

January 5, 2006

Mr. Michael R. Kansler
President
Entergy Nuclear Operations, Inc.
440 Hamilton Avenue
White Plains, NY 10601

SUBJECT: DRAFT CONFIRMATORY ORDER MODIFYING LICENSE TO REQUIRE
BACKUP POWER FOR THE EMERGENCY NOTIFICATION SYSTEM FOR
INDIAN POINT NUCLEAR GENERATING UNIT NOS. 2 AND 3

Dear Mr. Kansler:

This letter is in reference to the enclosed draft Confirmatory Order the U.S. Nuclear Regulatory Commission (NRC) is proposing to issue to Entergy Nuclear Operations, Inc., to address PL 109-58, 119 Stat 594, Section 651, 170E(3)(b) of the Energy Policy Act (Act) of 2005. Please inform the NRC by January 16, 2006, whether you consent to the commitments set forth in the enclosed draft Confirmatory Order by signing the enclosed Consent and Hearing Waiver Form. By signing the enclosed form, you agree to the commitments set forth in the Confirmatory Order. After receiving written consent, the NRC will issue the aforementioned Confirmatory Order.

In accordance with 10 CFR 2.390 of the NRC's "Rules of Practice," a copy of this letter and its enclosures will be available electronically for public inspection at the NRC Public Document Room or from the public available record component of the NRC's Agencywide Documents Access and Management System (ADAMS). ADAMS is accessible from the NRC website at <http://www.nrc.gov/reading-rm/adams.html> (Public Electronic Reading Room). Questions concerning this Confirmatory Order should be addressed to Eric J. Leeds, Director, Division of Preparedness and Response, or Nader L. Mamish, Director, Emergency Preparedness Directorate. Mr. Leeds can be reached at (301) 415-2334 and Mr. Mamish can be reached at 301-415-1086.

Sincerely,

/RA/

J. E. Dyer, Director
Office of Nuclear Reactor Regulation

Docket Nos. 50-247 and 50-286

Enclosures: 1. Consent and Hearing Waiver Form
2. Draft Confirmatory Order Cover Letter
3. Draft Confirmatory Order

cc: w/encls: See next page

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Sincerely,
/RA/
J. E. Dyer, Director
Office of Nuclear Reactor Regulation

Docket Nos. 50-247 and 50-286

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cc: w/encls: See next page

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OFFICIAL RECORD COPY

Indian Point Nuclear Generating Unit Nos. 2 & 3

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Indian Point Nuclear Generating Unit Nos. 2 & 3

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Crystal City-Arlington, VA 22202-3546

Consent and Hearing Waiver Form

Entergy Nuclear Operations, Inc. (Entergy), hereby agrees with the attached Confirmatory Order which will be effective immediately upon issuance, and to those commitments described therein. Entergy recognizes that by signing below, it consents to the issuance of the Confirmatory Order, effective immediately and by doing so, pursuant to 10 CFR 2.202(a)(3) and (d), waives the right to request a hearing on all or any part of the Confirmatory Order.

Michael R. Kansler
President
Entergy Nuclear Operations, Inc.

Date

EA-05-190

Mr. Michael R. Kansler
President
Entergy Nuclear Operations, Inc.
440 Hamilton Avenue
White Plains, NY 10601

SUBJECT: CONFIRMATORY ORDER MODIFYING LICENSE TO REQUIRE BACKUP
POWER FOR THE EMERGENCY NOTIFICATION SYSTEM FOR INDIAN
POINT NUCLEAR GENERATING UNIT NOS. 2 AND 3

Dear Mr. Kansler:

The U.S. Nuclear Regulatory Commission (NRC) is issuing the enclosed Confirmatory Order to Entergy Nuclear Operations, Inc., to address the requirement of PL 109-58, 119 Stat 594, Section 651, 170E(3)(b) of the Energy Policy Act (Act) of 2005. The Act was enacted on August 8, 2005. The Act mandates that "for any licensed nuclear power plants located where there is a permanent population, as determined by the 2000 decennial census, in excess of 15,000,000 within a 50-mile radius of the power plant, not later than 18 months after enactment of this Act, the Commission shall require that backup power to be available for the emergency notification system of the power plant, including the emergency siren warning system, if the alternating current supply within the 10-mile emergency planning zone of the power plant is lost." Indian Point Nuclear Generating Unit Nos. 2 and 3 meet the criteria of the Act. The Confirmatory Order will require backup power for the emergency notification system used for Indian Point Nuclear Generating Unit Nos. 2 and 3. The Confirmatory Order will become effective immediately upon issuance and fully implemented by January 30, 2007.

