

RAS 14937
RAS 14966
RAS 14967

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE COMMISSION

DOCKETED
USNRC

January 22, 2008 (8:30am)

OFFICE OF SECRETARY
RULEMAKINGS AND
ADJUDICATIONS STAFF

In the Matter of)
)
ENTERGY NUCLEAR OPERATIONS, INC.)
)
(Indian Point Nuclear Generating Units 2 and 3))
_____)

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

In the Matter of)
)
ENTERGY NUCLEAR OPERATIONS, INC.)
)
(Pilgrim Nuclear Power Station))
_____)

Docket No. 50-293-LR

In the Matter of)
)
ENTERGY NUCLEAR OPERATIONS, INC.)
)
(Vermont Yankee Nuclear Power Station))
_____)

Docket No. 50-271-LR

January 18, 2008

**ANSWER OF ENTERGY NUCLEAR OPERATIONS, INC. OPPOSING
PETITION TO SUSPEND LICENSE RENEWAL REVIEWS AND PROCEEDINGS**

I. INTRODUCTION

On January 3, 2008, Nuclear Information And Resource Service and various other organizations (collectively "Petitioners") submitted a Petition to the Nuclear Regulatory Commission ("Commission" or "NRC") requesting that the Commission suspend four license

TEMPLATE = SECY-037

SECY-02

renewal proceedings, including those listed above, and take other specified actions (“Petition”).¹ Entergy Nuclear Operations, Inc. (“Entergy”) is submitting this answer pursuant to 10 C.F.R. § 2.323(c) and the Commission Order dated January 11, 2008, in opposition to the Petition. As discussed below, the Petition should be denied because it fails to comply with applicable regulatory requirements, lacks adequate bases, and does not meet Petitioners’ burden to demonstrate that any of the requested actions are justified.

II. BACKGROUND

Petitioner Riverkeeper, Inc. (“Riverkeeper”) has filed a request for hearing and petition to intervene in the Indian Point license renewal proceeding; Riverkeeper’s petition is pending. There has not yet been any determination of whether there will be a hearing on the Indian Point license renewal application (“LRA”). Riverkeeper is not a party in the Pilgrim or Vermont Yankee license renewal proceedings.

Petitioner Pilgrim Watch requested and was granted a hearing on the Pilgrim LRA. The evidentiary hearing in the Pilgrim proceeding is scheduled for April, 2008. Pilgrim Watch is not a party in the Indian Point or Vermont Yankee license renewal proceedings.

Petitioner New England Coalition (“NEC”) requested and was granted a hearing on the Vermont Yankee LRA. The evidentiary hearing in the Vermont Yankee license renewal proceeding is scheduled for June or July, 2008. NEC is not a party in the Indian Point or Pilgrim

¹ “Petition By Nuclear Information And Resource Service; Jersey Shore Nuclear Watch, Inc.; Grandmothers, Mothers And More For Energy Safety; New Jersey Public Interest Research Group; New Jersey Sierra Club; New Jersey Environmental Federation; Riverkeeper, Inc.; Pilgrim Watch And New England Coalition To Suspend License Renewal Reviews For Oyster Creek, Indian Point, Pilgrim, And Vermont Yankee Nuclear Power Plants Pending Investigation Of NRC Staff Review Process And Correction Of Deficiencies” (January 3, 2008). On January 14, 2008, Petitioners served a corrected version of the Petition. References herein are to the corrected version.

license renewal proceedings. The other Petitioners are not parties in the Pilgrim, Vermont Yankee, or Indian Point license renewal proceedings.

The Petition requests that the Commission suspend the currently-pending license renewal proceedings for Entergy's Indian Point, Pilgrim, and Vermont Yankee nuclear power plants, including both ongoing NRC Staff technical reviews and adjudicatory hearings. The requested suspension would last until the NRC completes "a comprehensive overhaul" of the manner in which the agency carries out reviews of LRAs.

