

RAS 11939

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION
ATOMIC SAFETY AND LICENSING BOARD

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Before Administrative Judges:

Alex S. Karlin, Chairman
Dr. Anthony J. Baratta
Lester S. Rubenstein

In the Matter of

ENTERGY NUCLEAR VERMONT YANKEE
L.L.C.
and
ENTERGY NUCLEAR OPERATIONS INC.

(Vermont Yankee Nuclear Power Station)

Docket No. 50-271-OLA

ASLBP No. 04-832-02-OLA

July 7, 2006

MEMORANDUM AND ORDER

(Ruling on Admissibility of Additional NEC Contention
and on Request to Supplement Additional Contention)

Before the Board is a request by the New England Coalition (NEC) for leave to file a new contention.¹ For the reasons stated below, the Board concludes that NEC's proposed contention does not meet the admissibility criteria of 10 C.F.R. § 2.309(f) and (c) and denies the request.

I. BACKGROUND

In September 2003, Entergy Nuclear Vermont Yankee, L.L.C. and Entergy Nuclear Operations, Inc. (collectively, Entergy) applied to the U.S. Nuclear Regulatory Commission (NRC) for authorization to increase the maximum power level of Entergy's Vermont Yankee Nuclear Power Station in Windham County, Vermont from 1593 megawatts thermal (MWt) to 1912 MWt. This is referred to as an extended power uprate or EPU. On August 30, 2004, NEC

¹ New England Coalition's Request for Leave to File a New Contention (Apr. 20, 2006) (NEC Request).

challenged the proposed EPU by filing a request for a hearing that included seven proposed contentions.² On November 22, 2004, this Board found that NEC had standing to participate in this proceeding and admitted two of its original contentions. LBP-04-28, 60 NRC 548, 554, 568-77 (2004).

On April 6, 2006, NEC submitted a request for leave to file three new contentions, including one that dealt with stresses on the Vermont Yankee steam dryer³ under EPU conditions.⁴ NEC alleged that increasing the authorized power at the Vermont Yankee plant would cause increased “fatigue,” “flow induced vibrations,” and “intergranular stress corrosion cracks” on the plant’s steam dryer, “causing it potentially to fragment and generate many loose parts” that might migrate and potentially cause blockage and a “core-melt.” NEC April 6 Request at 6-7. On May 25, 2006, the Board rejected NEC’s April 6 steam dryer contention, labeled Contention 7, on timeliness grounds, indicating that NEC had been aware of the steam dryer cracking issue since early 2005. LBP-06-14, 63 NRC __ , __ (slip op. at 25-26) (May 25, 2006).

Meanwhile, on April 20, 2006, NEC submitted a request for leave to file another new steam dryer contention, which we hereby label “Contention 8.” Entergy and NRC Staff

² New England Coalition’s Request for Hearing, Demonstration of Standing, Discussion of Scope of Proceeding and Contentions (Aug. 30, 2004).

³ Steam dryers are moisture separation systems found in the reactor pressure vessels of boiling water reactors (BWRs). Located above the reactor core, they work by separating liquid water droplets from the steam that is used to drive the turbines. U.S Nuclear Regulatory Commission Technical Training Center, General Electric BWR/4 Technology Manual (undated) at 2.1-5. Vermont Yankee is a General Electric BWR/4 reactor. U.S. Nuclear Regulatory Commission Information Digest, 2005-2006 Edition, NUREG-1350, Vol. 17 at 109.

⁴ New England Coalition’s Request for Leave to File New Contentions (Apr. 6, 2006) (NEC April 6 Request).

responded on May 25, 2006, opposing admission of the new contention,⁵ and NEC filed its reply on June 1, 2006.⁶ On June 23, 2006, NEC filed a request for leave to file a supplement to Contention 8.⁷ Entergy filed its answer to NEC's request on June 30, 2006,⁸ and the NRC Staff filed its answer on July 3, 2006.⁹

II. CONTENTION ADMISSIBILITY STANDARDS

Three regulations address the admissibility of additional contentions once an adjudicatory proceeding has been initiated. These are (a) 10 C.F.R. § 2.309(f)(2), which deals with the admission of new and timely contentions based on new information, (b) 10 C.F.R. § 2.309(c), which deals with the admission of nontimely contentions, and (c) 10 C.F.R. § 2.309(f)(1), which establishes the basic criteria that all contentions must meet in order to be admissible.

