

RAS 12047

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

DOCKETED 07/28/06

ATOMIC SAFETY AND LICENSING BOARD

SERVED 07/28/06

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 28, 2006

ORDER

(Scheduling Site Visit and Evidentiary Hearing)

I. Site Visit Procedures

The Board will conduct a visit to the Entergy Nuclear Vermont Yankee, L.L.C., and Entergy Nuclear Operations, Inc. (collectively, Entergy) power station in Windham County, Vermont, commencing at 9:00 AM, Eastern Daylight Time (EDT), Monday, September 11, 2006. The purpose of the visit is to allow the Board to view the cooling towers and areas of the balance of the plant that are relevant to the contentions admitted in this proceeding. The procedures to be followed during the site visit are attached hereto as Appendix A.

Any motion objecting to the site visit, requesting that the site visit procedures be modified or supplemented, or requesting a recording and transcription of the site visit, must be filed within ten days of the date of this order.

II. Evidentiary Hearing Schedule

The Board will conduct evidentiary hearings on the contentions admitted in this proceeding beginning at 9:00 AM, EDT, Tuesday, September 12, 2006, at the Windham County Courthouse, 7 Court Street, Newfane, Vermont. Hearings will continue as necessary to, and including, Friday, September 15, 2006.

The Subpart L hearing on NEC Contention 4 will begin on September 12, 2006, and continue on the following day as needed. As stated at section III.5 of our April 13, 2006, Revised Scheduling Order (RSO), each party (including the Staff) will, at its own expense and effort, assure that each person for whom it submitted written direct or rebuttal testimony concerning NEC Contention 4 shall attend the evidentiary hearings in person¹ and be available to testify and answer questions, on September 12 and 13, 2006.

The Board will hear testimony on NEC Contention 3 beginning on Wednesday, September 13, 2006, and continuing to, and including, Friday, September 15, 2006, or until the hearing on the contention is complete, whichever comes first. As stated at section III.5 of the RSO, each party (including the Staff) will, at its own expense and effort, assure that each person for whom it submitted written direct or rebuttal testimony concerning NEC Contention 3 shall attend the evidentiary hearings in person and be available to testify and answer questions, on September 13, 14, and 15, 2006.

The public is advised that portions of the evidentiary hearing will involve information that Entergy claims as confidential and business proprietary. Thus, in accordance with 10 C.F.R. § 2.390, those portions of the hearing dealing with such information will be closed to the public

¹ Licensing Board Order (Revised Scheduling Order) (Apr. 13, 2006) at 6 (unpublished).

and may only be attended by representatives of the parties who have signed the Confidentiality and Non-Disclosure Agreement appended to our Protective Order of March 1, 2005.²

It is so ORDERED.

FOR THE ATOMIC SAFETY
AND LICENSING BOARD³

/RA/

Alex S. Karlin
ADMINISTRATIVE JUDGE

Rockville, Maryland

July 28, 2006

² Licensing Board Order (Protective Order Governing Non-Disclosure of Proprietary Information) (Mar. 1, 2005) (unpublished).

³ Copies of this 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.

APPENDIX A

Site Visit Procedures – Vermont Yankee EPU Proceeding

The Atomic Safety and Licensing Board in the matter of Entergy Nuclear Vermont Yankee, L.L.C., and Entergy Nuclear Operations, Inc., Docket No. 50-271-OLA, ASLBP No. 04-832-02-OLA will conduct its view and visit to the Vermont Yankee nuclear power station in accordance with the following procedures:

1. The Board, the NRC Staff, and representatives of the New England Coalition (NEC) and of Entergy will meet at the entrance to the plant, located on Vermont Yankee Drive (off Governor Hunt Road) in Vernon, Vermont, at 9:00 AM, EDT, on Monday, September 11, 2006.
2. One Entergy representative (the “Guide”) will guide the Board and all representatives of the parties on the site visit. Other escorts, if needed for security reasons, will not present information or answer any substantive questions.¹
3. Participation in the site visit is limited to the following number of individuals