Questions concerning this Confirmatory Order should be addressed to Eric J. Leeds, Director, Division of Preparedness and Response, who can be reached at (301) 415-2334 or Nader L. Mamish, Director, Emergency Preparedness Directorate, who can be reached at (301) 415-1086.

Pursuant to Section 223 of the Atomic Energy Act of 1954, as amended, any person who willfully violates, attempts to violate, or conspires to violate, any provision of this Order shall be subject to criminal prosecution as set forth in that section. Violation of this Order may also subject the person to civil monetary penalty.

In accordance with 10 CFR 2.390 of the NRC's "Rules of Practice," a copy of this letter and its enclosures will be available electronically for public inspection in the NRC Public Document Room or from the public available record component of the NRC's Agencywide Documents Access and Management System (ADAMS).

Enclosure 2

R. Kansler

-2-

ADAMS is accessible from the NRC website at <http://www.nrc.gov/reading-rm/adams.html> (Public Electronic Reading Room). To the extent possible, your response should not include any personal privacy, proprietary, or safeguards information so that it can be made available to the Public without redaction. The NRC also includes significant enforcement actions on its Web site at www.nrc.gov; select **What We Do, Enforcement**, then **Significant Enforcement Actions**.

Sincerely,

J. E. Dyer, Director
Office of Nuclear Reactor Regulation

Docket Nos. 50-247 and 50-286
License Nos. DPR-26 and DPR-64

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

In the Matter of)	
)	Docket Nos. 50-247 and 50-286
ENTERGY NUCLEAR OPERATIONS, INC.)	
)	License Nos. DPR-26 and DPR-64
(Indian Point Nuclear Generating Unit)	
Nos. 2 and 3))	EA-05-190

CONFIRMATORY ORDER MODIFYING LICENSE
(EFFECTIVE IMMEDIATELY)

I

Entergy Nuclear Operations, Inc. (Licensee) is the holder of Facility Operating License Nos. DPR-26 and DPR-64 issued by the Nuclear Regulatory Commission (NRC or Commission) pursuant to 10 CFR Part 50. The licenses authorize the operation of Indian Point Nuclear Generating Unit Nos. 2 and 3, in accordance with the conditions specified therein. The facilities are located on the Licensee's site in Buchanan, New York.

II

The Energy Policy Act of 2005 (Act) was enacted on August 8, 2005. PL 109-58, 119 Stat 594 Section 651, 170E(3)(b) of the Act states:

“For any licensed nuclear power plants located where there is a permanent population, as determined by the 2000 decennial census, in excess of 15,000,000 within a 50-mile radius of the power plant, not later than 18 months after enactment of this Act, the Commission shall require that backup power to be available for the emergency notification system of the power plant, including the emergency siren warning system, if the alternating current supply within the 10-mile emergency planning zone of the power plant is lost.”

Indian Point Nuclear Generating Unit Nos. 2 and 3 meet the criteria of the Act.

Adequate backup power for the emergency notification system (ENS), as required by Section 651, 170E(3)(b) of the Act, requires that: (a) the backup power supply for the Public

Enclosure 3

Alerting System (PAS) must meet commonly applicable standards, such as National Fire Protection Association (NFPA) Standard 1221, Standard for the Installation, Maintenance, and Use of Emergency Communications Systems (2002) and Underwriters Laboratory (UL) 2017, Section 58.2; (b) each PAS and PAS Alerting Appliance (PASAA) must receive adequate power to perform their intended functions such that backup power is sufficient to allow operation in standby mode for a minimum of 24 hours and in alert mode for a minimum of 15 minutes; (c) batteries used for backup power must recharge to at least 80 percent of their capacity in no less than 24 hours; and (d) an automatic notification must be made to both the Licensee and the cognizant government official(s) in the affected jurisdiction upon the occurrence of any loss of power in the system.

III

In order to carry out the statutory mandate discussed above, the Commission has determined that the operating licenses for Indian Point Nuclear Generating Unit Nos. 2 and 3 must be modified to include provisions with respect to the measures identified in Section II of this Order. The requirements needed to effectuate the foregoing are set forth in Section IV below. On (date), the Licensee consented to the license modifications set forth in Section IV below. The Licensee further agreed in its (date) letter that it has waived its right to a hearing on this Order, and, therefore, that the terms of the Order are effective upon issuance.