As this Board has previously stated, the first step in addressing new contentions under these regulations is to determine if the additional contention is timely and otherwise meets the requirements of 10 C.F.R. § 2.309(f)(2). LBP-06-14, 63 NRC at ___ (slip op. at 3-4). See also

⁵ Entergy's Response to New England Coalition's Request for Leave to File a New Contention (May 25, 2006) (Entergy Answer); NRC Staff's Answer to New England Coalition's Request for Leave to File a New Contention (May 25, 2006) (Staff Answer).

⁶ New England Coalition's Reply to NRC Staff and Entergy Answers to New England Coalition's Request for Leave to File a New Contention (filed June 1, 2006, but dated May 25, 2006) (NEC Reply).

⁷ New England Coalition's Request for Leave to File a Supplement to New England Coalition's Request for Leave to File a New Contention (June 23, 2006) (NEC Request to Supplement).

⁸ Entergy's Answer to New England Coalition's Request for Leave to File a Supplement to its Request for Leave to File a New Contention (June 30, 2006) (Entergy's Answer to NEC Request to Supplement).

⁹ NRC Staff's Answer to "New England Coalition's Request for Leave to File a Supplement to [NEC's] Request for Leave to File a New Contention" (July 3, 2006).

Amergen Energy Co., L.L.C. (Oyster Creek Nuclear Generating Station), LBP-06-16, 63 NRC ___, ___ (n.12, slip op. at 9) (June 6, 2006); LBP-05-32, 62 NRC 813, 819 (2005). If a contention is not timely under section 2.309(f)(2)(iii), then we turn to 10 C.F.R. § 2.309(c) and evaluate the contention according to the eight-factor balancing test that governs admissibility of nontimely contentions. LBP-06-14, 63 NRC at ___ (slip op. at 7). If a contention is either timely under section 2.309(f)(2) or an acceptable nontimely filing under section 2.309(c), then we complete our analysis by determining whether that contention satisfies the six basic contention admissibility standards contained in 10 C.F.R. § 2.309(f)(1)(i)-(vi). Id. at 8. These six standards must be met by all contentions. Id.

III. POSITION OF THE PARTIES

NEC Contention 8 focuses on the Vermont Yankee steam dryer and reads as follows:

The failure of modeling, testing, and analysis, in support of extended power uprate (EPU), to detect or predict recent discovery of a 5 foot crack with multiple branches on the surface of the Quad Cities Unit 2 dryer indicates that the technical basis for ascension power testing at the Entergy Vermont Yankee Nuclear Power Station, largely based on the Quad Cities model and methodology, is flawed and cannot reliably predict steam dryer durability or performance under EPU conditions. Because a cracked or fractured steam dryer can result in an accident, prevent mitigation of an accident, or increase the consequences of an accident, with major catastrophic effects of public health and safety, and because Vermont Yankee is proceeding in an unknown condition, the Atomic Safety and Licensing Board, (ASLB) must not permit Vermont Yankee to operate at the EPU conditions until such time as it can be definitively demonstrated that the ascension power testing program at Vermont Yankee has not been invalidated by the experience at Quad Cities.

NEC Request at 2-3.

NEC bases Contention 8 on events concerning the Quad Cities Nuclear Power Station (Quad Cities) – the alleged failure of certain models and methodologies used at Quad Cities to predict steam dryer cracks that were recently discovered at that plant – and on NRC Staff and Entergy documents related to the Quad Cities experience. NEC Request at 2. We are told by

NEC that Unit 2 at Quad Cities experienced a series of steam dryer problems in the past,¹⁰ and its steam dryer was replaced by Exelon, its operator, in May 2005.¹¹ NEC indicates that the models and methodologies used by Exelon predicted that, after the replacement, the loads on the steam dryer would not exceed design limits and no further cracking should occur.

