

November 27, 2007 (1:57pm)

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

Before Administrative Judges:
Lawrence G. McDade, Chair
Dr. Richard E. Wardwell
Dr. Kaye D. Lathrop

In the Matter of) Docket Nos. 50-247-LR and 50-286-LR
)
ENTERGY NUCLEAR OPERATIONS, INC.) ASLBP No. 07-858-03-LR-BD01
)
(Indian Point Nuclear Generating Units 2 and 3)) November 27, 2007
_____)

**ENTERGY NUCLEAR OPERATIONS, INC. ANSWER TO ADDITIONAL
EXTENSION REQUEST BY
SIERRA CLUB-ATLANTIC CHAPTER**

Entergy Nuclear Operations, Inc. ("Entergy"), in the above-captioned matter, hereby opposes the Additional Extension Request to File Formal Requests for Hearing and Petitions to Intervene with Contentions ("Request") filed on November 21, 2007 by Susan Shapiro, Esq., on behalf of Sierra Club-Atlantic Chapter ("Petitioners").¹ While Entergy maintains that no extension is warranted, it would not object to a 10-day extension of time for Petitioners to file a Petition to Intervene and Request for Hearing for the reasons set forth below.

On October 1, 2007, the Commission extended the deadline to file a Petition to Intervene and Request for Hearing in this license renewal proceeding by an additional 60

¹ It should be noted that Ms. Shapiro recently notified the Commission that she no longer represents Friends United for Sustainable Energy, USA, ("FUSE") but serves as counsel for Westchester Citizens' Awareness Network ("WestCAN"), Rockland County Conservation Association ("RCCA"), and Public Health and Sustainable Energy ("PHASE"). See Letter from S. Shapiro to Chairman D. Klein and L. McDade, dated November 21, 2007. It is unclear, therefore, whether and to what extent Ms. Shapiro is authorized to represent Sierra Club - Atlantic Chapter in this proceeding.

days, from October 1, 2007, to November 30, 2007. *See* 72 Fed. Reg. 55,834. On November 7, 2007, Friends United for Sustainable Energy (“FUSE”) requested an additional extension based upon the recent, limited unavailability of the NRC’s Agencywide Document Access and Management System (“ADAMS”) and also requested that the Commission extend the deadline until 60 days after the NRC responds to FUSE’s pending requests under the Freedom of Information Act (“FOIA”).

By Order dated November 16, 2007, the Commission granted FUSE a 10-day extension to file a Petition to Intervene and Request for Hearing, setting FUSE’s new filing deadline on December 10, 2007. Order at 1 (November 16, 2007) (unpublished). The Commission reasoned that 10 days is sufficient time for FUSE to supplement any Petition to Intervene and Request for Hearing in light of the ADAMS interruption. *Id.* Regarding FUSE’s request to extend the deadline until its FOIA request is processed, however, the Commission rejected that request and noted that it has procedures in place that contemplate late-filed contentions based on new information, assuming the applicable standards are met. *Id.* citing § 2.309(c).

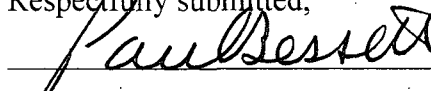
By its own admission, the present Request is nearly identical to FUSE’s November 7 extension request. Request at 1. Therefore, it should be dispositioned in the same manner. While Entergy believes that no extension is warranted as the Petitioners, like all petitioners, have already been generously afforded an additional 60 days (for a total of 120 days), Entergy would not object to a 10-day extension to account for the ADAMS unavailability. In addition, the 10-day extension would generally keep all parties on the same schedule with respect to the deadline for filing a Petition to Intervene and Request for Hearing.² Moreover,

² Any further extensions would warrant an equitable adjustment to the January 11, 2008 deadline for Entergy and the Staff to file their answers to any Petitions to Intervene.

the Commission should not grant any additional time to the Petitioners to accommodate FOIA requests or additional fact-finding. As it has plainly pointed out, the Commission already provides a mechanism and standards for late-filed contentions based on new information, assuming the applicable standards are met. Order at 1. The same reasoning applies here.

For the reasons set forth above, Entergy opposes Petitioners' Additional Extension Request but would not object to a 10-day extension for filing a Petition to Intervene and Request for Hearing.

Respectfully submitted,



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CERTIFICATE OF SERVICE

I hereby certify that copies of "ENTERGY NUCLEAR OPERATIONS, INC. ANSWER TO ADDITIONAL EXTENSION REQUEST BY SIERRA CLUB-ATLANTIC CHAPTER" were served this 27th day of November 2007 upon the persons listed below, by first class mail and e-mail as shown below.

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