III. LEGAL STANDARDS

The Petition does not fit any of the specific forms of pleading specified in the NRC Rules of Practice. The Commission has, however, provided guidance through its rulings on somewhat similar petitions seeking suspension of proceedings. In *Pacific Gas and Elec. Co.* (Diablo Canyon Power Plant Independent Spent Fuel Storage Installation), CLI-02-23, 56 NRC 230 (2002), where the petitioners' objectives were site-specific, the Commission determined that the petition should be treated as a general motion under the rules of practice [then designated as 10 C.F.R. § 2.730, but now designated as 10 C.F.R. § 2.323]. *Id.* at 237. The Commission considered that petition on its merits, and rejected it, noting that it had "determined that moving forward with the proceeding 'would neither present a threat to public safety nor interfere with [its] ongoing regulatory review, and halting it would interfere with [its] goal of adjudication efficiency.'" *Id.* at 238 (citations omitted).

Two provisions of Section 2.323 that are of particular relevance to the Commission's consideration of the Petition are:

1. Motions must be made no later than ten (10) days after the occurrence or circumstance from which the motion arises. 10 C.F.R. § 2.323(a). Thus, in an unpublished Order of the Secretary dated January 8, 2008, issued in the Indian Point license renewal

proceeding (“*Indian Point* January 8, 2008 Secretary’s Order”), a motion was rejected because it was filed one day after the filing deadline.

2. A motion must be rejected if it does not include a certification that the movant has made a sincere, but unsuccessful, effort to contact other parties in the proceeding and resolve the issues raised in the motion. 10 C.F.R. § 2.323(b). An unpublished Order of the Secretary dated December 19, 2007, issued in the same *Indian Point* license renewal proceeding (“*Indian Point* December 19, 2007 Secretary’s Order”), rejected a motion because it did not contain the required certification.

The application of these principles to the Petition is discussed below.

IV. ARGUMENT

A. **The Petition Fails to Comply with Applicable Regulatory Requirements**

Even before reaching the merits of the Petition, the Commission should dismiss it because Petitioners fail to comply with applicable procedural requirements, each of which constitutes an adequate, independent reason for dismissal. First, a motion must be made no later than 10 days after the occurrence or circumstance from which the motion arises. 10 C.F.R. § 2.323(a). As explained below, the occurrences cited in the Petition occurred much longer than 10 days before the filing.

The Office of Inspector General (“OIG”) Audit Report, OIG-07-A-15 (“OIG Report”) is dated September 6, 2007, and ADAMS shows that it was added to that system on September 7, 2007. *Available at* ADAMS Accession No. ML072490486. The Oyster Creek issue, which is addressed in the Petition at 17-19, was documented in ADAMS a *year* earlier. *See* Letter to S. Collins (NRC) from J. Lipoti (NJDEP), regarding Oyster Creek License Renewal Region 1 Inspection – Drywell Corrosion Issue, *available at* ADAMS Accession No. ML062630218 (cited in Pet. at 17); NRC Inspection Report 05000219/2006007 (Sept. 21, 2006), *available at* ADAMS

Accession No. ML0626500596. The Early Site Permit (“ESP”) Atomic Safety and Licensing Board (“ASLB”) decisions cited by the Petition at 19 (Clinton) and 21 (North Anna and Grand Gulf), were issued on December 28, 2006, June 29, 2007, and January 26, 2007, respectively. Thus, the Petition is not timely. As noted above, pursuant to direction from the Commission, the Secretary recently rejected a motion for just this reason. *See Indian Point* January 8, 2008 Secretary’s Order.

Second, a motion “*must be rejected*” if it does not include a certification by the moving party that it has made a sincere effort to contact other parties and resolve the issues raised in the motion. 10 C.F.R. § 2.323(b) (emphasis added). By Order dated December 19, 2007, the Secretary of the Commission rejected a motion for failure to include such a certification in the Indian Point proceeding, and the ASLB in the same proceeding has rejected motions on the same basis. *See Indian Point* December 19, 2007 Secretary’s Order; *see also* Licensing Board Orders, *Entergy Nuclear Operations, Inc.* (Indian Point Nuclear Generating Units 2 and 3) (Denying an Extension of Time Within Which to File Requests for Hearing) (Nov. 28, 2007) (unpublished), and (Granting an Extension of Time Within Which to File Requests for Hearing) (Nov. 29, 2007) (unpublished). No such certification is included with the Petition. Indeed, Entergy counsel was not, to the best of its knowledge, contacted about the issues or even informed, prior to filing, that the Petition was contemplated.