Hopenfeld Declaration at 4. However, on March 28, 2006, when Unit 2 was shut down for refueling, NEC asserts that visual inspection by Exelon revealed cracks in the new steam dryer, including a five-foot crack. Id.; Exelon RCA at 3, 10. NEC concludes that the Quad Cities experience shows that the technical basis for the Entergy EPU, which is “largely based on the Quad Cities model and methodology, is flawed and cannot reliably predict steam dryer durability or performance under EPU conditions [at Vermont Yankee].” NEC Request at 3.

NEC claims the specific new information supporting Contention 8 is contained in two NRC Staff documents that were posted on the NRC Agencywide Documents Access and Management System (ADAMS) on April 11 and 12, 2006. NEC Request at 3. According to NEC, these documents

show that both NRC Staff and Entergy Nuclear Vermont Yankee now take the position that the failure of the Quad Cities 2 modeling and methodology to either predict or detect substantial cracking of the Quad Cities 2 steam dryer is irrelevant to the continued use of the Quad Cities 2 modeling and methodology at Vermont Yankee.

Id. at 7. NEC claims that the documents “present[] a wholly new position on the part of NRC Staff and Entergy Vermont Yankee” with respect to steam dryer problems. Id. Therefore, NEC argues, Contention 8 is timely under 10 C.F.R. § 2.309(f)(2) because it was filed within ten days

¹⁰ NEC Request, Exh. 1, Declaration of Dr. Joram Hopenfeld Supporting New England Coalition’s Proposed New Contention (Apr. 17, 2006) at 3-4 (unpaginated) (Hopenfeld Declaration).

¹¹ Staff Answer, Exh. 3, Q2R18 Concerns Related to Steam Dryer (May 16, 2006) at 7-9 (Exelon Root Cause Analysis or RCA).

of the availability of the new documents. Id. Additionally, NEC says the recent availability of the two documents satisfies the section 2.309(c) requirement that petitioners show good cause for failure to file on time. Id. at 3. NEC therefore argues that the contention is admissible as a nontimely filing under section 2.309(c)(1). Id.

NEC further argues that Contention 8 meets the general contention admissibility requirements of 10 C.F.R. § 2.309(f)(1) in that it includes a specific statement of the issue and a basis for the contention in the form of a declaration by NEC's expert. Id. at 8. NEC also presents this expert's statements in order to demonstrate that the contention satisfies the other requirements of section 2.309(f)(1). Id. at 9-11. For this reason, NEC urges the Board to admit Contention 8 for adjudication. Id. at 11.

Entergy responds by claiming that Contention 8 is merely another version of NEC Contention 7, Entergy Answer at 2-3, which also raised issues regarding steam dryer fatigue, vibrations, stress, and cracking and which this Board rejected as untimely . LBP-06-14, 63 NRC at ___ (slip op. at 25-26). Entergy argues that, "[b]ecause [Contention 8] is encompassed within the scope of NEC Contention 7 and the only difference between them is evidentiary, [Contention 8] suffers from the same untimeliness deficiency that rendered NEC Contention 7 inadmissible." Entergy Answer at 6. Furthermore, Entergy avers, the new contention also fails the section 2.309(c) balancing test for nontimely contentions for much the same reasons that Contention 7 did. Id. at 6-7. According to Entergy, the new documents mentioned by NEC "contain[] no new information that would be relevant to [Contention 8] (or indeed to any new contention) and NEC cites none." Id. at 7.

