

# HOGAN & HARTSON

Hogan & Hartson LLP  
Columbia Square  
555 Thirteenth Street, NW  
Washington, DC 20004  
+1.202.637.5600 Tel  
+1.202.637.5910 Fax

[www.hhlaw.com](http://www.hhlaw.com)

October 28, 2008

Catherine E. Stetson  
Partner  
(202) 637-5491  
[cestetson@hhlaw.com](mailto:cestetson@hhlaw.com)

## **BY FEDERAL EXPRESS**

Honorable Richard Cushing Donovan  
Clerk  
United States Court of Appeals  
for the First Circuit  
John Joseph Moakley U.S. Courthouse  
1 Courthouse Way  
Boston, MA 02210

**Re: Commonwealth of Massachusetts v. United States Nuclear Regulatory  
Commission and the United States of America, Case No. 08-2267**

Dear Mr. Donovan:

On behalf of Entergy Nuclear Operations, Inc., Entergy Nuclear Vermont Yankee LLC, and Entergy Nuclear Generation Company (hereinafter and collectively "Entergy"), please find enclosed for filing in the above-referenced appeal an original and three copies of the following:

1. Entergy's Motion for Leave to Intervene;
2. Entergy's Corporate Disclosure Statement;
3. Appearance Forms; and
4. Certificate of Service.

Also enclosed are additional copies of the above documents to be date stamped and returned in the enclosed, self addressed, stamped envelope provided for your convenience.

Honorable Richard Cushing Donovan  
October 28, 2008  
Page 2

As indicated on the Certificate of Service, copies of the Motion for Leave to Intervene, Corporate Disclosure Statement, and Appearance Forms were served on all parties pursuant to F.R.A.P. 15(d).

Sincerely,

A handwritten signature in black ink, appearing to read "Catherine EST", written in a cursive style.

Catherine E. Stetson

Enclosures

cc: All Counsel



Commonwealth for rulemaking “related to [Entergy’s] applications for a 20-year extension of the licenses to operate the Pilgrim Nuclear Power Plant in Plymouth, MA and the Vermont Yankee Nuclear Power Plant in Vernon, Vermont.”<sup>1</sup> Petition for Review 1.

2. The Commonwealth contends that the NRC violated the Atomic Energy Act, the National Environmental Policy Act, and the Administrative Procedures Act by denying its rulemaking petition requesting the Commission provide an Environmental Impact Statement (“EIS”) as part of the re-licensing process for the Pilgrim and Vermont Yankee nuclear power plants or through generic rulemaking to address the environmental impact of hypothetical spent fuel pool accidents. Petition for Review 2.

3. The Commonwealth seeks to have the Court order the NRC to prepare an EIS applicable to the Pilgrim and Vermont Yankee nuclear power plants and to declare that the NRC may not permit Energy to continue to operate the Pilgrim and Vermont Yankee plants past the expiration of their current licenses. Petition for Review 3.

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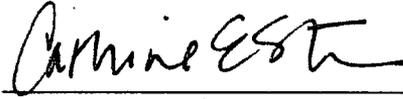
<sup>1</sup> Entergy Nuclear Vermont Yankee LLC is the licensed owner and Entergy Nuclear Operations, Inc. is the licensed operator of the Vermont Yankee Nuclear Power Station. Entergy Nuclear Generation Company is the licensed owner and Entergy Nuclear Operations, Inc. is the licensed operator of the Pilgrim Nuclear Power Station.

4. Entergy participated in the rulemaking proceeding that the Commonwealth asks this Court to review. Entergy also participated as a party in both the NRC license renewal proceedings for its Vermont Yankee and Pilgrim plants and in the earlier related proceeding before this Court. See Massachusetts v. United States, 522 F.3d 115 (1st Cir. 2008).

5. The NRC decision and Petition for Review directly affect the re-licensing of nuclear plants owned and operated by Entergy. Accordingly, Entergy has substantial, direct and tangible interests in the resolution of this proceeding. As a party to the agency proceeding now on judicial review and as an entity whose interest will be affected if the NRC decision is enjoined, set aside or suspended, Entergy respectfully submits that it is entitled to intervene in this action as a matter of right. See 28 U.S.C. § 2348.

Counsel for Entergy has been authorized by Matthew Brock, counsel for the Commonwealth, and James Adler, counsel for the NRC, to represent that they consent to Entergy's intervention in this action. Entergy supports the NRC's motion seeking to transfer this proceeding to the Second Circuit in light of the two petitions for review pending with that Court concerning the same agency action.

