

RAS 11329

New England Coalition

VT . . . NH . . . ME . . . MA . . . RI . . . CT . . . NY
POST OFFICE BOX 545, BRATTLEBORO, VERMONT 05302

on Nuclear Pollution

February 27, 2006

DOCKETED
USNRC

Annette L. Vietti-Cook
Secretary
U.S. Nuclear Regulatory Commission
Washington, D.C. 2000555

March 10, 2006 (10:00am)

OFFICE OF SECRETARY
RULEMAKINGS AND
ADJUDICATIONS STAFF

SEVEN MAR 13 2006

**Re: Pending Approval of Entergy Nuclear Vermont Yankee (50-271)
License Amendment 263 (Extended Power Uprate) (ALSBP-No. 04-832-02-
OLA**

References:

- (1). Federal Register Notice- (69 Fed. Reg. 39,976), July 1, 2004
(Notice of Consideration of Issuance of Facility Operating License
Amendment and Opportunity for Hearing.
- (2) ASLBP – Memorandum and Order – Ruling on Standing,
Contentions, and State Reservation of Rights- November 11, 2004.
- (3) ASLBP- Memorandum and Order – Admitting Intervenor's New
Contention (LBP-05-32) – December 2, 2005
- (4) ASLBP- Memorandum and Order – Denying Motion for Summary
Disposition of NEC Contention 3 (LBP-06-06) January 1, 2006
- (5) Draft NRC Staff Safety Evaluation Report (Rev.1) (TAC MC0761)
November 3, 2005
- (6) Draft Environmental Assessment and Finding of No Significant
Impact Related to Proposed Extended Power Uprate (TAC No.
MC0761) November 3, 2005
- (7) Letters: Annette L. Vietti Cook and Luis A Reyes, USNRC, to
Representative John W. Olver (MA), Representative Bernard M.
Sanders(VT), Senator James M. Jeffords (VT), and Senator Patrick
Leahy (VT), December 16, 2005
- (8) Letter: Sherwin Turk, USNRC Office of General Counsel to ASLB
Panel No. 04-832-02-OLA , February 17, 2006

Dear Mrs Vietti-Cook,

This letter constitutes a formal request by and through, Raymond Shadis, New England Coalition's *pro se* representative in above captioned Atomic Safety and Licensing Proceeding that the US Nuclear Regulatory Commission abstain from issuing permission

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SECY-02

to Entergy Nuclear Vermont Yankee (50-271) to increase reactor thermal power beyond that originally licensed until safety issues (contentions) now before the Atomic Safety and Licensing Board, convened in this docket, are adjudicated.

Accidence to this request is consistent with the Commission's declared appellant role and policy of non-interference with parties seeking administrative remedies through NRC's hearing process. The Commission described its appellant role and policy in letters to US Senators James Jeffords and Patrick Leahy (VT); and US Representatives Bernard Sanders (VT) and John W. Olver (MA); all dated December 16, 2005, wherein the Commission declined to act on requests for thorough steam dryer examination at Vermont Yankee and/or for an Independent Safety Assessment of Vermont Yankee¹ prior to implementation of uprate. In these letters the Commission stated,

Currently, contentions addressing the power uprate for Vermont Yankee are before an Atomic Safety and Licensing Board in a contested proceeding. Under Nuclear Regulatory Commission procedural rules for adjudications, the Commission has an appellate role in the proceedings commenced before its Atomic Safety and Licensing Boards. Because of that role, I trust you will understand that the Commissioners must remain impartial during the pendency of a case whether it is before a Licensing Board or on appeal to the Commission.

Whereas, New England Coalition's contentions (*that would require thorough analysis of ability of the entire Alternate Cooling System to withstand seismic shock and other natural phenomena and would require, in accord with General Electric's extended power uprate topical letter report, full-transient testing prior to operation under EPU conditions*) will be effectively by-passed and mooted, by Commission permission to implement License Amendment 263, the Commission must not abandon its stance of impartiality to grant such permission.

Permitting implementation of the extended power uprate license amendment prior to adjudicatory resolution of New England Coalition's Contentions; contentions that have survived examination upon Motions for Summary Disposition, would deny New England Coalition effective redress and due process; and subject New England Coalition; its constituents and members living within the emergency planning zone of Vermont Yankee Nuclear Power Station, to the irreparable harm of unnecessary increased risk of accident and accident consequences.

¹ On February 10, 2006, New England Coalition caused to be delivered to USNRC more than 8,300 signatures of area residents on petitions calling for an Independent Safety Assessment (ISA) of Vermont Yankee on the scale and scope that performed at Maine Yankee in 1996. These citizen petitions were accompanied by a score of resolutions and letters from local, state and federal elected officials; and administrative and legislative entities representing the region surrounding Vermont Yankee. New England Coalition respectfully reminds the NRC that the 1996 Maine Yankee ISA followed demonstration that the NRC uprate review process failed to account for significant safety defects in the 10 percent power uprate of Maine Yankee and that the Maine Yankee ISA was initiated following requests for a safety assessment from Maine's concerned citizens and Governor. Further it should be noted that NRC's pilot engineering and design inspection offered to address the concerns of area residents and the Vermont public Service Board, expended only about 3 percent of the inspection hours expended in the Maine Yankee ISA.

Therefore, should the requested license amendment be granted, the Commission, in order not to void New England Coalition's recourse to administrative remedies, must condition its order so as to limit licensee actions, including proposed ascension power testing, such that original licensed thermal power is not exceeded prior to adjudication of contentions now before the Atomic Safety and Licensing Board.

New England Coalition eagerly and respectfully awaits the Commission's response.



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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))

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing LETTER FROM RAYMOND SHADIS TO ANNETTE L. VIETTI-COOK REQUESTING THAT THE COMMISSION ABSTAIN FROM ISSUING AN OPERATING LICENSE AMENDMENT TO ENTERGY have been served upon the following persons by U.S. mail, first class, or through NRC internal distribution.

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Docket No. 50-271-OLA
LETTER FROM RAYMOND SHADIS TO ANNETTE L.
VIETTI-COOK REQUESTING THAT THE COMMISSION
ABSTAIN FROM ISSUING AN OPERATING LICENSE
AMENDMENT TO ENTERGY

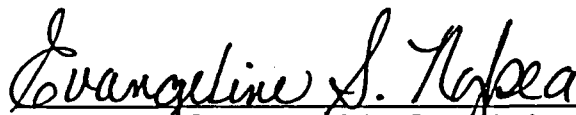
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Office of the Secretary of the Commission

Dated at Rockville, Maryland,
this 13th day of March 2006