

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION
ATOMIC SAFETY AND LICENSING BOARD

DOCKETED
USNRC

September 25, 2008 (3:24pm)

OFFICE OF SECRETARY
RULEMAKINGS AND
ADJUDICATIONS STAFF

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

**REQUEST OF THE STATE OF CONNECTICUT FOR AN OPPORTUNITY TO
PARTICIPATE AS AN INTERESTED GOVERNMENT BODY IN PROCEEDING AND
HEARING ON RELICENSING OF INDIAN POINT UNITS 2 AND 3**

Pursuant to 10 C.F.R. § 2.315, the State of Connecticut ("State") hereby respectfully requests the opportunity to participate in the above-captioned proceeding; and in hearing(s) therein regarding the Application for Operating License Renewal ("Application") for Indian Point Nuclear Generating Units 2 and 3 by Entergy Nuclear Operations, Inc. ("Entergy"). Entergy's Application is currently pending before the Nuclear Regulatory Commission ("NRC" or the "Commission") and its Atomic Safety and Licensing Board ("ASLB" or "Board").

Entergy submitted its Application on April 23, 2007, and supplemented it by letters dated May 3 and June 21, 2007. On August 1, 2007, the Commission issued a Notice of Acceptance for Docketing of the Application and Notice of Opportunity for Hearing in the above-captioned matter. See 72 Fed. Reg. 42134 (Aug. 1, 2007). The August 1 Notice

informed interested parties of the opportunity to request a hearing and to petition to intervene, and it set a deadline for such requests of October 1, 2007. On October 1, 2007, the Commission extended that deadline until November 30, 2007. See 72 Fed. Reg. 55,834 (Oct. 1, 2007). Pursuant to the August 1 and October 1 Notices, the State initially sought to intervene pursuant to 10 C.F. R. § 2.309, which permits “[a]ny person whose interest may be affected by a proceeding and who desires to participate as a party” to seek to intervene by specifying “the contentions which the party seeks to have litigated in the hearing.”

By Order dated July 31, 2008 (“July 31 Order”), the ASLB considered numerous contentions submitted by the State of New York (“NYS”), the State of Connecticut; Riverkeeper, Inc. (“Riverkeeper”); Hudson River Sloop Clearwater (“Clearwater”); the Town of Cortlandt, New York; Connecticut Residents Opposed to Relicensing Indian Point; and Westchester County, New York and *inter alia*, admitted eleven discrete contentions submitted by NYS, three submitted by Riverkeeper and two submitted by Clearwater (Order, July 31, 2008, at 225-228). In the July 31 Order, the ASLB observed that the State, that in view of the admitted contentions, the State had an opportunity to appear and participate in proceedings as an interested government body pursuant to Section 2.315(c) (July 31 Order at 225).

Pursuant to Section 2.315, the State now seeks to participated in this proceeding and in any hearing(s) therein by, *inter alia*, introducing evidence, interrogating witnesses, advising the NRC and ASLB without necessarily taking a position with respect to any particular issue, filing proposed findings, and petition for review by the Commission with respect to the following admitted contentions:

1. NYS – 12 Concerning the severe accident mitigation alternatives (SAMA) for Indian Point that it does not accurately reflect decontamination costs within a 50-mile radius of Indian Point (July 31 Order at 75 – 78); and
2. NYS – 16 Concerning the validity of certain inputs used in Entergy's air dispersion mode, including whether population projections are underestimated; the validity of Entergy's air dispersion model at ranges beyond 50 kilometers (31 miles), and whether Entergy's air dispersion model results in non-conservative geographical distribution of radioactive dose within a 50-mile radius of Indian Point (July 31 Order at 75 – 78); and
3. NYS – 24 Concerning the claim that Entergy has not conducted enhanced inspection to assess the integrity of the containment structures based on water/cement ratios(July 31 Order at 97-100); and
4. NYS – 26 That Entergy has not adequately monitored and managed effects of aging due to metal fatigue(July 31 Order at 104-111); and
5. Riverkeeper-EC - 3– The Environmental Report (“ER”) does not adequately assess new and significant information regarding the environmental impacts of leaking radioactive materials from spent nuclear fuel pools at Indian Point; (July 31 Order at 184-187 and
6. Clearwater-EC-3 – concerning the disproportionate impact on institutional minority and low-income populations located within a 50-mile radius of Indian Point (July 31 Order at 199-203).

