

**UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION**

Before the Atomic Safety and Licensing Board

November 3, 2006

DOCKETED  
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November 3, 2006 (11:30am)

OFFICE OF SECRETARY  
RULEMAKINGS AND  
ADJUDICATIONS STAFF

In the Matter of )

ENTERGY NUCLEAR VERMONT )

YANKEE, LLC and ENTERGY )

NUCLEAR OPERATIONS, INC. )

(Vermont Yankee Nuclear Power Station) )

Docket No. 50-271

ASLBP No. 04-832-02-OLA

(Operating License Amendment)

**ENTERGY'S OBJECTIONS TO NEW ENGLAND COALITION'S PROPOSED  
HEARING TRANSCRIPT CORRECTIONS**

**INTRODUCTION**

Entergy Nuclear Vermont Yankee, LLC and Entergy Nuclear Operations, Inc. (collectively "Entergy") object to some of the proposed corrections submitted by the New England Coalition ("NEC") to the transcript of the evidentiary hearing held by the Atomic Safety and Licensing Board ("Board") on September 13 and 14, 2006 in this proceeding. See New England Coalition's Proposed Corrections to the Transcript for Evidentiary Hearings of September 13, 14, 2006, dated October 30, 2006 ("NEC Corrections"). Attached hereto is the list of corrections requested by NEC, marked up to indicate those to which Entergy objects.

**DISCUSSION**

At the end of the September 13-14, 2006 hearings, the Board indicated that the parties had twenty days to file proposed corrections to the transcript of the proceedings:

Where do we go from here? The court reporter will generate a transcript of this proceeding. And the parties are welcome to, and can order a copy of it. And, obviously, I think all parties should do so.

We are going to give you 20 days from today's date to submit any transcript corrections, errata, this sort of thing, that may be appropriate, or necessary. At that same day, 20 days, the record in this matter, the evidentiary record in this matter will close.

Tr. 1609 (Karlin). The deadline for transcript corrections was subsequently extended by three weeks at NEC's request. Order (Granting Extension of Time to File Proposed Corrections to Transcript and Proposed Findings of Fact and Conclusions of Law) (October 12, 2006).

The objective of allowing the parties to propose transcript corrections under 10 C.F.R. §2.327(d) is, as Judge Karlin pointed out, to permit the identification and correction of transcription errors, i.e., "errata, this sort of thing."<sup>1</sup> Filing of proposed transcript corrections is not an opportunity for a party to delete statements it wishes its witness had not made, correct or improve on the statements the witness actually made, or add statements the witness did not make. NEC's proposed transcript corrections include several instances of each of these three practices, which are in effect impermissible attempts to modify the witness' testimony.<sup>2</sup>

The following examples illustrate NEC's objectionable practices.

NEC would delete the phrase "one has to be conservative" from line 25 of p. 1540 of the transcript. However, as far as Entergy's counsel recalls, NEC's witness Dr. Joram Hopenfeld did utter that sentence, just as he made the statements on line 5 of p. 1541, line 7 of p. 1545, line 11 of p. 1548, and several others which NEC likewise seeks to delete.

NEC would transform the words "to, so I" (Tr. 1545, line 4) into "to explain some of those terms, so I". The change materially alters what the witness said. NEC would also change

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<sup>1</sup> A clear example of a valid correction is NEC's request to replace "spaces" on line 1 of p. 1534 of the transcript with "spacers."

<sup>2</sup> In that regard, NEC's proposed "corrections" to the transcript are analogous to its efforts to have the record reopened to receive additional evidence from its witness. See NEC's October 24, 2006 Motion to Reopen the Record for the Purpose of Re-Examining Dr. Joram Hopenfeld.

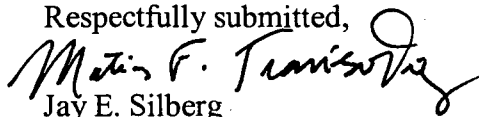
“question” on line 23 of p. 1524 to “answer” – an obviously material change. Likewise, the proposed changes on p. 1520, line 17; p. 1533, line 24; p. 1535, line 1; p. 1547, line 7; p. 1549, line 17; and several others would materially alter the witness’ testimony.

