

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

DOCKETED 04/24/08  
SERVED 04/24/08

ATOMIC SAFETY AND LICENSING BOARD

Before Administrative Judges:

Alex S. Karlin, Chairman  
Dr. Richard E. Wardwell  
Dr. William H. Reed

In the Matter of

ENTERGY NUCLEAR VERMONT YANKEE,  
L.L.C.,  
and  
ENTERGY NUCLEAR OPERATIONS, INC.

(Vermont Yankee Nuclear Power Station)

Docket No. 50-271-LR

ASLBP No. 06-849-03-LR

April 24, 2008

ORDER

(Granting Motion to Amend NEC Contention 2A)

On March 17, 2008, the New England Coalition, Inc. (NEC) moved for leave to amend its Contention 2A to address “Entergy’s Second CUFen Reanalysis” that was provided to NEC on February 15, 2008.<sup>1</sup> On April 10, 2008, Entergy Nuclear Vermont Yankee, LLC and Entergy Nuclear Operations, Inc. (collectively Entergy) and the NRC Staff filed their respective answers to the Motion.<sup>2</sup> On April 17, 2008, NEC filed its Reply.<sup>3</sup>

The Board concludes, and neither Entergy nor the NRC Staff dispute, Entergy Answer at 1 n.1; NRC Answer at 3, that the NEC Motion satisfies the three criteria for amended contentions specified at 10 C.F.R. § 2.309(f)(2)(i)-(iii). We also conclude, and Entergy does not dispute, see Entergy Answer at 2, that the NEC Motion satisfies the six basic criteria for

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<sup>1</sup> [NEC] Motion to File a Timely New or Amended Contention (Mar. 17, 2008) [NEC Motion].

<sup>2</sup> Entergy’s Response to NEC’s Motion to File a Timely New or Amended Contention (Apr. 10, 2008) [Entergy Answer]; NRC Staff Answer to NEC Motion to File a Timely New or Amended Contention 2A (Metal Fatigue) (Apr. 10, 2008) [NRC Answer].

<sup>3</sup> [NEC’s] Reply re: Motion to File a New or Amended Contention (Apr. 17, 2008) [NEC Reply].

contentions specified at 10 C.F.R. § 2.309(f)(1)(i)-(vi). Therefore we grant the motion.<sup>4</sup>

Given that NEC's initial statements of position, testimony, affidavits, and exhibits are due very shortly,<sup>5</sup> we decline the invitations of Entergy and NEC to restate NEC's current amendment and/or NEC Contention 2A, see Entergy Answer at 3; NRC Answer at 4; NEC Reply at 4. NEC Contention 2A is still on the table and Entergy's Second CUFen Reanalysis was apparently intended to respond to certain aspects of that contention. NEC's current amendment, which we will designate NEC Contention 2B, was apparently designed to prevent NEC from being foreclosed from challenging Entergy's Second CUFen Reanalysis, and is really just a subset of NEC Contention 2A.

It is so ORDERED.

THE ATOMIC SAFETY  
AND LICENSING BOARD<sup>6</sup>

***/RA/***

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Alex S. Karlin, Chairman  
ADMINISTRATIVE JUDGE

***/RA by E. Roy Hawkens for:/***

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Dr. Richard E. Wardwell  
ADMINISTRATIVE JUDGE

***/RA by E. Roy Hawkens for:/***

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Dr. William H. Reed  
ADMINISTRATIVE JUDGE

Rockville, Maryland

April 24, 2008

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<sup>4</sup> We have previously articulated the regulatory requirements for the admission of a new or amended contention and see no need to repeat that discussion here. See LBP-07-15, 66 NRC 261 (2007).

<sup>5</sup> Initial Scheduling Order at 10 (Nov. 17, 2006) (unpublished).

<sup>6</sup> Copies of this order were sent this date by Internet e-mail transmission to counsel for (1) licensees Entergy Nuclear Vermont Yankee, L.L.C., and Entergy Nuclear Operations, Inc.; (2) intervenors Vermont Department of Public Service and New England Coalition of Brattleboro, Vermont; (3) the Staff; and (4) the State of New Hampshire.

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

In the Matter of )  
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ENERGY NUCLEAR VERMONT YANKEE, LLC, )  
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ENERGY NUCLEAR OPERATIONS, INC. ) Docket No. 50-271-LR  
 )  
(Vermont Yankee Nuclear Power Station) )

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing LB ORDER (GRANTING MOTION TO AMEND NEC CONTENTION 2A) have been served upon the following persons by U.S. mail, first class, or through NRC internal distribution.

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Docket No. 50-271-LR  
LB ORDER (GRANTING MOTION TO AMEND NEC  
CONTENTION 2A)

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[Original signed by Evangeline S. Ngbea]

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Office of the Secretary of the Commission

Dated at Rockville, Maryland,  
this 24<sup>th</sup> day of April 2008