In further support of its request to participate, the State states as follows:

NOTICES AND COMMUNICATIONS

All correspondence, pleadings and other communications regarding this proceeding should be addressed to:

Robert D. Snook
Assistant Attorney General
State of Connecticut-Office of the Attorney General
55 Elm Street, P.O. Box 120
Hartford, CT 06141-0120
Tel: (860) 808-5020
Fax: (860) 808-5347
Email: Robert.Snook@po.state.ct.us

REQUEST FOR OPPORTUNITY TO PARTICIPATE

The State of Connecticut has a direct and cognizable interest in participating in this proceeding as an interested government body with regard to the contentions cited above. With regard to the three particular contentions identified herein, it is important that the State have a presence and an opportunity to be heard in this proceeding, and in any hearings held by the ASLB. The State concerns include the following:

1. NYS-12 is directly relevant to the State as a government entity in that it does not address the failures of the severe accident mitigation alternatives (SAMA) for Indian Point. Specifically, that the SAMA analysis that it does not accurately reflect decontamination costs within a 50-mile radius of Indian Point. Approximately one-third of the population of Connecticut is located within 50 miles of Indian Point. Thus, to the extent that decontamination costs are underestimated, this would directly impact analysis of environmental and social impacts from an accident or attack. The State thus is clearly an interested government body given the physical location of large portions of the State 50 miles from Indian Point. The State should be recognized as an interested government entity with regard to contention NYS-12

2. NYS-16 is directly relevant to the State as a government entity in that it addresses air modeling issues from distance more than 32 miles from Indian Point. Approximately one-third of the population of Connecticut is located within 50 miles of Indian Point. Thus, to the extent there are air dispersion issues that will be considered by ASLB due to concerns over "model inputs" or allegedly "inaccurate factual assumptions" (July 31 Order at 78-79) that have the potential to "materially affect the costs of . . . mitigation alternatives: or to "substantially change costs because of very large geographic variations of

population density within fifty miles of [Indian Point]" (July 31 Order at 78). The State is clearly an interested government body given the physical location of large portions of the State 50 miles from Indian Point. The State should be recognized as an interested government entity with regard to contention NYS-16.

3. NYS – 24 is also relevant to the State because it alleges that that Entergy has not conducted enhanced inspection to assess the integrity of the containment structures based on water/cement ratios. As noted above, significant numbers of Connecticut's residents live within the potential impact area of an accident or other release from Indian Point. It is clear, therefore that an discussion of the integrity of the containment structures is of importance to the State.

4. NYS – 26 is of direct significance to the State because it involves questions related to metal fatigue which in turn is related to the possibility of systems failure and the potential release of radioactive materials from Indian Point. Connecticut population centers would be potentially impacted by any such release and thus the State should be permitted to proceed as an interested governmental body in this matter.

5. Riverkeeper EC-3 is directly relevant to the State of Connecticut. The State has been heavily involved in spent nuclear fuel issues as Indian Point for many years and as noted above, one-third of the population of Connecticut lives within 50 miles of Indian Point. A fire or other release of radioactive materials at the spent fuel pool, could materially impact the citizens of the State.

6. As advanced by Clearwater in contention EC-3, potentially vulnerable minority,

low-income and disabled populations are located within 50 miles of Indian Point (July 31 Order at 196, citing Clearwater Petition at 31). This geographic area includes one-third of Connecticut.

To the extent that the ASLB has agreed to assess Clearwater contention EC-3, the views of the State should properly be considered. The Board will examine environmental issues that raise concerns over disparate effects on minority, low-income, or disabled populations (July 31 Order at 202-203) in an area that covers much of the jurisdiction of New York City, and accordingly, the City qualifies as an interested government body with regard to contention EC-3.