NEC would also add testimony that Dr. Hopenfeld did not give. For example, on line 1 of p. 1535 it would change “is what they said, we agree” to “We (NRC) agree to what they (Entergy) said.” Likewise, on line 17 of p. 1549, NEC would change “question, abnormality” to “question by referring to the word ‘abnormality’”, and on line 9 of p. 1534 “taking every little” would be changed “talking about including every little.” There are a number of other attempts to enlarge on Dr. Hopenfeld’s remarks. They are all clearly impermissible.

### CONCLUSION

The official verbatim transcript is the exclusive record for decision in formal adjudication proceeding such as the instant one. 5 U.S.C. 556(e). It is therefore essential that the integrity of the record be maintained by not allowing material changes to be made to the testimony on the record under the guise of transcript “corrections”. The proposed changes identified in the attachment to this filing would materially alter the record and should therefore not be accepted.

Respectfully submitted,



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November 3, 2006

## ATTACHMENT

### OBJECTIONABLE HEARING TRANSCRIPT CHANGES PROPOSED BY NEC

Page	Line	Delete	Insert	Entergy Objection?
1516	10	base	basis for	
	11	The steady state-the transient concern that	the steady state-the transient concern is that	
	14	the component's already weakened	The components have already been weakened	YES
	18	problem or it	problems that	
	19	SSSCs are -	"SSCs"	
1517	8	And EPU	At EPU?	
1520	8	but	not in	
	11	happens	happened,	
	13	option	item	
	15	know it	know that it	
	16	it doesn't experience any flowing use vibrations, well	it would not experience any flow induced vibrations, well	YES
	17	then I don't think, you know, it's throughout it's	then, I don't think, that you still know that throughout the plant's	YES
	20	Each	If each	
	21	was put	was when it was put in	YES
1523	17	knowledges	analogies	YES
	22	to	for	
1524	16	limited what	limited to what	
	20	been somewhere	been installed somewhere	YES

Page	Line	Delete	Insert	Entergy Objection?
	22	say to answer your question,	say the answer to your question	
	23	question	answer	YES
	24	is	depends on	YES
1525	11	would	would be	
	14	the concern is	there is a concern because	YES
	16	EPIJ	EPU	
	19	answer is, to this	answer to this is	
	20	we are		YES
	22	perform definitely	Perform the tests definitely	YES
1526	4	say	keep	YES
	5	The- we	We	YES
	9	hydraulics	hydraulics is	
	13	reduces	reduces it	
	14	reduce	reduce it	
1527	3	be- one	be specific. One	
	18		we	YES
	19		rely	YES
	21	this	ODYN	
1528	12	everything	other things	
	22	and that is,		YES
	23	that that	that this	
1529	1	confidence	confidence in them	YES
	3	hard to operate	how they operate	
	20	averaGe	average	
1530	4	what you, the trickle power ratio	what. The Critical Power Ratio	
	9	that		YES
	14	that here	with which	
	15	the		YES
1531	13	bypass,	bypass	
	14	too	flow	
1533	13	It		YES

Page	Line	Delete	Insert	Entergy Objection?
	15	density	density at Brunswick	YES
	21	what you should take is	you should use	YES
	22	something,	something, and	
	24	5.2, I don't know the	5.2 power density, I don't know if the	YES
	25	average	average power density.	YES
1534	1	spaces	spacers	
	2	there that	there. That	
	6	dryer	dryers	
	9	talking every little	talking about including every little parameter	YES
	10	in that ODYN	in the ODYN	
	11	that you benchmark	and benchmarked	YES
	13	at, and you apply that	And then you apply ODYN	YES
	14	there with	at Brunswick	YES
	15	these	transient	YES
	16	you make	you can make	
	17	And you say, that	And then you can say that the	YES
	18	bank.	band.	
	21	All I-	-	YES
	22	says	say	
	23	said,	said:	
1535	1	is what they said, we agree	We (NRC) agree to what they (Entergy) said	YES
	15	NED 241	N ED241-54-A	YES
	20	item 01	Exhibit 1	YES
1536	13	H-OPENFELD	HOPENFELD	
1538	3	large transient testing exhibit 3	Large Transient Testing-Exhibit1	YES
	22	EPIJ	EPU	
	23	What they	They	
	25	statement	Statement means.	YES
1539	7	into	to	
	9	what	what is	
	12	Because as it was- okay	Okay,	YES
	16	it	them	

