

March 21, 2006

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matter of)	
)	
ENERGY NUCLEAR VERMONT YANKEE,)	Docket No. 50-271-OLA
LLC and ENERGY NUCLEAR)	
OPERATIONS, INC.)	ASLBP No. 04-832-02-OLA
(Vermont Yankee Nuclear Power Station))	

NRC STAFF'S ANSWER TO NEW ENGLAND COALITION'S
UNOPPOSED MOTION FOR ENLARGEMENT OF TIME TO FILE A REPLY BRIEF

Pursuant to 10 C.F.R. § 2.323(c), the NRC Staff ("Staff") hereby responds to "New England Coalition's Unopposed Motion for Enlargement of Time to File a Reply [*sic*] Brief" ("Motion"), filed by New England Coalition ("NEC") on March 21, 2006. For the reasons set forth below, the Staff does not oppose NEC's Motion, provided that a commensurate extension of time, *i.e.*, until March 28, 2006, is afforded for the parties to file any answers to NEC's brief on NEC Contention 4.

In accordance with the telephone conference call of March 10, 2006 (Tr. 887) and the Licensing Board's "Order (Supplemental Schedule)," dated March 14, 2006, NEC was required to file its brief concerning the legal standard at issue in NEC Contention 4 (Seismic Analysis) on March 17, 2006; answers to NEC's brief are to be filed seven days later, on March 24, 2006, and NEC's reply is due to be filed on March 31, 2006. *Id.*

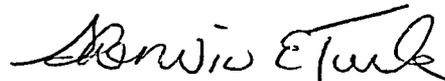
NEC did not file its brief on March 17, as required. On March 20, 2006, NEC's representative sent an E-mail message to the parties, requesting their consent to an extension of time to permit NEC's brief to be filed that day. Counsel for the Licensee and Counsel for the Staff each responded by E-mail, stating that they do not oppose NEC's request, provided that they are afforded the same extension of time, *i.e.*, until March 27, 2006, in which to file their

answers to NEC's brief.¹ Counsel for the Vermont Department of Public Service stated that she does not oppose NEC's or the Licensee's requests. NEC subsequently transmitted to the Licensing Board and parties an electronic version of its Motion, along with its brief on the legal standard at issue in NEC Contention 4.²

In its Motion, NEC seeks an extension of time until March 20, 2006, in which to file its Brief – and its Certificate of Service states that its Motion and Brief were filed on March 20, 2006. While the Staff has not yet received a paper copy of NEC's filing, the Staff's E-mail system indicates that NEC's Motion and Brief were transmitted electronically at 2:52 AM on March 21, 2006.³ Further, while NEC requests that answers to its Brief be afforded a three-day extension of time, it incorrectly refers to the resulting date as "March 24, 2006." Motion at 2.

Notwithstanding these errors and the untimeliness of NEC's Brief, the Staff does not oppose NEC's request for an extension of time to file its Brief, provided that the Staff and other parties are afforded a commensurate extension of time, *i.e.*, until March 28, 2006, in which to file their answers to NEC's Brief; NEC's reply to those answers would then be due on April 4, 2006. To this extent, the Staff not oppose NEC's Motion.

Respectfully submitted,



Sherwin E. Turk
Counsel for NRC Staff

Dated at Rockville, Maryland
this 21st day of March, 2006

¹ See E-mail message from Matias F. Travieso-Diaz to Raymond Shadis, et al., dated March 20, 2006 (Attachment 1 hereto); E-Mail message from Sherwin E. Turk to Raymond Shadis, et al., dated March 20, 2006 (Attachment 2 hereto).

² "New England Coalition's Brief on the Legal Scope of [NEC] Contention 4" ("Seismic Brief"), dated March 17, 2006 [sic].

³ See E-mail message from Raymond Shadis to Administrative Judge Alex Karlin, et al., dated March 21, 2006 (Attachment 3 hereto).

