

June 5, 2006 (4:24pm)

**UNITED STATES
NUCLEAR REGULATORY COMMISSION**

OFFICE OF SECRETARY
RULEMAKINGS AND
ADJUDICATIONS STAFF

**In Re: Entergy Nuclear Vermont Yankee)
LLC and Entergy Nuclear) Docket No. 50-271
Operations, Inc.) (License Renewal)**

**NOTICE OF INTENT TO ADOPT
CONTENTIONS AND MOTION FOR
LEAVE TO BE ALLOWED TO DO SO¹**

Pursuant to 10 CFR §2.309(f)(3) the Vermont Department of Public Service (“DPS”) seeks to adopt all the contentions filed by the New England Coalition (“NEC”) and the Commonwealth of Massachusetts (“Commonwealth”). As required by 10 CFR §2.309(f)(3) and as attested to by the attached Certification of Counsel of Sarah Hofmann, Director for Public Advocacy, Department of Public Service, DPS agrees that the Commonwealth and NEC “shall act as the representative with respect to” each of their contentions. NEC and the Commonwealth have indicated that they are agreeable with this arrangement.

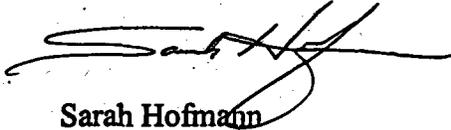
¹ 10 CFR §2.309(f)(3) authorizes one party to adopt the contentions of other parties but does not specify the precise procedure to be followed. One reading of the rule would allow adoption so long as the party adopting the contention agrees that the party filing the contention will be the “representative with respect to that contention”. In that case a notice agreeing to that provision should suffice. However, because the rule uses the phrase “seeks to adopt”, it could be read to require permission of the Board. Another ambiguity is created by the absence of a time frame for making the request. In the Statement of Considerations accompanying adoption of the current version of 10 CFR §2.309(f)(3) (69 Fed. Reg.2182, 2202 (January 14, 2004)) the Commission suggests that adoption of contentions only occurs after the Board has ruled on the admissibility of the contention (“One commenter suggested that the Commission adopt a new § 2.309(f)(3) to specify, *where a petitioner adopts an admitted contention of another party*, that the presiding officer or Licensing Board must require one of the petitioners to act as lead. The Commission agrees that a new § 2.309(f)(3) should be adopted to include such a requirement, and concludes that the paragraph should also include an analogous requirement for a lead representative where two or more requestors/petitioners co-sponsor a contention.” (Emphasis added)). Out of an abundance of caution this pleading is filed now, rather than waiting for rulings on admission of contentions and is filed both as a notice and a motion.

DPS reserves the right to modify the extent of its adoption of these contentions based upon the action taken by the Board in determining the admissibility of the contentions and the possible rewording of the contentions at that time. Any such modification shall be filed within 10 days of receipt of the Board's Order on admission of contentions or at a subsequent date provided that leave to file beyond the 10 days has been sought and obtained from the Board.

DPS is aware that NEC is today filing a pleading in which it seeks to adopt the contentions, *inter alia*, of DPS. As attested to in the attached Certification of Counsel of Sarah Hofmann, NEC and DPS have agreed that DPS "shall act as the representative with respect to" each of the DPS contentions adopted by NEC and DPS is agreeable with this arrangement.

For the reasons stated DPS requests that the Board accept or approve, as appropriate, DPS's adoption of the contentions filed by NEC and the Commonwealth.

Respectfully submitted,



Sarah Hofmann
Director for Public Advocacy
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Filed: June 5, 2006

**UNITED STATES
NUCLEAR REGULATORY COMMISSION**

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matter of)	
)	Docket No. 50-271
ENTERGY NUCLEAR VERMONT)	(
YANKEE LLC AND ENTERGY NUCLEAR)	
OPERATIONS, INC.)	
(Vermont Yankee Nuclear Power Station))	

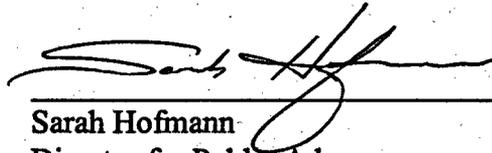
CERTIFICATION OF COUNSEL

Pursuant to 10 C.F.R. § 2.323(b) and 10 C.F.R. § 2.309(f)(3) the undersigned counsel certifies that she has communicated with counsel for the Commonwealth of Massachusetts, Matthew Brock, and counsel for New England Coalition ("NEC"), Ronald Shems, and states the following to be true and correct as follows:

1. The State of Vermont is adopting the Contentions filed by NEC on May 26, 2006 in this proceeding ("Contentions"). I have consulted with NEC pursuant to 10 C.F.R. § 2.309(f)(3) through its counsel, Ronald A. Shems. NEC concurs in this arrangement provided that NEC shall be the representative for its Contentions.
2. The State of Vermont adopts the Contention filed by the Commonwealth of Massachusetts on May 26, 2006 in this proceeding ("Contention"). I have consulted with the Commonwealth pursuant to 10 C.F.R. § 2.309(f)(3) through its counsel, Assistant Attorney General Matthew Brock. The Commonwealth of Massachusetts concurs in this arrangement provided that the Commonwealth shall be the representative for its Contention.
3. The State of Vermont understands that NEC will adopt the State of Vermont's

Contentions filed in this proceeding on May 26, 2006 ("VT Contentions"). NEC and the State of Vermont have consulted through their respective counsel. The State of Vermont concurs in this arrangement, provided that the State of Vermont shall be the representative for the VT Contentions.

I declare under penalty of perjury that the foregoing is true and correct.



Sarah Hofmann
Director for Public Advocacy
Vermont Department of Public Service

Executed on June 5, 2006

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matter of)	
)	Docket No. 50-271
ENTERGY NUCLEAR VERMONT)	(License Extension)
YANKEE LLC AND ENTERGY NUCLEAR)	
OPERATIONS, INC.)	
(Vermont Yankee Nuclear Power Station))	

CERTIFICATE OF SERVICE

I hereby certify that copies of the Vermont Department of Public Service Notice Of Intent To Adopt Contentions and Motion For Leave To Be Allowed To Do So in the above captioned proceeding has been served on the following by electronic mail where indicated by an asterisk on the 5th day of June, 2006, and will be mailed by deposit in the United States Mail, first class, postage prepaid, on the 6th day of June, 2006.

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Washington, DC 20555-0001
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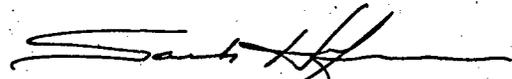
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Sarah Hofmann, Director for Public Advocacy