I find that the license modifications set forth in Section IV are acceptable and necessary, and conclude that with these provisions the Licensee will be in compliance with the intent of the Act. Based on the above and Licensee's consent, this Order is immediately effective upon issuance.

IV

Accordingly, pursuant to Sections 103b, 104b, 161b, 161i, 161o, 182 and 186 of the Atomic Energy Act of 1954, as amended, Section 651(b) of the Energy Policy Act of 2005 (PL 109-58, 119 Stat 594), and the Commission's regulations in 10 CFR 2.202 and 10 CFR Part 50, IT IS HEREBY ORDERED, EFFECTIVE IMMEDIATELY, THAT LICENSE NOS. DPR-26 AND DPR-64 ARE MODIFIED AS FOLLOWS:

- I. The Licensee shall provide and maintain a backup power supply for the ENS for the Indian Point Nuclear Generating Unit Nos. 2 and 3, facilities. The ENS is the primary prompt notification system used to alert the public of an event at a nuclear power plant.
- II. The Licensee shall implement II.A, II.B, and II.C.1-3 by January 30, 2007. The backup power system for the ENS shall be declared operable by January 30, 2007. The backup power supply for the ENS shall include, as a minimum:
 - A. 1. A backup power supply for the PAS and each PASAA which shall provide adequate power for each component to perform their design function. These functions include the following as examples: sound output, rotation, speech intelligibility, or brightness as applicable. This criterion includes the associated activation, control, monitoring, and testing components for the backup power supply to the ENS including, but not limited to; radio transceivers, testing circuits, sensors to monitor critical operating parameters of the PAS and PASAA.

The Licensee is required to meet all applicable standards, such as NFPA Standard 1221, Standard for the Installation, Maintenance, and Use of Emergency Communications Systems (2002) and UL 2017, Section 58.2;
 2. The backup power supply for each PAS and PASAA shall be designed for operation in standby mode, including, but not limited to; radio transceivers, testing circuits, sensors fully operational and providing polling data to the activation, control, monitoring, and test system for at least 24 hours without AC supply power from the local electric distribution grid. The backup power supply then shall be capable of performing its intended function, without recharge, by operating the PAS and PASAA in its alerting mode at its full design capability for a period of at least 15 minutes. This sequence shall be assumed to occur at the most unfavorable environmental conditions including but not limited to temperature, wind, and precipitation specified for PAS and PASAA operation and assume that the batteries are approaching the end of their design life (*i.e.*, the ensuing recharge cycle will bring the batteries back to

the minimum state that defines their design life).

3. In defining battery design life, automatic charging shall be sized such that batteries in the backup power are fully recharged to at least 80 percent of their maximum rated capacity from the fully discharged state in a period of not more than 24 hours.
 4. Battery design life and replacement frequency shall comply with vendor(s) recommendations.
 5. There shall be a feedback system(s) that provides an automatic notification to both the licensee and the cognizant government official(s) in the affected jurisdiction upon the occurrence of any loss of power in the system.
 6. The Licensee shall implement a preventative maintenance and testing program of the ENS including, but not limited to; the equipment that activates and monitors the system, equipment that provides backup power, and the alerting device to ensure the ENS system performs to its design specifications.
- B.
1. The Licensee shall implement any new Department of Homeland Security (DHS) guidance pertaining to backup power for ENS that may affect the system requirements outlined in this Order that is issued prior to obtaining DHS approval of the alerting system design. The Licensee shall not implement any DHS guidance that reduces the effectiveness of the ENS as provided for in this Order without prior NRC approval.
 2. The Licensee shall document the evaluation of lessons learned from any evaluation of the current alert and notification system (ANS) and address resolution of identified concerns when designing the backup power system and such consideration shall be included in the design report.
 3. The final PAS design must be submitted to DHS for approval prior to May 1, 2006.
- C.
1. Within 60 days of the issuance of this Order, the Licensee shall submit a response to this Order to the NRC Document Control Desk providing a schedule of planned activities associated with the implementation of the Order including interactions with the Putnam, Rockland, Westchester, and Orange Counties, the State of New York, and DHS. In addition, the Licensee shall provide a progress report on or shortly before June 30, 2006.

