

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

DOCKETED 01/31/08

SERVED 01/31/08

ATOMIC SAFETY AND LICENSING BOARD

Before Administrative Judges:

Lawrence G. McDade, Chairman
Dr. Kaye D. Lathrop
Dr. Richard E. Wardwell

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

ASLBP No. 07-858-03-LR-BD01

January 31, 2008

ORDER

(Granting Motions of New York and Riverkeeper for Extension of Time)

In an Order, dated January 2, 2008, this Board directed that all Answers to Petitions to Intervene be filed on or before January 22, 2008, and that any Reply thereto be filed on or before February 8, 2008.¹ Thereafter, in accordance with that Order, the NRC Staff and the Applicant, Entergy Nuclear Operations, Inc. (Entergy), timely filed their Answers to the numerous Petitions to Intervene.²

On January 29, 2008, the State of New York (New York) filed a Motion requesting a

¹ Licensing Board Order (Clarifying Time for Entergy to File Answers to CRORIP 10 C.F.R. 2.335 Petition) (Jan. 2, 2008).

² NRC Staff's Response to Petitions for Leave to Intervene Filed by (1) Connecticut Attorney General Richard Blumenthal, (2) Connecticut Residents Opposed to Relicensing of Indian Point, and Nancy Burton, (3) Hudson River Sloop Clearwater, Inc., (4) the State of New York, (5) Riverkeeper, Inc., (6) the Town of Cortlandt, and (7) Westchester County (Jan. 22, 2008); Answer of Entergy Nuclear Operations, Inc. Opposing New York State Notice of Intention to Participate and Petition to Intervene (Jan. 22, 2008), Answer of Entergy Nuclear Operations, Inc. Opposing Riverkeeper Inc.'s Request for Hearing and Petition to Intervene (Jan. 22, 2008).

fourteen-day Extension of Time within which to file its Reply.³ In its Motion, New York stated that, although Entergy's Answer and supporting Exhibits were timely filed on January 22, 2008, the Exhibits, which were sent to New York via first class mail, were not received until January 29, 2008.⁴ New York further stated that the delay in receiving these exhibits impacted the review of these exhibits by various experts who had been scheduled by the Petitioner based on the timing set out in the Board's Order of January 2, 2008.⁵

New York, which had served its Petition to Intervene via overnight courier service (Federal Express), asked Entergy to reciprocate this courtesy, and even offered to pay the costs of that expedited service.⁶ Entergy, the party who seemingly has the greatest interest in expediting this proceeding, declined to honor this patently reasonable request.⁷ As noted by New York in its motion,⁸ Entergy had no legal obligation to send its exhibits to New York via overnight courier, however, to have done so would have served to expedite these proceedings and its failure to do so is puzzling.

Counsel for the NRC Staff and Entergy agreed to a seven-day extension but not to the requested fourteen-day extension.⁹ New York's Motion for a fourteen-day extension of time is granted, and accordingly, New York may file its Reply on or before February 22, 2008.

³ State of New York's Motion for Extension of Time in Which to File a Reply (Jan 28, 2008) [hereinafter "NY Extension Motion"].

⁴ Id. at 2.

⁵ Id. at 3.

⁶ Id.

⁷ Id. We note with approval that the NRC Staff served electronic copies of its filings on January 22, 2008 and paper copies of its filings that were received by New York on Jan. 25, 2008. Id.

⁸ NY Extension Motion at 3.

⁹ Id. at 4.

Also on January 29, 2008, Riverkeeper, Inc. filed a Motion for Extension of Time asking for an additional seven (7) days within which to file its Reply.¹⁰ Neither the NRC Staff nor Entergy opposed this Motion.¹¹

The Motion for a seven-day extension is granted. Riverkeeper may file its Reply on or before February 15, 2008.

It is so ORDERED.

FOR THE ATOMIC SAFETY
AND LICENSING BOARD¹²

/RA/

Lawrence G. McDade, Chairman
ADMINISTRATIVE JUDGE

Rockville, MD
January 31, 2008

¹⁰ Riverkeeper, Inc.'s Unopposed Motion For Extension of Time in Which to Reply to Oppositions to Riverkeeper's Hearing Request (Jan 29, 2008).

¹¹ Id. at 1.

¹² Copies of this Order were sent this date by Internet e-mail to: (1) Counsel for the NRC Staff; (2) Counsel for Entergy; (3) Counsel for the State of New York; (4) Counsel for the State of Connecticut; (5) Counsel for Riverkeeper, Inc.; (6) Counsel for WestCan, RCCA, PHASE, the Sierra Club - Atlantic Chapter; and Richard Brodsky; (7) Nancy Burton, the Representative of CRORIP; (8) Manna Jo Green, the Representative for Clearwater; (9) John LeKay, the Representative for FUSE; (10) Counsel for Westchester County; and (11) Counsel for the Town of Cortlandt.

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

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing LB ORDER (GRANTING MOTIONS OF NEW YORK AND RIVERKEEPER FOR EXTENSION OF TIME) have been served upon the following persons by U.S. mail, first class, or through NRC internal distribution.

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Docket Nos. 50-247/286-LR
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[Original signed by Christine M. Pierpoint]

Office of the Secretary of the Commission

Dated at Rockville, Maryland
this 31st day of January 2008