

RAS 11586

# Official Transcript of Proceedings

## NUCLEAR REGULATORY COMMISSION

Title: Entergy Nuclear Vermont Yankee  
Pre-Hearing Conference

Docket Number: 50-271-OLA; ASLBP No.: 04-832-02-OLA

Location: (telephone conference)

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USNRC

April 26, 2006 (11:15am)

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1 UNITED STATES OF AMERICA

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3 NUCLEAR REGULATORY COMMISSION

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5 ATOMIC SAFETY AND LICENSING BOARD PANEL

6 + + + + +

7 PRE-HEARING CONFERENCE CALL

8  
9 In the Matter of: ||

10 ENTERGY NUCLEAR VERMONT ||

Docket No. 50-271-OLA

11 YANKEE L.L.C. ||

ASLBP No. 04-832-02-OLA.

12 NUCLEAR OPERATIONS INC., ||

13 Applicant. ||

14  
15 Thursday, April 20, 2006

16 The above-entitled conference was  
17 convened, pursuant to notice, at 11:00 a.m.

18 BEFORE:

19 ALEX S. KARLIN, Administrative Law Judge

20 ANTHONY J. BARATTA, Administrative Judge

21 LESTER S. RUBENSTEIN, Administrative Judge

22  
23  
24  
25  
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17 ALSO PRESENT:

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P-R-O-C-E-E-D-I-N-G-S

(11:05 a.m.)

1  
2  
3 JUDGE KARLIN: I think we do have a full  
4 contingent here, and we are on the record. Let me  
5 just cite that this is the Atomic Safety and Licensing  
6 Board Panel, docket number 50-271, ASLBP number  
7 4-832-02. And it's an operating license amendment  
8 proceeding for the uprate by Entergy.

9 Let me just double-check again. Is there  
10 anyone else on the line, members of the public, that  
11 sort of thing?

12 (No response.)

13 JUDGE KARLIN: Hearing none, then I won't  
14 go through the basic ground rules with regard to  
15 public and press except to reiterate, as the court  
16 reporter has said, if we could each try to identify  
17 ourselves as we begin speaking, this would be helpful  
18 for purposes of the transcript.

19 Here in Rockville, we have Judge Baratta  
20 and myself and Jonathan Rund and Marcia Carpentier of  
21 Walkers and Lawyers and Karen Valloch, our  
22 administrative assistant. Judge Rubenstein is  
23 participating by phone from Tucson, Arizona, I  
24 believe. You're on, Judge Rubenstein?

25 JUDGE RUBENSTEIN: Yes, I am, and it is --

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1 JUDGE KARLIN: Okay. Good.

2 JUDGE RUBENSTEIN: -- unlike Phoenix.

3 JUDGE KARLIN: Well, yes. The main  
4 purpose of today's call is simply to have a status  
5 report and check in on what we think is going to be an  
6 going and basically monthly basis.

7 We have, this Board has, no set agenda  
8 that I or we think needs to be decided or resolved  
9 here today, but we do think a couple of topics we just  
10 might cover briefly. I'll list them. And then if you  
11 have, if the parties, have any suggestions or concerns  
12 that they think they would like to bring up, please  
13 let now be a moment for doing that.

14 In terms of topics we think need to be  
15 covered briefly, we would talk about the June limited  
16 appearance statement proceeding. We will talk briefly  
17 about the revised scheduling order. Third would be  
18 just to let you know where we are in the scope of the  
19 NEC contention 4, the legal scope issue. Fourth, we  
20 would just remind people of certain obligations  
21 relating to proprietary documents. And, fifth, we  
22 will talk briefly about our expectations for the  
23 written statements that are now due and initial  
24 testimony that are now due on May 17th.

25 Are there any other suggestions or

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1 concerns that the parties would like to bring up in  
2 this call?

3 MR. TRAVIESO-DIAZ: Mr. Chairman, this is  
4 Matias Travieso-Diaz from Entergy. There is one more  
5 that I think I would like to have added to the agenda.  
6 We have received this morning a proposed new  
7 contention by the New England Coalition. I would like  
8 to talk briefly about the schedule for responding to  
9 it.

10 JUDGE KARLIN: A proposed new contention?  
11 All right. I don't think we have seen that yet, but  
12 we'll add that to the agenda if there is no objection.

13 Okay. Anything else that anyone would  
14 like to cover on this call or bring up?

15 (No response.)