Furthermore, Entergy argues, Contention 8 is impermissibly vague in that it does not show a supportable connection between the events at Quad Cities and any alleged deficiencies at Vermont Yankee. Id. at 12-13. Entergy points out that Exelon's May 16, 2006, Root Cause

Analysis states that the five-foot crack at Quad Cities “was due to deformation caused by the dryer skirt base ring being caught on the reactor pressure vessel dryer support lugs while the dryer was being lifted in May 2005.” Id. at 11. According to Entergy,

[t]he “five-foot crack” in the Quad Cities Unit 2 steam dryer was not caused by flow-induced vibration; the analytical tools were not intended to predict a crack caused by physical impact; the failure of the analytical tools to predict the formation of that crack does not suggest inadequacy in the methodology used at Quad Cities; and the Quad Cities analytical model is not identical to the one used at VY, so no conclusions can be drawn on the application of that methodology from one plant to the other.

Id. at 13. Because “no nexus is shown” between Quad Cities and Vermont Yankee’s steam dryer monitoring program, Entergy claims that Contention 8 lacks a basis and therefore should be rejected under section 2.309(f)(1). Id. at 14-15.

The NRC Staff presents similar arguments, claiming that “NEC has presented absolutely no basis to challenge the adequacy of the analytical modeling and methodology which it claims are deficient, apart from the discovery of cracking at Quad Cities.” Staff Answer at 9. The Staff does not contest the timeliness of Contention 8 “to the extent that [it] is based upon the March 2006 discovery of cracks at Quad Cities Unit 2.” Id. at 10. However, the Staff continues, “to the extent that NEC may have intended to challenge the sufficiency of the Quad Cities ‘modeling and methodology,’” NEC should have brought such a challenge at the time it first came to the conclusion that the applicant was using a similar approach at Vermont Yankee. Id. According to the Staff the contention is neither timely nor an acceptable nontimely filing to the extent that it challenges the Quad Cities methodology. Id. at 11.

In its reply, NEC maintains that the Exelon Root Cause Analysis made reference to steam dryer cracks in locations other than those damaged during the first, failed attempt to install the unit. NEC Reply at 6. NEC argues that these other cracks could have been caused by stresses to the steam dryer during operation under EPU conditions. Id. at 6-7. Because the

models and methodology used to predict steam dryer cracking failed to predict the cracks that were observed at Quad Cities, says NEC, and because Vermont Yankee's methodologies are "derived directly" from those in use at Quad Cities, the Vermont Yankee EPU "should be suspended until credible analysis of the Quad Cities experience can be translated to Vermont Yankee; that is analyzed for reliability and performance with consideration of 'as-is' dryer condition and the Quad Cities event(s)." Id. at 7.

IV. ANALYSIS

A. Analysis of Admissibility as a Timely New Contention Under Section 2.309(f)(2)

The timeliness of Contention 8 under section 2.309(f)(2) depends on whether a reasonable person should have previously been aware of the steam dryer issues in question, or alternatively, whether Contention 8 raises new issues that could only have been recognized when the two documents cited by NEC were published on April 11 and 12, 2006.¹² This Board has noted previously that new and material information is sometimes revealed in stages, so that the foundation for the contention is not reasonably apparent until the later pieces fall into place. LBP-06-14, 63 NRC at ___ (slip op. at 13). When this occurs, the timeliness of a contention "turns on a . . . determination about when, as a cumulative matter, the separate pieces of the . . . information 'puzzle' were sufficiently in place to make the particular concerns . . . reasonably apparent." Id. (citing Yankee Atomic Electric Co. (Yankee Nuclear Power Station), LBP-96-15, 44 NRC 8, 26 (1996)).

¹² Memorandum from Kamal A. Manoly, Chief, Engineering Mechanics Branch, NRC Office of Nuclear Reactor Regulation, to Daniel J. Roberts, Chief, Plant Licensing Branch, NRC Office of Nuclear Reactor Regulation (Staff Technical Basis for Continued Power Ascension of Vermont Yankee Nuclear Power Station Up to 110% Original Licensed Power) (Apr. 5, 2006), ADAMS Accession No. ML060970111; Vermont Yankee Nuclear Power Station Revision 1 to Steam Dryer Monitoring Plan (Mar. 26, 2006), ADAMS Accession No. ML060930689. The NRC Staff has introduced the first of these documents as Exhibit 1 accompanying its answer, and Entergy has introduced it as Exhibit 2. Entergy has introduced the second document as Exhibit 1 accompanying its answer.