CONCLUSION

For the foregoing reasons, the State respectfully requests that it be given the opportunity to participate in this proceeding, and in hearings therein concerning the Application with regard to the following admitted contentions:

Respectfully submitted,



Robert D. Snook
Assistant Attorney General
Office of the Attorney General
55 Elm Street, P.O. Box 120
Hartford, CT 06141-0120
Tel: (860) 808-5020
Fax: (860) 808-5347
Email: Robert.Snook@po.state.ct.us

CERTIFICATE OF SERVICE

I certify that on September 25, 2008, copies of the foregoing were served on the following by first-class mail and electronic mail on the following, as indicated below:

<p>Office of the Secretary Rulemakings and Adjudications Staff U.S. Nuclear Regulatory Commission One White Flint North, Sixteenth Floor 11555 Rockville Pike Rockville, MD 20852 Also by email: HEARINGDOCKET@nrc.gov</p>	<p>David E. Roth, Esq. Marcia J. Simon, Esq. Office of the General Counsel U.S. Nuclear Regulatory Commission Mail Stop 0-15-D-21 Washington, D.C. 20555-0001 Also by email: set@nrc.gov</p>
<p>Lawrence G. McDade, Chair Atomic Safety and Licensing Board Panel Atomic Safety and Licensing Board U.S. Nuclear Regulatory Commission Washington, D.C. 20555 Also by email: LGM1@nrc.gov</p>	<p>Kaye D. Lathrop Atomic Safety and Licensing Board Panel Atomic Safety and Licensing Board U.S. Nuclear Regulatory Commission Washington, D.C. 20555 Also by email: KDL2@nrc.gov</p>
<p>Richard E. Wardwell Atomic Safety and Licensing Board U.S. Nuclear Regulatory Commission Washington, D.C. 20555 Also by email: REW@nrc.gov</p>	<p>Joan Leary Matthews, Esq. Senior Atty for Special Projects New York State Dept. of Envir. Conservation Office of the General Counsel 625 Broadway, 14th Floor Albany, NY 12233-1500 Also by email: jlmatthe@gw.dec.state.ny.us</p>
<p>Sherwin E. Turk, Esq. Lloyd B. Subin, Esq. Beth N. Mizuno, Esq. Atomic Safety and Licensing Board Panel U.S. Nuclear Regulatory Commission Washington, D.C. 20555 Also by email: set@nrc.gov; lbs3@nrc.gov;</p>	<p>Martin J. O'Neill, Esq. Kathryn M. Sutton, Esq. Paul M. Bessette, Esq. Mauri T. Lemoncelli, Esq. Morgan, Lewis & Bockius, LLP 1111 Pennsylvania Ave. N.W. Washington, D.C. 20004 Also by email:</p>

bnm2@nrc.gov	martin.oneill@morganlewis.com pbessette@morganlewis.com ksutton@morganlewis.com
Susan H. Shapiro, Esq. 21 Perlman Drive Spring Valley, NY 10977 Also by email: mbs@ourrocklandoffice.com	Office of Commission Appellate Adjudication U.S. Nuclear Regulatory Commission Washington, D.C. 20555 Also by email: OCAAMAIL@nrc.gov
Anthony Z. Roisman, Esq. 84 East Thetford Road Lyme, NH 03768 Also by email: aroisman@nationallegalscholars.com	Arthur J. Kremer, Chairman New York AREA 347 Fifth Avenue, Suite 508 New York, NY 10016 Also by email: ajkremer@rmfpc.com kremer@area-alliance.org
Office of the Secretary Rulemakings and Adjudications Staff U.S. Nuclear Regulatory Commission Washington, D.C. 20555 Also by email: HEARINGDOCKET@nrc.gov	William C. Dennis, Esq. Assistant General Counsel. Entergy Nuclear Operations, Inc. 440 Hamilton Avenue White Plains, NY 10601 Also by email: wdennis@entergy.com
John LeKay FUUSE USA 351 Dyckman Street Peekskill, NY 10566 Also by email: fuse_usa@yahoo.com ;	Manna Jo Greene Hudson River Sloop Clearwater, Inc. 112 Little Market Street Poughkeepsie, NY 12601 Also by email: Mannajo@clearwater.org
Zackary S. Kahn, Esq. Law Clerk Atomic Safety and Licensing Board Panel U.S. Nuclear Regulatory Commission Washington, D.C. 20555 Also by email: ZXK1@nrc.gov	Phillip Musegaas Staff Attorney/Policy Analyst Riverkeeper, Inc. 828 South Broadway Tarrytown, NY 10591 Also by email: phillip@riverkeeper.org