16 JUDGE KARLIN: Okay. With that, let's  
17 proceed. The first item we want to just briefly  
18 review is the limited appearance statement in June.  
19 This will be the first time we have had limited  
20 appearance statements oral statements. And we would  
21 just ask each of the parties to confer with their  
22 constituents and to make sure that they understand as  
23 much as possible the nature of the limited appearance  
24 statement proceeding.

25 And the scope is essentially as the

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1 uprate. There are other things going on, a lot of  
2 other things going on with regard to Entergy  
3 apparently. And we are not here, this Board is not  
4 able, to deal with any of those other matters. And  
5 hopefully the people who participate in June will  
6 understand what the scope of our proceeding is.

7 We tried to issue in our notice on this  
8 matter some ideas about guidelines for conduct,  
9 behavior, signage, this sort of thing. And if you all  
10 could help get the word out on those kinds of issues,  
11 this would be helpful to us. So we're looking forward  
12 to that and think that it will be a good session.

13 The second item we mentioned was the  
14 revised scheduling order. We took into consideration  
15 your joint motion and extended some of the deadlines  
16 and tweaked some of the others. And so we think that  
17 the schedule will work.

18 But one thing I did want to say here today  
19 that the Board, all Board members, wanted me to  
20 mention is developing that schedule, the revised  
21 scheduling order, we were very well-aware that there  
22 is a renewal proceeding that has been at least noticed  
23 for an opportunity for a hearing. And we operated on  
24 the assumption that there might be contentions  
25 proposed or suggested interventions suggested there.

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1           So we were well-aware of that parallel  
2 proceeding that may exist and occur. We are also  
3 well-aware, of course, that NEC has filed three new  
4 contentions in this proceeding.

5           And we do not think that either one of  
6 those was going to change our revised scheduling  
7 order. So that if and when the day comes that a  
8 pleading is due, please do not come to us and say,  
9 "Well, you may not know it, Mr. Board, but there is  
10 another proceeding. And we've got extra work to do"  
11 and whatever. We think this proceeding is important.  
12 And we hope you will prioritize it accordingly.

13           And we know that there are other  
14 proceedings. And that is not going to be a  
15 significant factor in changing this, any suggested  
16 changes to this, revised scheduling order.

17           Most of the revised scheduling order we  
18 still have to work out ultimately, although we don't  
19 propose to do it now, the details of the two  
20 evidentiary hearings on the four contentions, whether  
21 they will be -- which ones will go first, whether or  
22 not they need to be open or whether or not they need  
23 to be closed if they're going to be open unless they  
24 absolutely have to be closed for some portion.

25           Right now we're contemplating trying to

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1 have the evidentiary hearing in a courtroom setting.  
2 We have investigated this. And we think there may be  
3 a courtroom available that we can borrow for some of  
4 that time frame in the Vermont area, in the Newfane.  
5 Actually, the Newfane, Windham Superior Court is  
6 available to us. And I'm thinking that venue might be  
7 appropriate.

8 So that is all we have to say about the  
9 revised scheduling order. With regard to NEC  
10 contention 4, we are working on the ruling on the  
11 legal scope. We expect to have something forthcoming  
12 to you on that, if not by the end of this week, by the  
13 first part of next week. As we noted, that is  
14 relevant to what you need to submit in the written  
15 testimony on the 17th.

16 Questions? Comments? Anything?

17 (No response.)

18 JUDGE KARLIN: All right. Next item,  
19 proprietary documents. We just want to recognize that  
20 under the protective order, as I think we've pointed  
21 out in the revised scheduling order, the time frame  
22 for any objections that might be made to claims that  
23 some document is proprietary, I think the date we  
24 calculated, May 5th, except under some extraordinary  
25 circumstances, we hope that there will not be problems

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1 associated with claims of proprietary documents.

2 We further hope that the proprietary  
3 documents will be minimal because this would allow the  
4 proceeding to be as public, open to the public, as  
5 possible. Just keep that in mind. We're standing by  
6 for anything that might come in on that in early May.

7 Finally, in the written statements and  
8 testimony that you are going to be filing in May and  
9 then rebuttal in June, I guess, one minor point and  
10 one more substantive point.

11 The minor point, the Privacy Act police  
12 around here have told us that we ought to avoid, ask  
13 you to avoid, incorporating any individual's Social  
14 Security number or any privacy type of information  
15 about that individual in their resumes.