In this case, the Board finds that the recent Quad Cities experience and the two documents cannot reasonably be taken as the final pieces of the information puzzle that suddenly reveal the basis for a new contention. NEC's concern regarding steam dryers and the models used to predict their performance date back to oral argument on the admissibility of NEC Contention 3 in 2004, when the petitioner's representative stated:

What we see in the Extended Power Uprate Program is we see a series of unpredicted, unexpected failures of the steam dryers, of instrumentation being swept away, of small bore pipe breaks. And what we're saying here is that the calculations, the computer programming that went into trying to predict these things failed, obviously; because if it had predicted them, measures would have been taken to prevent them. . . . And so that experience, it's part of a one-on-one kind of correlation, it tells us no, a physical test is inevitably superior to a theoretical test.

Tr. at 430-31 (Oct. 22, 2004) (Shadis). NEC's worries about the computer modeling used to predict steam dryer problems long predate any of the recent events related to the Quad Cities Unit 2 replacement steam dryer or any documents based on those events. The recent discovery of additional cracks at Quad Cities is just another piece of evidence presented to support an issue that was raised more than a year ago. At most, the two documents cited by NEC, see supra note 12, merely demonstrate a continuation of the Entergy and the Staff position, i.e., that the Quad Cities steam dryer problems do not raise concerns for Vermont Yankee because Quad Cities is not a comparable situation. In addition, the two documents cited by NEC do not even demonstrate that the methodology in use at Vermont Yankee is the same as that employed at Quad Cities or otherwise offer significant support to Contention 8. Id. For these reasons, we find that the steam dryer issues raised in Contention 8 are neither new nor timely under 10 C.F.R. § 2.309(f)(2).¹³

¹³ However, the adequacy of Entergy's models and methodologies to predict steam dryer cracking may well be relevant to NEC Contention 3, dealing with whether Entergy should be required to perform Large Transient Testing. See Tr. at 430-31 (Oct. 22, 2004) (Shadis).

B. Analysis of Admissibility as a Nontimely Contention Under Section 2.309(c)

Having concluded that Contention 8 is not “timely” under section 2.309(f)(2), we now turn to the eight factors related to “nontimely filings,” to see if the contention may, nevertheless, be considered an acceptable nontimely filing under 10 C.F.R. § 2.309(c).

For reasons described in the previous section, we conclude that NEC fails to show “[g]ood cause, if any, for failure to file on time,” 10 C.F.R. § 2.309(c)(1)(i), which is the most important factor in the balancing test.¹⁴ NEC’s alleged reliance on two new documents is not convincing, given the organization’s longstanding concern with the issue and the fact that the documents themselves do not appear to support its contention.

Our review of the remaining seven factors of 10 C.F.R. § 2.309(c)(1)(ii)-(viii), to the extent they are applicable, does not tip the balance in favor of admitting Contention 8. This Board has found that several of these factors¹⁵ do not seem applicable to new contentions filed by parties admitted to this proceeding, given that they focus on the status of the requestor/petitioner (e.g., standing, nature of requestor/petitioner’s affected interests) rather than on new contentions as such. LBP-06-14, 63 NRC at ___ (slip op. at 15-16). We have also concluded that NEC has satisfied section 2.309(c)(1)(vi) by showing that its interests are not adequately represented by the other parties. Id. at 16.

