

September 3, 2004

The Honorable John W. Olver
United States House of Representatives
57 Suffolk Street, Suite 310
Holyoke, Massachusetts 01040

Dear Congressman Olver:

I am writing in response to your letter dated August 23, 2004, stating that several communities in your district would like to see the deadline extended for filing hearing requests in connection with the pending application for a license amendment submitted by Entergy Nuclear Vermont Yankee L.L.C. and Entergy Nuclear Operations, Inc., to increase the maximum authorized power level for operation of the Vermont Yankee Nuclear Power Station. On July 1, 2004, the Nuclear Regulatory Commission (NRC) published in the Federal Register a notice of opportunity to request a hearing, which set forth the need to file such a hearing request by August 30, 2004.

In your letter, you suggest that NRC's ongoing design review should be completed before potential intervenors are required to make a decision whether to intervene and asked that NRC give full and fair consideration to requests for extension of the filing deadline. As you noted, the Commission received a request for an extension of time from the Honorable James H. Douglas, Governor of the State of Vermont, and a supporting letter from Vermont's three Members of Congress, who raised similar concerns.

In the enclosed Order issued on August 18, 2004, the NRC denied the request by Governor Douglas for an extension of time. As explained in that Order, the Commission's Rules of Practice provide that hearing requests are to focus on the information submitted by the licensee in its application to the Commission, or otherwise available at the time the petition is to be filed. See 10 C.F.R. § 2.309(f)(2) (set forth at 69 Fed. Reg. 2182, 2240 (Jan. 14, 2004)). The same provision allows for consideration of new or amended contentions, after the initial filing, based on criteria relating to the previous unavailability of the information upon which the new or amended contentions are based.

The Vermont Department of Public Service and the New England Coalition of Brattleboro, Vermont have filed timely hearing requests have been referred to the Atomic Safety and Licensing Board Panel. We have not received requests for a hearing or for an extension of time to file such a request from your constituent communities. We note though that the

Commission's Rules of Practice also provide, at 10 C.F.R. § 2.309(c), that late-filed hearing petitions may be entertained based on consideration of specified factors which must be addressed in the late filing.

I hope that this information will be helpful to you and your constituents.

Sincerely,

/RA/

Annette Vietti-Cook
Secretary of the Commission

Enclosure: August 18, 2004 Order