<p>Elise N. Zoli, Esq. Goodwin Procter, LLP Exchange Place 53 State Street Boston, MA 02109 Also by email: ezoli@goodwinprocter.com</p>	<p>John J. Sipos, Assistant Attorney General Office of the Attorney General State of New York The Capitol Albany, NY 12224 Also by email: john.sipos@oag.state.ny.us</p>
<p>Justin D. Pruyne, Esq. Assistant County Attorney Office of Westchester County Attorney 148 Martine Avenue, 6th Floor White Plains, NY 10601 Also by email: jdp3@westchestergov.com</p>	<p>Marcia Carpentier Law Clerk Atomic Safety and Licensing Board Mail Stop: T-3 E2B U.S. Nuclear Regulatory Commission Washington, D.C. 20555-0001 Also by email: Marcia.Carpentier@nrc.gov</p>
<p>Daniel E. O'Neill, Mayor James Seirmarco, M.S. Village of Buchanan Municipal Building Buchanan, NY 10511-1298 Also by email: vob@bestweb.net</p>	<p>Richard L. Brodsky, Esq. 5 West Main Street Elmsford, NY 10523 Also by email: brodskr@assembly.state.ny.us</p>
<p>Diane Curran, Esq. Harmon, Curran, Spielberg & Eisenberg, LLP 1726 M Street, NW, Suite 600 Washington, D.C. 20036 Also by email: dcurran@harmoncurran.com</p>	<p>Janice Dean, Esq. Assistant Attorney General Office of the Attorney General 120 Broadway, 26th Floor New York, NY 10271 Also by email: Janice.dean@oag.state.ny.us</p>
<p>Ms. Nancy Burton 147 Cross Highway Redding Ridge, CT 06876 Also by email: nancyburtonct@aol.com</p>	<p>Sarah Wagner, Esq. Legislative Office Building, Room 422 Albany, NY 12248 Also by email: sarahwagneresq@gmail.com</p>

<p>John Louis Parker, Esq. Regional Attorney Office of General Counsel, Region 3 New York State Dept. of Environmental Conservation 21 South Putt Comers Road New Paltz, NY 12561-1620 Also by email: jlparker@gw.dec.state.ny.us</p>	<p>Daniel Riesel, Esq. Thomas F. Wood, Esq. Ms. Jessica Steinbert, J.D. Sive, Paget & Riesel, P.C. 460 Park Avenue New York, NY 10022 Also by email: driesel@sprlaw.com, jsteinberg@sprlaw.com</p>
<p>Stephen C. Filler, Esq. Hudson River Sloop Clearwater, Inc. 303 South Broadway, Ste 222 Tarrytown, NY 10592 Also by email: sfiller@nylawline.com</p>	<p>Mylan L. Denerstein, Esq. Executive Deputy Attorney General Office of the Attorney General 120 Broadway, 25th Floor New York, NY 10271 Also by email: Mylan.Denerstein@aog.state.ny.us</p>



Robert D. Snook
Assistant Attorney General
55 Elm Street
P.O. Box 120
Hartford, CT 06141-0120
(860) 808-5020
(860) 808-5347
Robert.Snook@po.state.ct.us