Third, by joining to file the Petition in multiple proceedings, each of the petitioners has filed the Petition in proceedings in which they never made a hearing request or sought permission to participate on any other basis. They have “no legitimate place” in such proceedings. *Diablo Canyon*, CLI-02-23, 56 NRC at 235 n.6.

B. The Petition Lacks Adequate Bases

Petitioners rely upon three principal bases in support of their Petition. First, Petitioners rely extensively on the OIG Report concerning an audit of NRC's License Renewal Program, in support of their assertions that the NRC Staff: failed to document its reviews (Pet. at 13), copied licensee assertions without documented verification (Pet. at 14), may not have conducted any independent reviews at all (Pet. at 15), often did not comment on operating experience (Pet. at 16), and provides inconsistent guidance to its audit team members (Pet. at 16-17). Second, Petitioners point to an issue in the Oyster Creek proceeding involving a missed commitment, as further proof of the NRC Staff's failure to verify that the licensee was fulfilling its commitments (Pet. at 17-19). Third, Petitioners reference questions that were raised by the ASLB in reviews of ESP applications as "supporting the need for greater Commission supervision of the NRC Staff" (Pet. at 19).

The Petition rests entirely on its assertion that these three bases show that NRC Staff reviews for license renewal are "grossly inadequate" (Pet. at 22) and that "the quality of the [NRC] safety review reports is insufficient to support the safety findings required by the [Atomic Energy Act]" (Pet. at 24). A review of these bases clearly demonstrates that they are not accurately characterized in the Petition and that the facts do not support the Petition's assertions.

1. The OIG Report Does Not Support the Petition's Assertions

The Petition purports to rely on judgments expressed in the OIG Report about the adequacy of a "judgmental sample" of statements extracted from various NRC safety reports (Pet. at 12), but ignores the OIG's judgment about the significance of the findings, and the overall adequacy of the NRC reviews and remedial actions. The OIG Report summary states that: "Overall, NRC has developed a comprehensive license renewal process to evaluate

applications for extended periods of operation. However, OIG identified areas where improvements would enhance program operations.” OIG Report at i.

The OIG’s summary is consistent with the body of the OIG Report, which neither states that the NRC reviews were inadequate nor that the improvements OIG recommended were necessary to comply with the Atomic Energy Act or any other legal standard. Indeed, the OIG Report does not cite a single instance of failure to comply with the extensive NRC guidance on LRA reviews, or any NRC approval of a program that did not comply with NRC requirements. Moreover, OIG’s statements—since issuing the OIG Report—confirm that OIG does not believe the NRC license renewal reviews have been inadequate to meet NRC’s legal obligations.

For example, if the OIG had believed that the NRC reviews were inadequate, it would have considered that finding to have affected, not only the eight LRAs that were then pending, but also the 48 that NRC had already approved (*see* OIG Report at 5); *i.e.*, together totaling more than half of the operating plants in the United States. Surely, such a far-reaching concern would have led the OIG to conclude that remediation would be an enormous challenge to the NRC. Yet OIG clearly has not expressed any such concern; OIG did not even mention its license renewal program audit in its report of such challenges—OIG-07-A-20, Inspector General’s Assessment of the Most Serious Management and Performance Challenges Facing NRC, dated September 28, 2007 (“Most Serious Challenges Report”), *available at* ADAMS Accession No. ML072710216. Although the OIG Report on license renewal was then recent, and the NRC Staff had not yet responded to its recommendations, the only discussion of license renewal in the Most Serious Challenges Report concerns planning agency resources to conduct future reviews. *Id.* at 10. Nevertheless, the Petition asserts that:

In the OIG’s analysis, these failures “cast doubt as to what, exactly, NRC did to independently review the license’s program

other that restate what was provided in the renewal application.”
OIG Report at 10. In addition “readers of the safety reviews could
[reasonably] conclude that “regulatory decisions are not adequately
reviewed or documented.” OIG Report at 12.

Pet. at 23. When read in context, however, it is clear that the cited OIG statements focus on the level of detail provided in the NRC safety reports, not the NRC Staff review methodology or the adequacy of its review. *See* OIG Report at 8-12.