As was true of NEC’s other nontimely contentions, another significant problem for Contention 8 is 10 C.F.R. § 2.309(c)(1)(vii) – the fact that admission of this nontimely

¹⁴ Dominion Nuclear Connecticut, Inc. (Millstone Nuclear Power Station, Units 2 and 3), CLI-05-24, 62 NRC 551, 564 (2005); State of New Jersey (Dep’t of Law and Public Safety), CLI-93-25, 38 NRC 289, 296 (1993).

¹⁵ “[B]y our prior admission of NEC to this proceeding, we have already ruled that NEC has a right to be made a party, has interests in the proceeding, and could be affected by the proceeding, as per 10 C.F.R. § 2.309(c)(1)(ii), (iii) and (iv), respectively.” LBP-06-14, 63 NRC at ___ (slip op. at 15) (citing LBP-04-28, 60 NRC at 553-54 (ruling that NEC has standing in this proceeding) and LBP-05-32, 62 NRC at 822 (admitting a new contention submitted by NEC)).

contention at this late date will substantially broaden and delay this proceeding. The evidentiary hearing is scheduled to begin in the week of September 11, 2006.¹⁶ Admitting Contention 8 would force us either to delay that evidentiary hearing significantly, or to set a second, later hearing for the litigation of Contention 8.¹⁷

Because of the potential for significant delays, and because NEC has failed to show good cause for its failure to file in a timely manner, we conclude that Contention 8 is not admissible as a nontimely contention under section 2.309(c)(1). NEC appears to have recognized the key issue as early as October 2004 and knew or should have known that filing this proposed contention at this late date would delay the proceeding significantly. In these circumstances, we decline to admit this nontimely filing.

C. Analysis of Admissibility Under the Six Basic Factors of Section 2.309(f)(1)

As we have already determined that Contention 8 does not meet the criteria for nontimely filing set forth in 10 C.F.R. § 2.309(c)(1), it is not strictly necessary to determine whether Contention 8 meets the six-part admissibility test in section 2.309(f)(1). However, we do find that Contention 8 fails to “[p]rovide sufficient information to show that a genuine dispute exists with the applicant/licensee” or to

include references to specific portions of the application (including the applicant’s environmental report and safety report) that the petitioner disputes . . . or, if the petitioner believes that the application fails to contain information on a relevant matter as required by law, the identification of each failure and the supporting reasons for the petitioner’s belief.

¹⁶ Licensing Board Order (Revised Scheduling Order) (Apr. 13, 2006) at 5 (unpublished).

¹⁷ Assuming *arguendo* that NEC Contention 8 would be heard in a Subpart L proceeding, there would need to be a time for mandatory disclosures under 10 C.F.R. §§ 2.336 and 2.1203. Then the parties would need time to develop and submit written testimony on Contention 8, both direct testimony and rebuttal. Next would come the submission of proposed direct and cross examination plans, and then the Board’s own preparation for, and conduct of, an oral hearing. See 10 C.F.R. § 2.1207.

10 C.F.R. § 2.309(f)(1)(vi).

NEC's argument is based on their expert's assertion that "[t]he methodology of predicting the loads on the dryer at Vermont Yankee is essentially identical to the methodology that was used at Quad Cities." Hopenfeld Declaration at 4. According to NEC's reasoning, this method failed to predict the cracks in the Quad Cities steam dryer and therefore must be rejected as flawed. NEC Request at 3. However, NEC has failed to provide a basis for its expert's statement regarding the identity of the Vermont Yankee and Quad Cities methodology.¹⁸ Furthermore, even assuming arguendo that the models and methodologies in use at the two plants are similar enough to justify the comparison that NEC makes, NEC fails to allege, or even suggest, what portions of Entergy's models and methodologies are defective. Instead, NEC's position seems to be that the discovery of the five-foot crack at Quad Cities proves, without more, that the models and methodologies are defective. This hypothesis, while perhaps initially plausible, was refuted by the Exelon Root Cause Analysis, which showed that the Quad Cities cracking was caused by a one-time lifting incident. NEC's Reply fails to rebut this point or to point us to some specific defects in the Entergy models and methodologies that support the grant of an evidentiary hearing. For these reasons, we conclude that Contention 8 fails the specificity requirement of 10 C.F.R. § 2.309(f)(1)(vi).

