



UNITED STATES  
NUCLEAR REGULATORY COMMISSION  
WASHINGTON, D.C. 20555-0001

May 2, 2006

DOCKETED  
USNRC

May 11, 2006 (8:21am)

OFFICE OF SECRETARY  
RULEMAKINGS AND  
ADJUDICATIONS STAFF

**Docket No. 50-271-OLA**

**SERVED May 11, 2006**

SECRETARY

Alice E. Moore, Esquire  
Chief, Public Protection Bureau  
Office of the Attorney General  
The Commonwealth of Massachusetts  
One Ashburton Place  
Boston, MA 02108-1598

Dear Ms. Moore:

This is in response to your letter to Chairman Nils J. Diaz dated April 12, 2006, in which you urge the Commission to reconsider its decision to make the power uprate for Vermont Yankee Nuclear Power Station immediately effective. You recommended a delay in making the decision immediately effective in order to allow the Atomic Safety and Licensing Board in the Vermont Yankee proceeding to address the contentions accepted for hearing. The Nuclear Regulatory Commission staff will address some of the concerns referenced in your letter and will reply directly to you.

Under NRC procedural rules for adjudications, the Commission has an appellate role in proceedings commenced before its Atomic Safety and Licensing Boards. Because of that role, the Commissioners must remain impartial during the pendency of a case, whether it is before a Licensing Board Panel or on appeal to the Commission, and it would be inappropriate for any of them to discuss or comment on issues involved in the proceeding.

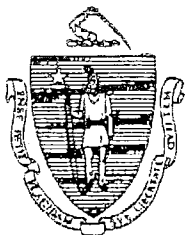
A copy of your letter and this response, as well as the response of the NRC staff, when issued, will be served on the parties to the proceeding.

Sincerely,

A handwritten signature in black ink, appearing to read "Annette Vietti-Cook".

Annette L. Vietti-Cook

cc: Vermont Yankee Service List



THE COMMONWEALTH OF MASSACHUSETTS  
OFFICE OF THE ATTORNEY GENERAL

ONE ASHBURTON PLACE  
BOSTON, MASSACHUSETTS 02108-1598

THOMAS F. REILLY  
ATTORNEY GENERAL

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BY TELEPHONE FACSIMILE  
AND FIRST CLASS MAIL

April 12, 2006

Chairman Nils Diaz  
United States Nuclear Regulatory Commission  
Washington, D.C. 20005-0001

Re: Vermont Yankee Nuclear Power Station - Extended Power Uprate

Dear Chairman Diaz:

We urge you to reconsider your decision to make the license amendment allowing Vermont Yankee's extended power uprate immediately effective. We ask that you instead defer the effectiveness of the amendment until after your agency has decided on the important safety contentions raised by the State of Vermont and the New England Coalition in the pending adjudicatory hearing.

As Commissioner Gregory Jaczko stated in his March 8, 2006 memorandum ("Jaczko Memorandum") to the Commissioners, the Atomic Energy Act allows a license amendment to become immediately effective prior to a hearing only if it does not involve any significant hazards considerations. See Atomic Energy Act, section 189a(2)(A). The decision whether to make the amendment immediately effective should not prejudice the merits of a safety contention. Instead it should be based on whether the application raises significant hazards considerations. See Jaczko Memorandum. In a complicated case such as this, where parties have raised significant safety contentions, and in which the staff has imposed numerous license conditions, it is inappropriate to make the amendment effective before the adjudicatory process is complete.

The importance of addressing these safety contentions in advance of further uprates is highlighted by early indications that power increases may cause excessive vibrations in the plant. Indeed, the NRC temporarily froze the power increase at 105% in light of these vibrations. Although the initial freeze was lifted, it now appears that a subsequent power increase produced additional vibrations, resulting in yet another freeze of the uprate at 112.5%. These vibrations should cast serious doubt on the NRC's decision to make the amendment immediately effective.

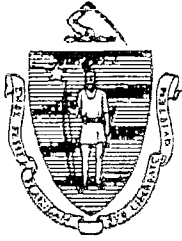
We ask that you give serious consideration to each of the contentions raised by intervenors, including Vermont's contention that the uprate puts certain conditions in place that can make the emergency core cooling system ineffective or less effective. Since the emergency core cooling system is crucial for plant safety, a complete and detailed analysis of this potential effect is warranted.

Thank you for your consideration of this request.

Sincerely,

Alice E. Moore  
Chief, Public Protection Bureau





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FACSIMILE COVER SHEET

TO: Chairman Nils Diaz  
ORGANIZATION: United States Nuclear Regulatory Commission  
TELEPHONE #:   
FACSIMILE #: 301-415-1757  
  
FROM: Alice Moore, Chief  
BUREAU/DIV.: Public Protection Bureau  
TELEPHONE #: (617) 727-2200  
FACSIMILE #: (617) 727-5762  
  
TOTAL NO.  
OF PAGES SENT  
(including this cover page): 2  
  
DATE: 4/12/06  
TIME: 11:15  
  
COMMENTS: Please see the attached letter. Thank you.

IF THERE ARE PROBLEMS RECEIVING THIS TRANSMITTAL,  
PLEASE CONTACT SENDER

**\*\* CONFIDENTIALITY NOTE \*\***

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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 ENERGENCY NUCLEAR OPERATIONS, INC. )  
 )  
 )  
 )  
(Vermont Yankee Nuclear Power Station) )

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing LETTER FROM ANNETTE L. VIETTI-COOK TO ALICE E. MOORE RESPONDING TO HER 04/12/06 LETTER (ALSO ENCLOSED) URGING THE COMMISSION TO RECONSIDER ITS DECISION TO MAKE THE POWER UPRATE FOR VERMONT YANKEE IMMEDIATELY EFFECTIVE have been served upon the following persons by U.S. mail, first class, or through NRC internal distribution.

Office of Commission Appellate  
Adjudication  
U.S. Nuclear Regulatory Commission  
Washington, DC 20555-0001

Administrative Judge  
Alex S. Karlin, Chair  
Atomic Safety and Licensing Board Panel  
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U.S. Nuclear Regulatory Commission  
Washington, DC 20555-0001

Administrative Judge  
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Administrative Judge  
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Washington, DC 20555-0001

Raymond Shadis  
New England Coalition  
P.O. Box 98  
Edgecomb, ME 04556

Docket No. 50-271-OLA  
LETTER FROM ANNETTE L. VIETTI-COOK TO ALICE E. MOORE  
RESPONDING TO HER 04/12/06 LETTER (ALSO ENCLOSED) URGING  
THE COMMISSION TO RECONSIDER ITS DECISION TO MAKE THE  
POWER UPRATE FOR VERMONT YANKEE IMMEDIATELY EFFECTIVE

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Entergy Services, Inc.  
1340 Echelon Parkway  
Jackson, MS 39213

  
Office of the Secretary of the Commission

Dated at Rockville, Maryland,  
this 11<sup>th</sup> day of May 2006