The first partial quote, from page 10 of the OIG Report, is an elaboration on the statement that “[t]he lack of precision in differentiating quoted and unquoted text makes it difficult for the reader to distinguish between the licensee-provided data and NRC staff’s independent assessment methodology and conclusion.” OIG Report at 9. Similarly, the full sentence on page 12 of the OIG Report, from which the other partial quote is taken, reads: “The lack of an effective report quality assurance process to ensure that review methodology and support for conclusions are provided in the license renewal reports could lead readers to conclude that regulatory decisions are not adequately reviewed and documented.” OIG Report at 12. Thus, these OIG statements are related to the clarity and documentation of the NRC review, not the adequacy of the review itself.

The OIG’s concerns—report precision and the amount of independent review of operating experience—clearly involve matters of judgment of the type committed by law to agency discretion, and do not raise any question about compliance with the Atomic Energy Act or any other legal standards. *See Nuclear Info. Res. Serv. v. NRC*, 969 F.2d 1169, 1175 (D.C. Cir. 1992) (“NRC is endowed with significant discretion in determining what information is

necessary to support the various findings required in the licensing process.”)² With respect to the NRC Staff’s overall approach to review of applications, the Commission recently held,

We consider our current regulatory approach, of relying on our licensees to submit complete and accurate information, and auditing that information as appropriate, to be consistent with sound regulatory practice.

* * *

We fully expect our Staff to continue to utilize our longstanding approach of *only verifying facts as necessary, based on its expert judgment*. . . .

Exelon Generation Co., LLC (Early Site Permit for Clinton ESP Site), CLI-07-12, 65 NRC 203, 207-08 (2007) (*emphasis added*). The OIG Report recommendations may be valuable insights regarding opportunities for improvement in the audit process, but they do not constitute any breakdown in the application review process or significant safety issues.

The Petition, however, further asserts that the OIG’s discussion of coatings degradation at the Oconee Plant indicates that “the [NRC] Staff may not have conducted any independent reviews at all.” Pet. at 23. The OIG Report does not make such a statement, and this hyperbole simply does not withstand even modest probing. As described in the OIG Report, the NRC Staff reports on Oconee license renewal did not state that NRC did an independent review of the operating experience of the Oconee coatings program. The OIG Report does not suggest that the NRC Staff was required to have selected this area for detailed review. See OIG Report at 22. Instead, it cites the coatings as an example of the potential value of NRC independently reviewing operating experience. OIG Report at 21-23. Since an audit, by definition, is a sampling process (*see Clinton*, CLI-07-12, 65 NRC at 207-08), the NRC Staff’s decision not to

² Similarly, Petitioners assert that “the OIG found that the agency neither had clear and consistent guidelines nor a quality assurance program for the license renewal safety reviews.” Pet. at 3. In contrast, the OIG Report states, “DLR has not fully established *report-writing standards* and does not have a *report quality assurance process to ensure adequate documentation*.” OIG Report at 7 (*emphasis added*).

subject the coatings to detailed scrutiny is not proof that the NRC's audit of the Oconee aging management programs was deficient.³

The Petition also argues that the NRC Staff's proposed remedial measures to address the OIG Report recommendations are inadequate because they are "prospective only." Pet. at 26. In a recent memorandum, however, the OIG stated that the NRC Staff's remedial measures resolve the OIG Report recommendations to the NRC Staff (the only open recommendation is the one to the Commission concerning the backfit rule). See Memorandum to L. Reyes, Executive Director for Operations, from S. Dingbaum, Assistant Inspector General for Audits (Jan. 7, 2008), available at Accession No. ML080070247. This is another confirmation that the OIG does not view the findings of the OIG Report as raising significant questions about the adequacy of the NRC reviews.