D. Analysis of NEC Request to Supplement

On June 23, 2006 NEC filed something denominated a "Request to Supplement" NEC Contention 8. The primary thrust of NEC's request is to "place before the Board the Prefiled

¹⁸ See discussion supra p. 9. Documents that petitioners represent as supporting the basis for their contentions are before the Board in their entirety, and the Board is entitled to examine both those portions of the documents that support a petitioner's contention and those that do not. Yankee Atomic Electric Co. (Yankee Nuclear Power Station), LBP-96-2, 43 NRC 61, 90 (1996); rev'd in part on other grounds, CLI-96-7, 43 NRC 235 (1996) ("A document put forth by an intervenor as the basis for a contention is subject to scrutiny both for what it does and does not show.").

Written Testimony of William Sherman, Vermont State Nuclear Engineer, regarding the [Vermont Yankee] Steam Dryer Reliability.” NEC Request to Supplement at 2. The testimony of Mr. Sherman is attached as an exhibit to NEC’s request.¹⁹ Also attached is a declaration by Dr. Joram Hopenfeld, who informs us that he “finds Mr. Sherman’s testimony to be professional and technically credible.”²⁰

For reasons stated in Entergy’s Answer to NEC Request to Supplement, we deny NEC’s request to supplement. If it is a motion, it fails to satisfy the consultation certification requirement of 10 C.F.R. § 2.323(b). If it is an amendment to NEC Contention 8, it fails to even attempt to satisfy the requirements of 10 C.F.R. § 2.309(f)(2) or (c). In any event, the Sherman testimony deals solely with the reliability of the steam dryer and does not even attempt to address public health and safety issues.

¹⁹ NEC Request to Supplement, Exh. 1, Direct Testimony on Steam Dryer Reliability of William Sherman, Vermont Department of Public Service, Before the Vermont Public Service Board (June 21, 2006).

²⁰ NEC Request to Supplement, Exh. 2, Declaration of Dr. Joram Hopenfeld Regarding New England Coalition’s Supplement to a Petition for Leave to File a New Contention (June 23, 2006).

V. CONCLUSION

For the reasons stated above, New England Coalition Contention 8 is not admitted.

It is so ORDERED.

THE ATOMIC SAFETY
AND LICENSING BOARD²¹

/RA/

Alex S. Karlin (Chairman)
ADMINISTRATIVE JUDGE

/RA/

Anthony J. Baratta
ADMINISTRATIVE JUDGE

/RA by E. Roy Hawkens for:/

Lester Rubenstein
ADMINISTRATIVE JUDGE

Rockville, Maryland
July 7, 2006

²¹ Copies of this memorandum and order were sent this date by Internet e-mail transmission to representatives for (1) licensees Entergy Nuclear Vermont Yankee, L.L.C. and Entergy Nuclear Operations, Inc.; (2) intervenor New England Coalition of Brattleboro, Vermont; and (3) the NRC Staff.

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NUCLEAR REGULATORY COMMISSION

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ENTERGY NUCLEAR VERMONT YANKEE L.L.C.) Docket No. 50-271-OLA
and ENTERGY NUCLEAR OPERATIONS, INC.)
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(Vermont Yankee Nuclear Power Station))

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing LB MEMORANDUM AND ORDER (RULING ON ADMISSIBILITY OF ADDITIONAL NEC CONTENTION AND ON REQUEST TO SUPPLEMENT ADDITIONAL CONTENTION) have been served upon the following persons by U.S. mail, first class, or through NRC internal distribution.

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Docket No. 50-271-OLA
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(RULING ON ADMISSIBILITY OF ADDITIONAL
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[Original signed by Adria T. Byrdsong]
Office of the Secretary of the Commission

Dated at Rockville, Maryland,
this 7th day of July 2006