Page	Line	Delete	Insert	Entergy Objection?
1540	5	difference	difference,	
	9	originally	Originally	
	15	And they said, the	And they (NRC) said the code	YES
	16	this is not conservative.	is not conservative. These	YES
	17	These differences are in error	differences represent errors	
	19	say this code is or	say that this code is conservative,	YES
	20	say exactly they	say this exactly. They	
	22	some few data	data in	
	25	one has to be conservative,	-	YES
1541	2	first of all,	is to first	
	3	parameters we are interested	parameters that we are interested in	
	5	the pressure, and you can see	-	YES
	6	the pressure, they compared	and	YES
	7	pressure	pressure, and	
	11	by	with	YES
	12	they can put confidence of on X number of signals on the	you can put a confidence of x sigmas on the	
	13	Confidence of the	-	YES
	14	it	ODYN	
	23	because they	Because they (NRC)	YES
	24	Arnd	-	YES
1542	1	the	-	
	2	One of	for	YES
	3	that	analysis that	YES
	5	o-riginal intent of the code, to predict that	original intent of the code, to predict	YES
	6	parameter, is	-	YES
	7	Critical power ratio for those that	The Critical Power Ratio, for those that this	YES
	8	its	is	
	9	of the	in the fuel	YES
	15	like	like away	YES
	17	potential for a melt	a potential for a fuel melt	YES

Page	Line	Delete	Insert	Entergy Objection?
	18	a safety,	a safety issue,	YES
	19	to that	into	YES
1543	1	that	this	
	3	comparison	comparison of the data,	YES
	5	f requency	frequency	
1544	1	for	for the	
1545	3	Because the heart to your question sits	Because the heart of the answer to your question is	YES
	5	to, so I	to explain some of those terms, so that I	YES
	6	what	what are	
	7	explain some of those terms	-	YES
	9	C and one is the	$C_0$ and the other one	
	11	uncertainty.	uncertainties.	
	12	One	One, $C_0$ ,	
	14	VJ	$V_j$	
	16	at	by	
	17	is	change is	YES
	21	C	$C_0$	
	22	that subzero	$V_j$	
1546	10	kind of information	boiling	YES
	11	would affect,	-	YES
	12	mechanism void	Mechanism of void formation	YES
	20	they've	they've (GE)	YES
1547	1	that	so	
	5	in different plants, the only way I know to make the	from different plants. The only way I know how	
	6	thing, to formalize this experience, is to take a	to formalize this experience, is to use a	YES
	7	computer and these	Computer code. These plants	YES
	8	sitting	-	YES
	9	here	-	YES
	10	fuel level go	fuel level in a tank goes	YES
	12	has differences.	is different.	



Page	Line	Delete	Insert	Entergy Objection?
	13	to do, analyze the	to analyze each	YES
	19	not abnormalities between	no abnormalities in	YES
	23	what abnormality is	what is an abnormality	YES
1548	1	be if an enormous	be: if at	YES
	2	in	into	
	4	into. transition	into transition	
	8	statement to say,	statements as	YES
	9	anything here, therefor	therefore	YES
	11	would look at,	-	YES
	12	put an uncertainty study on	perform an uncertainty study in	YES
	13	one.	Case.	
1549	17	question, abnormality	question by referring to the word "abnormality".	YES
	18	they haven't seen any problem. That	They have not seen any problem, that	
	20	You see abnormality	Do you see abnormality?	
	21	fuel	-	YES
1550	1	what	what was	
	2	was	-	YES
	4	just-the-energy	the	YES
	12	gone to	evaluated	YES
	15	it here	Them somewhere else.	YES
	17	Brunswick, of	Brunswick, or	
	20	different	different,	
	24	because this has a dryer, plus	both plants have dryers. Plus,	YES
	25	modified	modified it	
1551	3	in,in	into	

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ENTERGY NUCLEAR VERMONT	)	Docket No. 50-271
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NUCLEAR OPERATIONS, INC.	)	ASLBP No. 04-832-02-OLA
(Vermont Yankee Nuclear Power Station)	)	(Operating License Amendment)
	)	

CERTIFICATE OF SERVICE

I hereby certify that copies of "Entergy's Objections to New England Coalition's Proposed Hearing Transcript Corrections" were served on the persons listed below by deposit in the U.S. mail, first class, postage prepaid, and where indicated by an asterisk by electronic mail, this 3<sup>rd</sup> day of November, 2006.

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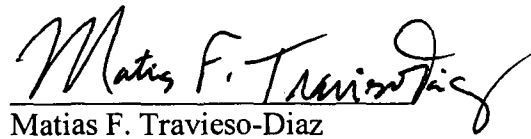
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