¹ Additional statement by Judge Baratta: The purpose of the visit is to allow the Board to view the cooling towers and areas of the balance of the plant that are relevant to the contentions admitted in this proceeding. Unfortunately, the procedure outlined by my colleague, Judge Karlin, will limit the usefulness of the visit for the following reasons. Most utilities are organized such that there is a lead engineer or manager for each structure, system, and component. One of the contentions, NEC Contention 4, deals with a specific component, the ACS safety related cooling towers, and therefore the best guide would likely be one of the cognizant engineers for the ACS system or their manager. For Contention 3, however, which deals with the entire balance of plant, it is likely a different person or guide would be best suited to lead the group. Further, an operating plant is a very noisy environment, often requiring the use of hearing protection in many areas. Such protection makes it difficult for people to hear a tour guide without being in very close proximity. Even with a group as small as the one contemplated here, it is unlikely that all of the participants would be able to hear the guide in a noisy area. To reduce this problem, I consider that the better procedure would be to have multiple guides – each one assigned a group made up of at least one member from each of the parties, thereby avoiding even the perception of an ex parte communication.

- a. Board: The three judges and two additional persons.
 - b. NRC Staff: Two counsel and two additional persons.
 - c. Applicant: One or two counsel and two additional persons (not including the Guide and any required escorts).
 - d. NEC: The pro se representative and two additional persons.
4. Parties shall provide Entergy with the names, addresses, and identification information required by Entergy for the specific individuals who will participate in the site visit at least ten days prior to the site visit.
 5. On the date of the site visit, all individuals participating in the visit must have an acceptable form of government-issued photo identification (e.g., NRC identification badge, state-issued drivers license, etc.).
 6. After all visitors undergo the normal site security and safety procedures, the Guide will provide the Board with a short overview orientation to the plant covering:
 - a. the cooling towers,
 - b. those areas of the balance of the plant that are accessible on the day in question, and
 - c. a mock-up or other representation of an isolation valve, if available.
 7. Entergy is requested to provide the Board and all participants in the site visit with an appropriate map covering the site and these locations. The Guide will then take the Board, together with all representatives of the parties, on a walking and/or vehicular tour of these locations, as a single group, briefly identifying the relevant structures and orienting the Board at each location. The Board members may ask questions relating to site features and location (e.g., What is that structure? What direction are we facing

now?). No other substantive questions or presentations will be entertained or allowed during the site visit.

8. Unless otherwise ordered, the site visit will not be recorded or transcribed.
9. If the site visit participants, including the Entergy, NRC Staff, or Intervenors, believe that any information or communication that occurs during the site visit so warrants, they may file an appropriate motion to supplement the record. Any such motion must be filed within two days after the site visit.
10. Cameras, video recorders, or any type of recording device will not be brought onto the site visit without prior written authorization from the Board.

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

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

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing LB ORDER (SCHEDULING SITE VISIT AND EVIDENTIARY HEARING) 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
Mail Stop - T-3 F23
U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001

Administrative Judge
Anthony J. Baratta
Atomic Safety and Licensing Board Panel
Mail Stop - T-3 F23
U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001

Administrative Judge
Lester S. Rubenstein
4270 E Country Villa Drive
Tucson, AZ 85718

Sherwin E. Turk, Esq.
Steven C. Hamrick, Esq.
Office of the General Counsel
Mail Stop - O-15 D21
U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001

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

Docket No. 50-271-OLA
LB ORDER (SCHEDULING SITE
VISIT AND EVIDENTIARY HEARING)

John M. Fulton, Esq.
Assistant General Counsel
Entergy Nuclear Operations, Inc.
440 Hamilton Avenue
White Plains, NY 10601

Anthony Z. Roisman, Esq.
National Legal Scholars Law Firm
84 East Thetford Rd.
Lyme, NH 03768

Jonathan M. Rund, Esq.
Law Clerk
Atomic Safety and Licensing Board Panel
Mail Stop - T-3 F23
U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001

Sarah Hofmann, Esq.
Special Counsel
Department of Public Service
112 State Street - Drawer 20
Montpelier, VT 05620-2601

Jay E. Silberg, Esq.
Matias F. Travieso-Diaz, Esq.
Scott A. Vance, Esq.
Pillsbury Winthrop Shaw Pittman LLP
2300 N Street, NW
Washington, DC 20037-1128

Terence A. Burke, Esq.
Associate General Counsel
Entergy Services, Inc.
1340 Echelon Parkway
Jackson, MS 39213

[Original signed by R. L. Giitter]
Office of the Secretary of the Commission

Dated at Rockville, Maryland,
this 28th day of July 2006