UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

DOCKETED 03/18/08
SERVED 03/18/08

ATOMIC SAFETY AND LICENSING BOARD

Before Administrative Judges:

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

In the Matter of	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)	March 18, 2008

ORDER
(Scheduling Briefing Regarding the Effect of License Amendment 2 on Pending Contentions)

On January 22, 2008, Fred R. Dacimo, Vice President, License Renewal, Entergy Nuclear Operations, Inc., submitted to the U.S. Nuclear Regulatory Commission ("NRC") an Amendment to Entergy's License Renewal Application ("LRA") for the Indian Point Nuclear Facility.[1] That amendment related to New York State Proposed Contention 26 ("NYS 26") and Riverkeeper, Inc. Proposed Contention TC-1 ("RK TC-1"), the admission of which had not initially been opposed by the NRC Staff.[2] Thereafter, on March 4, 2008, NRC Staff sent a letter to the Board in which it stated that, in its judgement, License Amendment 2 cured the

[1] Entergy Letter NL-08-021, Letter from Fred R. Dacimo, Entergy Vice President, License Renewal, to NRC Docket Control Desk (Jan. 22, 2008) [hereinafter License Amendment 2].

[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 at 77-78; 115-18 (Jan. 22, 2008).

deficiencies cited in NYS 26 and RK TC-1.[3]

At Oral Argument on March 11, 2008, we advised counsel for New York State to notify the Board by Monday, March 17, 2008, whether they would seek to respond in writing to License Amendment 2 and/or the NRC Staff's change of position based on the Amendment. We also asked New York, if they chose to submit a reply, how much time would they need within which to so.[4] During Oral Argument the following day, March 12, 2008, we advised Riverkeeper the same.[5]

Both New York State and Riverkeeper advised the Board that they wished to respond in writing.[6] New York State asked to have until April 7, 2008, to reply while Riverkeeper requested to have until March 31, 2008, to reply. Those requests are granted. However, in the interest of being consistent, the Board directs that both New York State and Riverkeeper shall submit their responses and, if necessary, any amended contentions on or before April 7, 2008. Entergy and NRC Staff may then submit a reply on or before April 21, 2008. No other pleadings will be accepted on this issue absent further order by the Board.

Additionally, New York State requested an opportunity to respond to NRC Staff's opposition to New York State Proposed Contentions 30 and 31.[7] (NRC Staff alerted the Board and the Petitioners to the change of position during the Oral Argument on March 11, 2008.[8])

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[3] Letter from David E. Roth and Kimberly A. Sexton, Counsel for the NRC Staff, to the Licensing Board (Mar. 4, 2008).

[4] Tr. at 418-20.

[5] Tr. at 586-87.

[6] Letter from Joan Leary Matthews and John Sipos, Counsel for New York State, to the Licensing Board (Mar. 17, 2008); Letter from Diane Curran, Phillip Musegaas and Victor Tafur, Counsel for Riverkeeper, to the Licensing Board (Mar. 17, 2008).

[7] Tr. at 490.

[8] Tr. at 467.

Accordingly, the Board will allow New York State to submit its response on or before April 7, 2008. Entergy and NRC Staff may then submit a reply on or before April 21, 2008, if they so choose. No other pleadings will be accepted on this issue absent further order by the Board.

It is so ORDERED.

FOR THE ATOMIC SAFETY
AND LICENSING BOARD[9]

/RA/

Lawrence G. McDade, Chairman
ADMINISTRATIVE JUDGE

Rockville, MD
March 18, 2008

[9] 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) Nancy Burton, the Representative of CRORIP; (7) Manna Jo Green, the Representative for Clearwater; (8) Counsel for Westchester County; (9) Counsel for the Town of Cortlandt; and (10) Counsel for WestCan, RCCA, PHASE, the Sierra Club - Atlantic Chapter; and Richard Brodsky.

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 LB ORDER (SCHEDULING BRIEFING REGARDING THE EFFECT OF LICENSE AMENDMENT 2 ON PENDING CONTENTIONS) have been served upon the following persons by U.S. mail, first class, or through NRC internal distribution.