Thus, neither the OIG Report nor the coatings experience at the Oconee Plant support the Petition's assertions that the NRC license renewal reviews are inadequate. Moreover, there is extensive NRC guidance on how it conducts its reviews of LRAs. See NUREG-1800, Standard Review Plan for Review of License Renewal Applications for Nuclear Power Plants, which incorporates by reference the Generic Aging Lessons Learned Report (NUREG-1801) and Standard Format and Content for Applications To Renew Nuclear Power Plant Operating Licenses (Regulatory Guide 1.188); NRC Manual Chapter 2516, Policy and Guidance, for License Renewal Inspection Programs; NRC Inspection Procedure 71002, License Renewal

³ It also is not clear that the example proves OIG's point. The OIG Report states that the Oconee LRA mentioned minor local coatings failures, but OIG found that within a few years after license renewal there were 20 degraded coatings entries in the Oconee corrective action program. OIG Report at 22. The OIG Report does not, however, say whether the coatings issues that had occurred either before or after license renewal involved age-related degradation. In *AmerGen Energy Company, LLC* (License Renewal for Oyster Creek Nuclear Generating Station), LBP-07-17 (slip op. at 54-55) (Dec. 18, 2007), available at ADAMS Accession No. ML073520402, the ASLB found that the Oconee coatings issue cited by the OIG Report was not an end-of-life

Inspections; NRR Office Letter No. 805, License Renewal Application Review Process. There is no suggestion in the OIG Report that the NRC Staff was not following that guidance. The Commission has recognized that compliance with such guidance is appropriate. *See Clinton, CLI-07-12, 65 NRC 203.*

It also should be noted that the OIG Report does not address the NRC Staff's review of Indian Point (which is still in the early stages) or Pilgrim. Further, while the OIG Report sampled the Vermont Yankee review, Petitioners concede that the report for Vermont Yankee was the "best report" among those examined by the OIG.⁴ Pet. at 16. Thus, it is remarkable that the Petitioners would use the OIG Report to attempt to single out Entergy's proceedings for suspension.

2. The Oyster Creek Issue Is Not Evidence that NRC Reviews Are Inadequate

The Petition, at 17-19, discusses a matter related to the Oyster Creek license renewal proceeding, but does not explain how it provides any support for the Petition. As described in the Petition, during an NRC inspection of Oyster Creek, NRC inspectors found that the licensee had not carried out a commitment made some eight years earlier (*i.e.*, long before filing the LRA). NRC documented this inspection finding and reviewed and accepted the licensee's corrective action. *See* Pet. at 17. Petitioners apparently believe that the NRC should have independently investigated the cause and required some other corrective action. Pet. at 17-18. Petitioners' disagreement with the NRC Staff's judgment about the adequacy of the Oyster Creek licensee's corrective action does not show that there is a comprehensive or fundamental

failure but, rather, occurred due to improper coating application and curing, and exposure to unusual humidity during major plant modifications. *AmerGen, LBP-07-17, slip op. at 55.*

⁴ As reflected in the OIG Report, approximately 70 percent of the audit, inspection and safety evaluation report samples examined by OIG for Vermont Yankee included substantive comments on operating experience. *See*

deficiency in the NRC review process. Nor is such information relevant and within the scope of the above-captioned Entergy license renewal proceedings.

3. Questions Raised by ASLBs in ESP Hearings Do Not Reveal any Deficiency in the NRC License Renewal Reviews

Finally, leaving the license renewal arena of 10 C.F.R. Part 54, the Petition cites the records of ASLB reviews of ESP applications. Pet. at 19-21. Again, the Entergy license renewal proceedings do not in any way involve applications for an ESP, so this purported basis for the Petition is invalid and outside the scope of the above-captioned proceedings. Since the ESP is not associated with license renewal reviews, it is surprising that Petitioners fail to explain their relevance.

In any event, the ASLB requests for additional detail or clarification in the context of ESP mandatory hearings, do not prove that the NRC reviews were inadequate. In fact, in each case, the application was approved without requiring any suspension of the NRC review process, or a redundant application review. In addition, the Commission already has addressed the significance of the ASLB comments and concluded that the NRC's current regulatory approach is consistent with sound regulatory practice. See *Clinton*, CLI-07-12, 65 NRC 203, 207-08.

In short, the bases cited in the Petition do not demonstrate any inadequacy in the NRC Staff review of LRAs and do not provide justification for the requested relief pursuant to 10 C.F.R. § 2.323(b).