16 Let's say you've got a witness who is  
17 going to be giving us a resume to support, if we can  
18 avoid Social Security numbers? We don't need their  
19 home phone number or even their home address probably.  
20 Just exclude that kind of Privacy Act information, and  
21 it will save us some problems or Privacy Act police  
22 some problems.

23 That's a minor point. For the more  
24 substantive one, I will turn to Judge Baratta and ask  
25 him to help us focus this.

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1 JUDGE BARATTA: Yes. We discussed, some  
2 of the Board members, what points we might like to  
3 hear, particularly with respect to NEC contention 3.  
4 This is in addition to whatever testimony you want to  
5 submit, of course, that you feel is pertinent to your  
6 position.

7 For the Board's purposes, we wanted to  
8 make sure that that covered significant points that we  
9 would like to hear about. As kind of a preamble, at  
10 the October prehearing conference on the contention,  
11 there was some discussion with respect to things such  
12 as confidence in the modeling and computer modeling  
13 and the kind of programs to try to assimilate the  
14 stress of the large transient testing and also with  
15 respect to being carefully measured, all of the inputs  
16 and the results, as well as being able to justify  
17 particular calculations and such and whether or not  
18 those calculations would be sufficient to predict  
19 failures of steam dryers and other instrumentation  
20 problems or other problems with instrumentation being  
21 swept away and pipe breaks and such.

22 This we felt was clarification that the  
23 NEC provided as to what their contention was directed  
24 towards. As a result, the Board feels that a number  
25 of points should be addressed in connection with the

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1 NEC 3 contention.

2 We would like, for example -- there is  
3 quite a bit of talk about the computer code ODIN which  
4 apparently was used to analyze the transients and that  
5 the analysis predicts the kind of behavior experienced  
6 in other plants. I think at one point there was  
7 discussion of overseas plants as well as U.S. plants.

8 It would really be helpful if the parties  
9 could provide any details on the ODIN code and the  
10 basis for that statement that was made by Entergy.

11 Similarly, codes such as ODIN are often  
12 divided into design codes and what are referred to as  
13 best estimate codes. And generally design codes are  
14 written to include certain conservatisms that may in  
15 some cases overprotect various parameters so as to  
16 make sure those results bound plants.

17 Best estimate codes, on the other hand,  
18 tend to be written using correlations and assumptions  
19 that are intended, really, to enable and to predict  
20 with a high degree of fidelity the actual plant  
21 behavior.

22 We would be interested in understanding  
23 which class of codes that ODIN code belongs to and  
24 what impact that has in obtaining the realistic  
25 predictions of plant behavior during the two subject.

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1 transients that are the subject of this contention.

2 Also, codes that are argued in the  
3 industry tend to undergo defensive and ongoing  
4 assessment. And usually such assessments are done by  
5 comparison to code with predictions to both actual  
6 plant data as well as predictions of similar codes.

7 We would be interested in a discussion of  
8 the assessment process that ODIN underwent and whether  
9 or not ODIN was assessed for a facility to predict the  
10 types of transients that are of concern, namely the  
11 load rejection transient and the MSIV closure  
12 transient.

13 With respect to the load rejection  
14 transient, we would be particularly interested in  
15 hearing if the code were assessed against the recent  
16 NEA -- that's Nuclear Energy Agency -- Peach Bottom  
17 turbine trip transient benchmark exercise and if so,  
18 basically how the results compared.

19 We would like to get at some sort of a  
20 summary of the assessments that have been performed  
21 and the summary of the results from those assessments  
22 and conclusions that one would draw from those  
23 assessments as the ability of the ODIN code to predict  
24 such things.

25 Another point that we would like to have

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1 addressed was -- I'm going to quote from the  
2 transcript here. Mr. Shadis noted that they needed to  
3 "try to simulate the stress of large transient  
4 testing."

5 The Board is interested in how the  
6 calculations of the mechanical stress on components  
7 such as steam dryers, MSIV, main steam line, et  
8 cetera, during a transient under uprate conditions  
9 were performed. We would be particularly interested  
10 in the nature and type of social effects analyses of  
11 systems components that were affected were performed  
12 in order to pick how such effect might occur and lead  
13 to cycle fatigue or over-stressing components during  
14 the MSIV closure or for a load rejection transient.

15 Also, Mr. Diaz, I think it was, discussed  
16 the turbine trip test performed in the October  
17 prehearing conference. And he stated that the plant  
18 basically performed as it was supposed to. It would  
19 be helpful to us to understand what the test results  
20 were compared to and have the comparison include a  
21 comparison to ODIN or other codes and also any  
22 measurements that were made for stress or vibration  
23 during these transients and how they compared with the  
24 pre-test and post-test analyses that were done.