2. The Licensee shall submit a proposed revision to its emergency response plan to incorporate the implementation of items A.1–A.6, B.1–B.3, and C.4–C.5. This plan shall be submitted to the NRC for review and approval within 120 days from the issuance of the Order.
 3. Prior to declaring the ENS operable, the Licensee shall demonstrate satisfactory performance of all (100%) of the ENS components including the ability of the backup power supply to meet its design requirements.
 4. After declaring the ENS operable, the licensee shall conduct periodic testing to demonstrate reliable ENS system performance.
 5. The results from testing as discussed in paragraph C.4 shall be reported, in writing, to the NRC Document Control Desk, with a copy to the Director of Nuclear Reactor Regulation, documenting the results of each test, until there are 3 consecutive tests testing the operability of all ENS components used during an actual activation), conducted no sooner than 25 days and no more than 45 days from the previous test with a 97% overall entire EPZ success rate with no individual county failure rate greater than 10% and with no false negative reports on the feedback system for each individual test.
- III. The Licensee shall submit a written report to the NRC Document Control Desk, with a copy to the Director of Nuclear Reactor Regulation, when the ENS is declared operable.
- IV. The Licensee shall submit a written report to the NRC Document Control Desk and provide a copy to the Director of Nuclear Reactor Regulation when it has achieved full compliance with the requirements contained in this Order.
- V. The licensee may use the criteria contained in 10 CFR 50.54(q) to make changes to the requirements contained in this Order without prior NRC approval provided that they do not reduce the effectiveness of the Order requirements or the approved emergency plan. The licensee shall notify, in writing, the NRC Document Control Desk, with a copy to the Director, Division of Preparedness and Response, Office of Nuclear Security and Incident Response, 30 days in advance of implementing such a change. For other changes, the licensee may submit a request, in writing, to the NRC Document Control Desk, with a copy to the Director, Office of Nuclear Reactor Regulation, to relax or rescind any of the above requirements upon a showing of good cause by the Licensee.

V

Any person adversely affected by this Confirmatory Order, other than the Licensee, may request a hearing within 20 days of its issuance. Where good cause is shown, consideration

will be given to extending the time to request a hearing. A request for extension of time must be made in writing to the Director, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, and include a statement of good cause for the extension. Any request for a hearing shall be submitted to the Secretary, U.S. Nuclear Regulatory Commission, ATTN: Chief, Rulemakings and Adjudications Staff, Washington, D.C. 20555. Copies of the hearing request shall also be sent to the Director, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, to the Assistant General Counsel for Materials Litigation and Enforcement at the same address, to the Regional Administrator, NRC Region I, U.S. NRC Region I, 475 Allendale Road, King of Prussia, PA 19406-1415, and to the Licensee, Entergy Nuclear Operations, Inc., 440 Hamilton Avenue, White Plains, NY 10601. Because of continuing disruptions in delivery of mail to United States Government offices, it is requested that answers and requests for hearing or for time extensions be transmitted to the Secretary of the Commission either by means of facsimile transmission to 301-415-1101, or by e-mail to hearingdocket@nrc.gov, and also to the Office of the General Counsel either by means of facsimile transmission to 301-415-3725 or by e-mail to OGCMailCenter@nrc.gov. If a person other than the Licensee requests a hearing, that person shall set forth with particularity the manner in which his interest is adversely affected by this Order and shall address the criteria set forth in 10 CFR § 2.309.

If the hearing is requested by a person whose interest is adversely affected, the Commission will issue an Order designating the time and place of any hearing. If a hearing is held, the issue to be considered at such hearing shall be whether this Confirmatory Order should be sustained.

In the absence of any request for hearing or written approval of an extension of time in which to request a hearing, the provisions specified in Section IV above shall be final 20 days from the date of this Order without further order or proceedings. If an extension of time for

requesting a hearing has been approved, the provisions specified in Section IV shall be final when the extension expires if a hearing request has not been received. AN ANSWER OR A REQUEST FOR HEARING SHALL NOT STAY THE IMMEDIATE EFFECTIVENESS OF THIS ORDER.

FOR THE NUCLEAR REGULATORY COMMISSION

J. E. Dyer, Director
Office of Nuclear Reactor Regulation

Dated this ____ day of (Month) 20(XX)