C. Suspension of These Proceedings Is Unjustified

As shown above, the Petitioners have provided no basis for suspending the Indian Point, Vermont Yankee, and Pilgrim license renewal proceedings. Indeed, they have not identified any

OIG Report at 9, Figure 3. Conversely, there were no instances where the review methodology was not mentioned or specific support for the Staff's conclusions not provided. *Id.* at 46, Table 2.

particular substantive deficiency in the NRC Staff's review of these applications. Moreover, it should be recognized that the NRC Staff's LRA reviews are extensive, typically taking approximately two years,² and involving on the order of 19,000 person-hours of effort. Financial Information Requirements for Applications to Renew or Extend the Term of an Operating License for a Power Reactor, 69 Fed. Reg. 4439, 4445 (Jan. 30, 2004). In addition to a close reading of the application, such reviews include requiring the applicant to respond to numerous Requests for Additional Information; performing on-site audits of the applicant's process for the scoping and screening of components, the aging management reviews, and aging management programs; and additional inspections by regional staff to verify the effectiveness of those programs. The inspections include reviews of the structures, systems and components to verify that any observable aging effects have been identified and that aging management programs will provide sufficient opportunity to detect, monitor, trend, and correct age-related degradation through performance and condition monitoring, technical specification surveillances, and other aging management activities. NRC Inspection Procedure 71002, at 3 (Feb. 18, 2005). The inspections also verify that required information is retrievable and auditable. *Id.* at 1.

Thus, there is no basis for Petitioners' assertion that NRC does not have an adequate basis to determine whether the aging management programs for Indian Point, Pilgrim, and Vermont Yankee provide adequate protection to the public health and safety (Pet. at 3-4). Similarly, there is no basis for Petitioners' claims that the NRC Staff has deprived the public of meaningful hearing rights (Pet. at 28-30). As the Commission has long stated, the sole focus of a

² See <http://www.nrc.gov/reactors/operating/licensing/renewal/process.html#review-time>.

hearing is on whether an application satisfies NRC requirements, and not on the adequacy of the NRC Staff's performance.⁶

The Petition requests that the Commission suspend four of the ten license renewal proceedings currently underway, "and conduct a comprehensive overhaul of the manner in which reviews of LRAs are carried out" (Pet. at 1, 30-31). The Petition asserts that such an overhaul should include an independent investigation of the NRC Staff reviews to determine if they are "searching, independent, and thorough technical reviews." *Id.*⁷

The discussion above shows that the Petition does not establish the need for any such overhaul. In addition, as explained below, independent reviews of the sort requested by Petitioners already occur routinely for each LRA. Further, even if additional measures are required—which they are not—they could readily be conducted concurrent with the license renewal proceedings. To suspend these proceedings would be entirely inconsistent with Commission practice and precedent. The Commission has repeatedly emphasized the importance of avoiding unnecessary delays in the NRC's review and hearing processes, and an applicant's right to timely resolution of disputes concerning their applications. *See Changes to Adjudication Process*, 69 Fed. Reg. 2182.

The Commission addressed a very similar petition for suspension in *Diablo Canyon*, CLI-02-23, 56 NRC 230. There the petition requested suspension pending the Commission's comprehensive review of measures to protect against terrorism. The Commission stated that in addressing this question, it considered "whether moving forward with the adjudication will

⁶ "The adequacy of the applicant's license application, not the NRC staff's safety evaluation, is the safety issue in any licensing proceeding, and under longstanding decisions of the agency, contentions on the adequacy of the SER are not cognizable in a proceeding." *Changes to Adjudicatory Process*, 69 Fed. Reg. 2182, 2202 (Jan. 14, 2004) (citations omitted). This principle is reflected in the NRC's Rules of Practice, at 10 C.F.R. § 2.309(f)(2).

jeopardize the public health and safety, prove an obstacle to fair and efficient decision-making, or prevent appropriate implementation of any pertinent rule or policy changes that might emerge from our important ongoing evaluation of terrorism-related policies.” *Id.* at 238 (quoting *Private Fuel Storage, L.L.C.* (Independent Spent Fuel Storage Installation), CLI-01-26, 54 NRC 376, 380 (2001)); and *citing* other prior Commission decisions.⁸ The same principles apply here; moving forward with the NRC license renewal reviews and adjudications will not jeopardize the public health and safety, prove an obstacle to fair and efficient decisionmaking, or prevent appropriate implementation of any pertinent rule or policy changes that might emerge from any further investigation that might be conducted. If the NRC were to find the need for changes in the NRC review methods, then the Commission would be able to consider the implications of the findings for previously-completed reviews. Such analyses of the generic implications of new information are a normal element of the NRC regulatory process. In short, there is no justification for delaying NRC’s consideration of the Entergy applications.