25 Finally, for the Board in understanding

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1 the position that produced the most significant and  
2 structural impacts, it would be helpful to have a  
3 discussion comparing those effects during normal  
4 operations at the operating condition and during an  
5 MSIV closure and a load rejection transient. We think  
6 that this would be very enlightening to helping us  
7 assess this particular contention.

8 The other Board members, do you have  
9 anything to add?

10 JUDGE KARLIN: No, no. I don't.

11 JUDGE RUBENSTEIN: No. That was pretty  
12 complete.

13 MR. TRAVIESO-DIAZ: This is Mat  
14 Travieso-Diaz for Entergy.

15 Could you please repeat your last point of  
16 interest?

17 JUDGE BARATTA: Okay. Yes, sure.  
18 Basically we would be interested in understanding the  
19 conditions, whether it's normal operation for the  
20 transients that are the subject produced in most  
21 significant structural effects in the various  
22 components, primarily in the steam system.

23 In other words, one way to think about it  
24 might be if you have a high stress for a long period  
25 of time, there is a classic phenomenon called creep

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1 that occurs. Is that limiting?

2 Well, that is going to occur predominantly  
3 during our operations or during a transient, you may  
4 have a very high peak stress, but it's only for a very  
5 short time and then might cause some over-stress  
6 conditions very briefly, which might not be very  
7 damaging or may be very damaging.

8 In other words, which is the more limiting  
9 condition overall to take into account?

10 MR. TRAVIESO-DIAZ: Thank you very much.

11 JUDGE KARLIN: Okay. Thank you.

12 Yes. I think those are words to the wise  
13 in terms of what we hope to see in the written  
14 testimony and the direct and the rebuttal and for  
15 witnesses to be prepared to and to address those so  
16 that when we have the oral conferences, if we have  
17 further questions, those experts will be available to  
18 ask and to answer those questions.

19 With that, I think there probably isn't  
20 anything else except to discuss the item Mr. Diaz has  
21 added to the agenda, which is a proposed new  
22 contention, Mr. Diaz?

23 MR. TRAVIESO-DIAZ: Yes. Mr. Chairman, if  
24 I may, when I arrived at the office this morning, I  
25 noticed an e-mail from Mr. Shadis raising a proposed

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1 new contention by NEC.

2 And a quick panicky look on my calendar  
3 made me realize that responses to that contention  
4 under the typical 25-day rule will be the May 15th,  
5 which is 2 days prior to the filing of the significant  
6 testimony on status of position that the parties have  
7 to submit.

8 And I was hoping that the first responder  
9 would move the due date for responses to that new  
10 contention to something like ten days to allow us to  
11 focus fully on the testimony that is before us and not  
12 be averted by having to respond to that contention.

13 JUDGE KARLIN: Well, we have not seen the  
14 document, the proposed new contention -- I haven't --  
15 that you're referring to. Mr. Shadis, have you filed  
16 this or is this just an informal e-mail with Entergy?

17 MR. SHADIS: No, sir. We filed electronic  
18 service on the parties and the Board. And we are  
19 putting the hard copy in the mail today.

20 JUDGE RUBENSTEIN: This is Judge  
21 Rubenstein. I received my copy by e-mail this  
22 morning.

23 MR. TURK: This is Sherwin Turk. I've not  
24 seen it yet, and I checked my e-mail just before  
25 coming to the conference call.

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1 JUDGE KARLIN: Yes. Well, neither Judge  
2 Baratta or I or Jonathan Rund or Marcia Carpentier  
3 have received that, Mr. Shadis. You need to, if you  
4 would, double check and be much more careful because  
5 we're not receiving these things.

6 And I check my e-mail. We all checked our  
7 e-mail just ten minutes ago, before we walked in here.

8 MR. SHADIS: Truly? Well, I don't have  
9 any explanation for that except that we will do a  
10 resend. And, as I said, the hard copy will be going  
11 into the mail.

12 And other than that, in terms of what Mr.  
13 Travieso-Diaz suggests, I have no problem with  
14 extending the time to respond.

15 JUDGE KARLIN: You're looking -- okay.  
16 Now, let me see if I understand this, Mr. Diaz.  
17 You're looking for an extension in time to respond to  
18 the proposed new contention?

