

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

COMMISSIONERS

Dale E. Klein, Chairman
Gregory B. Jaczko
Peter B. Lyons

DOCKETED 12/12/07
SERVED 12/12/07

ENTERGY NUCLEAR OPERATIONS, INC.)

(Indian Point Nuclear Generating Units 2 and 3))
_____)

Docket Nos. 50-247-LR and 50-286-LR

CLI-07-28

MEMORANDUM AND ORDER

Before us is an appeal of the Atomic Safety and Licensing Board's December 3, 2007 Order censuring Mr. Sherwood Martinelli, the lay representative for a petitioner to intervene in this proceeding. In particular, the Board censured Mr. Martinelli for both his failure to comply with a procedural Board Order and an *ad hominem* charge in response to a Board action. The charge appeared in correspondence with the NRC Staff that Mr. Martinelli provided to the Board members and other participants. Unpublished Order at 2 & n.2 (Dec. 3, 2007), citing Sherwood Martinelli's letter to Sherwin Turk at 1.

In matters of case management such as this, we generally defer to the Board. We view the Board's Order as a reasonable response to Mr. Martinelli's conduct. See 10 C.F.R. § 2.314(c) (authorizing reprimand, censure or suspension for "contemptuous conduct"); *Metropolitan Edison Co.* (Three Mile Island Nuclear Station, Unit No. 2), ALAB-474, 7 NRC 746, 748-49 (1978) (chastising a *pro se* intervenor for using "insulting and disrespectful" language). We therefore defer to the Board and affirm its December 3 Order.

IT IS SO ORDERED.

For the Commission

/RA/

Annette L. Vietti-Cook
Secretary of the Commission

Dated at Rockville, Maryland,
this 12th day of December, 2007.

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

In the Matter of)
)
ENTERGY NUCLEAR OPERATIONS, INC.) Docket Nos. 50-247/286-LR
)
)
(Indian Point Nuclear Generating,)
Units 2 and 3))

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing COMMISSION MEMORANDUM AND ORDER (CLI-07-28) have been served upon the following persons by electronic mail, followed by deposit of paper copies in the U.S. mail, first class, and NRC internal mail.

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Docket Nos. 50-247/286-LR
COMMISSION MEMORANDUM AND ORDER (CLI-07-28)

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[Original signed by Evangeline S. Ngbea]

Office of the Secretary of the Commission

Dated at Rockville, Maryland
this 12th day of December 2007