ATTACHMENT 1

From: "Travieso-Diaz, Matias F." <matias.travieso-diaz@pillsburylaw.com>
To: "Raymond Shadis" <shadis@prexar.com>, "Anthony Roisman" <aroisman@nationallegalscholars.com>, "Hofmann, Sarah" <Sarah.Hofmann@state.vt.us>, "Sherwin Turk" <SET@nrc.gov>, "Steven Hamrick" <SCH1@nrc.gov>, "Silberg, Jay E." <jay.silberg@pillsburylaw.com>
Date: 3/20/06 8:39AM
Subject: RE: Enlargement of Time - Today

Dear Mr.. Shadis: Applicants will not oppose your requested extension of time a long as we are granted a corresponding extension of the time in which to respond to your filing; i.e., if you file your brief today our response would be due on Monday, March 27. Please note this proviso in your motion. Thanks,

From: Raymond Shadis [mailto:shadis@prexar.com]
Sent: Monday, March 20, 2006 8:23 AM
To: Travieso-Diaz, Matias F.; Anthony Roisman; Hofmann, Sarah; Sherwin Turk; Steven Hamrick; Silberg, Jay E.
Subject: Enlargement of Time - Today
Importance: High

Dear Parties,
On March 10th the ASLBP ordered that New England Coalition produce, by March 17th, a brief or statement on which legal standards apply in Contention NEC 4. Due to a combination of , what with our limited resources, is an aggressive schedule (one week) for this filing and workload in pre-existing (as well as concurrent) VY-related proceedings before the Vermont Public Service Board, we were unable to meet that schedule. We wish to file our brief or standard today together with a Motion for Enlargement of Time, extending the deadline only until today. Please let me know as early as possible if you will agree to this request.
Thank you,
Raymond Shadis
Pro Se
for New England Coalition

Raymond Shadis
Staff Technical Advisor
New England Coalition
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207-882-7801
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Internal Revenue Service regulations generally provide that, for the purpose of avoiding federal tax penalties, a taxpayer may rely only on formal written advice meeting specific requirements. Any tax advice in this message does not meet those requirements. Accordingly, any such tax advice was not intended or written to be used, and it cannot be used, for the purpose of avoiding federal tax penalties that may be imposed on you or for the purpose of promoting, marketing or recommending to another party any tax-related matters.

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ATTACHMENT 2

From: Sherwin Turk
To: aroisman@nationallegalscholars.com; Hamrick, Steven;
jay.silberg@pillsburylaw.com; Sarah.Hofmann@state.vt.us; Shadis, Raymond
Date: 3/20/06 11:28AM
Subject: Re: Enlargement of Time - Today

Ray --

In response to your message, the Staff does not oppose your request for an extension of time in which to file your pleading on NEC Contention 4, so as to allow it to be filed today, provided the Staff is afforded the same amount of time in which to respond, i.e., by March 27, 2006. Please advise the Board of our position in your pleading. Thanks -
Sherwin

ATTACHMENT 3

From: Raymond Shadis <shadis@prexar.com>
To: "Alex Karlin" <ASK2@nrc.gov>, "Lester Rubenstein" <lesrrr@comcast.net>, "Anthony Baratta" <AJB5@nrc.gov>, "Anthony Roisman" <aroisman@nationallegalscholars.com>, "Jason Zorn" <JCZ@nrc.gov>, "Robert Weisman" <RMW@nrc.gov>, "Sherwin Turk" <SET@nrc.gov>, <Sarah.Hofmann@state.vt.us>, <jay.silberg@pillsburylaw.com>, <matias.travieso-diaz@pillsburylaw.com>, <Scott.vance@pillsburylaw.com>, "Raymond Shadis" <shadis@prexar.com>, "Jered Lindsay" <JL5@nrc.gov>, "Jonathan Rund" <JMR3@nrc.gov>
Date: 3/21/06 2:52AM
Subject: NEC BRIEF, STATEMENT, MOTION 4 TIME

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matter of)	
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ENTERGY NUCLEAR VERMONT YANKEE)	Docket No. 50-271-OLA
LLC and ENTERGY NUCLEAR)	
OPERATIONS, INC.)	ASLBP No. 04-832-02-OLA
)	
(Vermont Yankee Nuclear Power Station))	

CERTIFICATE OF SERVICE

I hereby certify that copies of "NRC STAFF ANSWER TO NEW ENGLAND COALITION'S UNOPPOSED MOTION FOR ENLARGEMENT OF TIME TO FILE A REPLY BRIEF," in the above-captioned proceeding have been served on the following by deposit in the United States mail, first class; or as indicated by an asterisk (*), by deposit in the Nuclear Regulatory Commission's internal mail system; and by e-mail as indicated by a double asterisk (**), this 21st day of March, 2006.

Alex S. Karlin, Chair**
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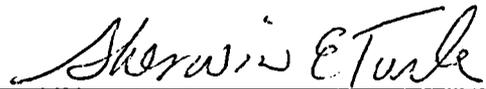
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