Here, as shown above, the Petition does not show that there is a need for such an investigation. Moreover, there is good reason to believe that there is no need for any such investigation. The comprehensive question and answer databases on the license renewal dockets is clear proof of the detailed nature of the NRC reviews. In addition, many independent reviews of the details of the license renewal process already have been conducted or are scheduled. The OIG Report is, itself, one example of an independent review, but there are other reviews.

⁷ The Petition also requests the NRC to reopen the record in certain proceedings, Pet. at 1, 31, but that request is not applicable to the Entergy proceedings since the record has not been closed in any of them.

⁸ In *Private Fuel*, the Commission discussed in some detail a long history of NRC’s consistent application of these principles. 54 NRC at 381-83.

The most prominent review process is the review conducted by the Advisory Committee on Reactor Safeguards (“ACRS”), which reviews each LRA and associated NRC Safety Evaluation Report and provides a written report. *See* 10 C.F.R. § 54.25. The ACRS routinely questions the applicant and the NRC Staff about their reviews. For example, the minutes of the April 4, 2007 ACRS subcommittee meeting on the Pilgrim plant, *available at* ADAMS Accession No. ML080080431, includes detailed discussion of operating experience, including results of inspections of the containment shell, findings of water in the torus room, salt build-up on switchyard components, etc.

Of course, NRC management, which is responsible for assuring the NRC Staff acts in accordance with NRC requirements, also conducts its own management reviews. For example, the NRC Staff response to the OIG recommendations, which is mentioned in the Petition at 26 n.9, discusses improvement activities that were initiated at management direction before the start of the OIG audit. Another example is presented by a Memorandum from J. Wiggins, Chairman, Lessons-Learned Oversight Board, to L. Reyes, NRC Executive Director for Operations (Jan. 3, 2008), *available at* ADAMS Accession No. ML073600202. The memorandum describes a process of reviewing OIG reports and other information to identify lessons learned.

Another type of independent review is contested hearings on individual applications themselves. Although hearings do not review NRC Staff performance, the NRC Staff often testifies about the reviews it conducted that are related to the hearing issues. Such testimony allows the ASLB to assess the NRC Staff review process, and the Commission then has the opportunity to review such information as part of its review of the record. Petitioners Pilgrim Watch and NEC are parties, respectively, in the Pilgrim and Vermont Yankee license renewal proceedings, and will have the opportunity to attempt to prove their contentions about the

respective applications in the upcoming hearings. Their proof will also reflect on the NRC Staff review, to the extent that the NRC Staff approved the aspects of the applications at issue.

In short, the NRC LRA review process has been subject to numerous reviews, and continues to be reviewed. These reviews collectively provide reasonable assurance that there are no significant shortcomings in the process.

V. CONCLUSION

Suspending ongoing license renewal proceedings is an extraordinary remedy that is not warranted and should not be granted. Petitioner has not made a compelling demonstration that such extraordinary relief is warranted. Here, Petitioners would have the Commission suspend the proceedings to review Entergy's applications, and deny Entergy a prompt review, without *any* showing whatsoever of an error or deficiency in Entergy's applications or the NRC Staff's review. Clearly, Petitioners have not demonstrated *any* justification for the extraordinary relief they seek. Further, they have ignored the NRC rules governing motions. For all of these reasons, the Petition should be denied in its entirety.

Respectfully submitted,



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Counsel For Entergy Nuclear Operations, Inc.

Dated at Washington, D.C.
this 18th day of January 2008.

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE COMMISSION

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January 18, 2008

CERTIFICATE OF SERVICE

I hereby certify that copies of "Answer of Entergy Nuclear Operations, Inc. Opposing Petition to Suspend License Renewal Reviews and Proceedings" were served this day upon the persons listed below, by Email and first class mail, unless otherwise noted. Parties who are in more than one proceeding are served only once.

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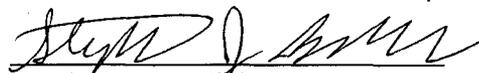
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