19 MR. TRAVIESO-DIAZ: Yes. By my  
20 calculation, the response will be due on May 15th.  
21 And I would like to request that it be moved to May  
22 25th just to allow sufficient time to address it  
23 fully.

24 JUDGE KARLIN: May 15?

25 MR. TRAVIESO-DIAZ: May 15 is a Monday.

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1 And this will be, we're suggesting, due on Thursday,  
2 the 25th. Particularly, we don't ask for extensions  
3 unless it's necessary, but in this case, there is a  
4 real serious conflict.

5 JUDGE KARLIN: Okay. Well, we'll take  
6 those into consideration. Let's think about it for a  
7 minute here. I mean, as I said at the outset, we are  
8 not enthused about changing our schedule in light of  
9 these other things, but we want to be reasonable. Mr.  
10 Shadis or Mr. Roisman can file all the new contentions  
11 they want to file, and it's not going to change our  
12 schedule here.

13 Let's just look at that. Let me talk with  
14 Judge Baratta here for a minute.

15 MR. TURK: Your Honor, this is Sherwin  
16 Turk.

17 JUDGE KARLIN: Yes?

18 MR. TURK: As I understand it, Mr. Diaz is  
19 not asking to change your schedule for filing  
20 testimony. He's asking to change the time for  
21 responding to a new contention.

22 JUDGE KARLIN: Right. I understand that.

23 MR. TURK: I would join him in that. Even  
24 without seeing the contention, I know we will be very  
25 busy. We will be responding to the other three

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1 contentions on the 1st of May. And on the 17th, we  
2 will be filing testimony. So we will be very busy  
3 with all of these other tasks up until the 17th.

4 So I would appreciate also an opportunity  
5 to respond to the new contention that we haven't seen  
6 yet during the following week, hopefully on May 25th.

7 JUDGE KARLIN: Right. One of the things  
8 we are going to take into consideration is when is the  
9 Board going to be busy. And we don't want to create  
10 a train wreck in terms of the Board having to deal  
11 with ruling on proposed new contentions and at the  
12 same time preparing for the hearing.

13 If we can accommodate your concerns  
14 without creating a train wreck somewhere else in the  
15 schedule, I mean, I think that's the thought process  
16 we have to go through.

17 If you will hold on a moment? I'm not  
18 sure whether we're going to be able to rule on that in  
19 the phone here right now. Judge Rubenstein is at a  
20 distance. But just hold for a moment, if you would.

21 (Pause.)

22 JUDGE KARLIN: We're back on the record  
23 here. Can you hear us, Mr. Diaz?

24 MR. TRAVIESO-DIAZ: Yes.

25 JUDGE KARLIN: Okay. I think what I would

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1 like to do is take this under advisement. We're not  
2 in a position to rule right now, but we're willing to  
3 accommodate some time frame here if it does not  
4 otherwise create a crunch in terms of our ability to  
5 handle the hearing in this proceeding and the  
6 contentions that have been admitted so far.

7 So, with that, why don't we take a look at  
8 the filing? And if you would file something short  
9 today, Mr. Diaz, or tomorrow, we'll rule by Monday one  
10 way or the other.

11 MR. TRAVIESO-DIAZ: Yes. Thank you very  
12 much, sir.

13 JUDGE KARLIN: Thank you.

14 Anything else that anyone thinks we need  
15 to cover in the conference call today?

16 (No response.)

17 JUDGE KARLIN: Okay. Great. Well, I  
18 appreciate your time and attention here. I think we  
19 have now scheduled our next conference call for May --  
20 what is it? -- May 23rd. And so we'll look forward to  
21 talking to you at that time.

22 With that, I am going to adjourn the call.  
23 Thank you very much for participating.

24 (Whereupon, the foregoing matter was  
25 concluded at 11:33 a.m.)

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CERTIFICATE

This is to certify that the attached proceedings before the United States Nuclear Regulatory Commission in the matter of:

Name of Proceeding: Entergy Nuclear Vermont  
Yankee, LLC and Entergy  
Nuclear Operations, Inc.  
Pre-hearing Conference

Docket Number: 50-271-OLA and  
ASLBP No.04-832-02-OLA

Location: Via teleconference

were held as herein appears, and that this is the original transcript thereof for the file of the United States Nuclear Regulatory Commission taken by me and, thereafter reduced to typewriting by me or under the direction of the court reporting company, and that the transcript is a true and accurate record of the foregoing proceedings.



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Michael Kocher  
Official Reporter  
Neal R. Gross & Co., Inc.

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