

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

DOCKETED 04/09/08
SERVED 04/09/08

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

April 9, 2008

ORDER

(Granting Riverkeeper, Inc.'s Motion and Amending Briefing Schedule)

On April 3, 2008, Riverkeeper, Inc. (Riverkeeper) filed an unopposed Motion in which it asked the Board to modify the briefing schedule relating to Riverkeeper's Amended Contention TC-1 (RK Am TC-1). We GRANT Riverkeeper's Motion and also take additional steps to avoid confusion with regard to additional pleadings that may be filed in this proceeding.

As noted in our Order of March 18, 2008,¹ on January 22, 2008, Entergy Nuclear Operations, Inc. (Entergy) submitted to the U.S. Nuclear Regulatory Commission (NRC) an Amendment to Entergy's License Renewal Application (LRA) for the Indian Point Nuclear Facility.² That Amendment related to New York State Proposed Contention 26 (NYS 26) and Riverkeeper Proposed Contention TC-1 (RK TC-1), the admission of which had not initially been

¹ Licensing Board Order (Scheduling Briefing Regarding the Effect of License Amendment 2 on Pending Contentions) (Mar. 18, 2008) [hereinafter March 18 Order].

² 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].

opposed by the NRC Staff.³ Thereafter, on March 4, 2008, NRC Staff advised the Board that, in its judgment, License Amendment 2 cured the deficiencies cited in NYS 26 and RK TC-1.⁴

In response to License Amendment 2, on March 5, 2008, Riverkeeper filed a request to amend RK TC-1.⁵ Thereafter, on March 31, 2008, Entergy filed an Answer opposing the admission of RK Am TC-1.⁶ The NRC Staff has not yet filed an Answer to RK Am TC-1 and, pursuant to the Board's March 18 Order, the NRC Staff's Answer may be filed on or before April 21, 2008.

Also in response to License Amendment 2, on April 7, 2008, New York State filed a request to amend NYS 26 (NYS Am 26).⁷ The NRC Staff and Entergy may submit Answers to NYS Am 26 on or before April 21, 2008.

The Board's March 18 Order did not contemplate additional pleadings (beyond Answers to be filed by the NRC Staff and Entergy) based on Entergy's LRA Amendment 2.⁸ However, in granting Riverkeeper's Motion of April 3, 2008, we modify the briefing schedule and authorize Riverkeeper and New York to file Replies to Answers that have been, or may be, filed by

³ 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) [hereinafter NRC Answer].

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

⁵ Riverkeeper, Inc.'s Request for Admission of Amended Contention 6 (Mar. 5, 2008).

⁶ Answer of Entergy Nuclear Operations, Inc. To Riverkeeper's Request for Admission of Amended Contention TC-1 (Concerning Environmentally Assisted Metal Fatigue) (Mar. 31, 2008).

⁷ Petitioner State of New York's Request for Admission of Supplemental Contention No. 26-A (Metal Fatigue) (Apr. 7, 2008).

⁸ March 18 Order at 2.

Entergy and/or the NRC Staff in response to RK Am TC-1 or NYS Am 26 on or before May 1, 2008.

We also note that on April 7, 2008, Riverkeeper filed a Response relating to RK EC-2⁹ and New York State filed a Response relating to NYS 30 and 31.¹⁰ Consistent with the Board's March 18 Order, the NRC Staff and Entergy may, but need not, reply to these two pleadings on or before April 21, 2008.¹¹

Finally, we note that on March 24, 2008, Entergy submitted to the NRC another Amendment to the LRA for the Indian Point Nuclear Facility.¹² Unless extensions of time are granted, any new contention or amended contention, based on, or arising from, Entergy's License Amendment 3 shall be filed on or before May 8, 2008.

It is so ORDERED.

FOR THE ATOMIC SAFETY
AND LICENSING BOARD¹³

/RA/

Lawrence G. McDade, Chairman
ADMINISTRATIVE JUDGE

Rockville, MD
April 9, 2008

⁹ Riverkeeper, Inc.'s Response to Atomic Safety and Licensing Board Questions Regarding Contention EC-2 (Apr. 7, 2008).

¹⁰ Petitioner State of New York's Response to NRC Staff's Change of Position to New York's Contentions 30 and 31 (Apr. 7, 2008).

¹¹ March 18 Order at 3.

¹² Entergy Letter NL-08-057, Letter from Fred R. Dacimo, Entergy Vice President, License Renewal, to NRC Docket Control Desk (Mar. 24, 2008) [hereinafter License Amendment 3].

¹³ 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)
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ENTERGY NUCLEAR OPERATIONS, INC.) Docket Nos. 50-247/286-LR
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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 RIVERKEEPER, INC.'S MOTION AND AMENDING BRIEFING SCHEDULE) 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 (GRANTING RIVERKEEPER, INC.'S MOTION
 AND AMENDING BRIEFING SCHEDULE)

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 (GRANTING RIVERKEEPER, INC.'S MOTION
AND AMENDING BRIEFING SCHEDULE)

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, LLP
1726 M. Street NW, 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.

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

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

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

Docket Nos. 50-247/286-LR
LB ORDER (GRANTING RIVERKEEPER, INC.'S MOTION
AND AMENDING BRIEFING SCHEDULE)

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 Evangeline S. Ngbea]

Office of the Secretary of the Commission

Dated at Rockville, Maryland
this 9th day of April 2008