

RAS M-154

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DOCKETED
USNRC

July 18, 2008 (5:00pm)

OFFICE OF SECRETARY
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ADJUDICATIONS STAFF

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July 18, 2008

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William H. Reed
Administrative Judge
Atomic Safety and Licensing Board
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Re: In the Matter of Energy Nuclear Vermont Yankee, LLC and Entergy
Nuclear Operations, Inc. (Vermont Yankee Nuclear Power Station),
Docket No. 50-271-LR, ASLBP No. 06-849-03-LR

Dear Administrative Judges:

On July 11, Counsel for the NRC Staff informed the Board and parties that one of its two witnesses on NEC's Contentions 2A and 2B, Dr. Kenneth Chang, is unavailable to testify at the upcoming Board hearing due to a medical condition, and could not be available "any time soon." Dr. Chang directed the Staff review of Entergy's CUFen analyses, participated in the Staff's on-site audit and "personally reviewed the sections associated with metal fatigue and the fatigue monitoring program," and wrote Section 4.3.3 of the SER. *See*, Affidavit of Kenneth C. Chang Concerning NEC Contentions 2A & 2B (Metal Fatigue) at A2. The testimony of the Staff's other Contention 2A and 2B witness, John Fair, indicates that he played a much lesser role. Mr. Fair was not assigned to review the Vermont Yankee LRA, but "advised colleagues in reviewing Entergy's metal fatigue submissions." *See*, Affidavit of John R. Fair Concerning NEC Contentions 2A & 2B (Metal Fatigue) at A2.

This situation is certainly irregular in that the NRC Staff is seeking to submit prefiled testimony without making the witness available to testify at the hearing. This will deprive the Board of the ability to fully explore the NRC Staff's position on Contentions 2A and 2B, and no witness will be available to answer NEC's proposed direct examination questions concerning Dr. Chang's testimony.

NEC requests that the Board require NRC Staff Counsel to further explain the circumstances of Dr. Chang's unavailability, including when Staff Counsel was first aware that Dr. Chang might not be available to testify. NEC also requests that the Board consider holding the record on NEC's Contentions 2A and 2B open following the July 21-25 hearing to allow Dr. Chang to appear at a later date.

Sincerely,

A handwritten signature in cursive script, appearing to read "Karen Tyler".

Karen Tyler
SHEMS DUNKIEL KASSEL & SAUNDERS PLLC

Cc: attached service list

**UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION**

Before the Atomic Safety and Licensing Board

In the Matter of)	
)	
Entergy Nuclear Vermont Yankee, LLC)	Docket No. 50-271-LR
and Entergy Nuclear Operations, Inc.)	ASLBP No. 06-849-03-LR
)	
(Vermont Yankee Nuclear Power Station))	

CERTIFICATE OF SERVICE

I, Christina Nielsen, hereby certify that copies of NEW ENGLAND COALITION, INC.'S LETTER TO THE BOARD RE: TESTIMONY OF DR. CHANG in the above-captioned proceeding were served on the persons listed below, by electronic mail on the 18th of July, 2008; and by U.S. Mail, first class, postage prepaid on the 21st of July, 2008.

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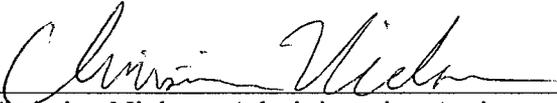
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