Office of Commission Appellate
Adjudication
U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001

Administrative Judge
Lawrence G. McDade, Chair
Atomic Safety and Licensing Board Panel
Mail Stop - T-3 F23
U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001

Administrative Judge
Richard E. Wardwell
Atomic Safety and Licensing Board Panel
Mail Stop - T-3 F23
U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001

Administrative Judge
Kaye D. Lathrop
190 Cedar Lane E.
Ridgway, CO 81432

Sherwin E. Turk, Esq.
Lloyd B. Subin, Esq.
Beth N. Mizuno, Esq.
David E. Roth, Esq.
Kimberly A. Sexton, Esq.
Christopher C. Chandler, Esq.
Karl Farrar, Esq.
Catherine Marco, Esq.
Office of the General Counsel
Mail Stop - O-15 D21
U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001

Arthur J. Kremer, Chairman
New York AREA
347 Fifth Avenue, Suite 508
New York, NY 10016

Docket Nos. 50-247/286-LR
LB ORDER (SCHEDULING BRIEFING REGARDING THE EFFECT
OF LICENSE AMENDMENT 2 ON PENDING CONTENTIONS)

Michael J. Delaney, Vice President - Energy
New York City
Economic Development Corporation
110 William Street
New York, NY 10038

Robert D. Snook, Esq.
Assistant Attorney General
of the State of Connecticut
55 Elm Street
P.O. Box 120
Hartford, CT 06141-0120

Martin J. O'Neill, Esq.
Kathryn M. Sutton, Esq.
Paul M. Bessette, Esq.
Mauri T. Lemoncelli, Esq.
Morgan, Lewis & Bockius LLP
1111 Pennsylvania Avenue, NW
Washington, DC 20004

Thomas F. Wood, Esq.
Daniel Riesel, Esq.
Counsel for the Town of Cortlandt
Sive, Paget & Riesel, P.C.
460 Park Avenue
New York, NY 10022

Daniel E. O'Neill, Mayor
Village of Buchanan
James Seirmarc, M.S., Liaison to Indian Point
236 Tate Avenue
Buchanan, NY 10511

Nancy Burton
Connecticut Residents Opposed to
Relicensing (CROIP)
147 Cross Highway
Redding Ridge, CT 06876

Charlene M. Indelicato, Esq.
Westchester County Attorney
Justin D. Pruyne, Esq.
Assistant County Attorney
148 Martine Avenue, 6th Floor
White Plains, NY 10601

Janice A. Dean, Assistant Attorney General
Office of the Attorney General
of the State of New York
120 Broadway, 26th Floor
New York, NY 10271

Andrew M. Cuomo, Esq.
Attorney General of the State of New York
John J. Sipos, Esq.
Assistant Attorney General
The Capitol
Albany, NY 12224-0341

Joan Leary Matthews, Esq.
Senior Counsel for Special Projects
Office of General Counsel
New York State Department of
Environmental Conservation
625 Broadway
Albany, NY 12224

Docket Nos. 50-247/286-LR
LB ORDER (SCHEDULING BRIEFING REGARDING THE EFFECT
OF LICENSE AMENDMENT 2 ON PENDING CONTENTIONS)

FUSE USA
Heather Ellsworth Burns-DeMelo
John LeKay
Remy Chevalier
Belinda J. Jaques
Bill Thomas
351 Dyckman Street
Peekskill, New York 10566

Elise N. Zoli, Esq.
Goodwin Procter, LLP
Exchange Place
53 State Street
Boston, MA 02109

Diane Curran, Esq.
Counsel for Riverkeeper, Inc.
Harmon, Curran, Spielberg,
& Eisenberg, L.L.P.
1726 M. Street N.W., Suite 600
Washington, DC 20036

Riverkeeper, Inc.
Phillip Musegaas, Esq.
Victor Tafur, Esq.
828 South Broadway
Tarrytown, NY 10591

Westchester Citizen's Awareness Network
(WestCan), Citizens Awareness Network
(CAN), etc.

Susan H. Shapiro, Esq.
21 Perlman Drive
Spring Valley, NY 10977

Richard L. Brodsky
Assemblyman
5 West Main Street
Suite 205
Elmsford, NY 10523

Mylan L. Denerstein
Executive Deputy Attorney General
Social Justice
Office of the Attorney General
of the State of New York
120 Broadway, 25th Floor
New York, NY 10271

Docket Nos. 50-247/286-LR
LB ORDER (SCHEDULING BRIEFING REGARDING THE EFFECT
OF LICENSE AMENDMENT 2 ON PENDING CONTENTIONS)

Manna Jo Greene, Director
Hudson River Sloop Clearwater, Inc.
112 Little Market St.
Poughkeepsie, NY 12601

Stephen C. Filler, Board Member
Hudson River Sloop Clearwater, Inc.
303 South Broadway, Suite 222
Tarrytown, NY 10591

[Original signed by Christine M. Pierpoint]

Office of the Secretary of the Commission

Dated at Rockville, Maryland
this 18th day of March 2008