely,

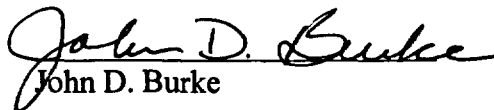
Vermont Public Service Board



Michael H. Dworkin



David C. Coen



John D. Burke

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, DC 20555-0001

5. Letter from the Vermont Department of Public Service to the Vermont Public Service Board, January 12, 2005, at 7-8.

**Cc: 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, DC 20555-0001**

**Parties in PSB Docket 6812
Congressman Patrick Leahy
Congressman James Jeffords
Congressman Bernard Saunders
Governor James Douglas**