Respectfully submitted,



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Catherine E. Stetson  
Jessica L. Ellsworth  
HOGAN & HARTSON LLP  
555 Thirteenth Street, N.W.  
Washington, D.C. 20004  
(202) 637-5491

Of counsel:  
William C. Dennis, Esq.  
Kim F. Bridges, Esq.  
Entergy Nuclear Operations, Inc.  
440 Hamilton Avenue  
White Plains, NY 10601  
(914) 272-3323

David R. Lewis  
PILLSBURY WINTHROP SHAW  
PITTMAN LLP  
2300 N Street, N.W.  
Washington, D.C. 20037  
(202) 663-8000

Dated: October 28, 2008

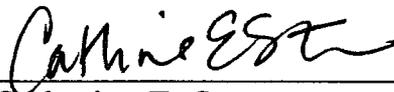
Counsel for Entergy Nuclear Operations,  
Inc., Entergy Nuclear Vermont Yankee  
LLC, and Entergy Nuclear Generation  
Company



Investment Company, LLC, and an indirect wholly owned subsidiary of Entergy Nuclear Holding Company #3, Entergy Nuclear Holding Company, and Entergy Corporation. No other publicly held company has 10 percent or more equity interest in Entergy Nuclear Vermont Yankee LLC.

Entergy Nuclear Generation Company, a Massachusetts Corporation, is a direct wholly owned subsidiary of Entergy Nuclear Holding Co. #1 and an indirect wholly owned subsidiary of Entergy Corporation. No other publicly held company has 10 percent or more equity interest in Entergy Nuclear Generation Company.

Respectfully submitted,



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Catherine E. Stetson  
Jessica L. Ellsworth  
HOGAN & HARTSON LLP  
555 Thirteenth Street, N.W.  
Washington, D.C. 20004  
(202) 637-5491

Of counsel:  
William C. Dennis, Esq.  
Kim F. Bridges, Esq.  
Entergy Nuclear Operations, Inc.  
440 Hamilton Avenue  
White Plains, NY 10601  
(914) 272-3323

Dated: October 28, 2008

David R. Lewis  
PILLSBURY WINTHROP SHAW  
PITTMAN LLP  
2300 N Street, N.W.  
Washington, D.C. 20037  
(202) 663-8000

Counsel for Entergy Nuclear Operations,  
Inc., Entergy Nuclear Vermont Yankee  
LLC, and Entergy Nuclear Generation  
Company

# United States Court of Appeals For the First Circuit

## NOTICE OF APPEARANCE

No. 08-2267

Short Title: Massachusetts v. U.S. Nuclear Regulatory Commission

The Clerk will enter my appearance as counsel on behalf of *(please list names of all parties represented, using additional sheet(s) if necessary)*:

Entergy Nuclear Operations, Inc., Entergy Nuclear Vermont Yankee LLC, and Entergy Nuclear Generation Company as the

appellant(s)

appellee(s)

amicus curiae

petitioner(s)

respondent(s)

intervenor(s)

The party I represented below is not a party to the appeal and I wish to be removed from the service list. Please list the names of all parties represented:



Signature

October 28, 2008

Date

Catherine E. Stetson

Name

Hogan & Hartson LLP

Firm Name (if applicable)

(202) 637-5491

Telephone Number

555 Thirteenth Street, NW

Address

(202) 637-5910

Fax Number

Washington, DC 20004

City, State, Zip Code

CEStetson@hhlaw.com

Email

Court of Appeals Bar Number: 1124393

Has this case or any related case previously been on appeal?

No

Yes Court of Appeals No. \_\_\_\_\_

**Attorneys for both appellant and appellee must file a notice of appearance within 14 days of case opening.** New or additional counsel may enter an appearance outside the 14 day period; however, a notice of appearance may not be filed after the appellee/respondent brief has been filed without leave of court. 1st Cir. R. 12.0(a).

**Counsel must complete and return this notice of appearance in order to file pleadings in this court.** Counsel not yet admitted to practice before this court must submit an application for admission with the form. 1st Cir. R. 46.0(a)(2).

# United States Court of Appeals For the First Circuit

## NOTICE OF APPEARANCE

No. 08-2267

Short Title: Massachusetts v. U.S. Nuclear Regulatory Commission

The Clerk will enter my appearance as counsel on behalf of *(please list names of all parties represented, using additional sheet(s) if necessary)*:

Entergy Nuclear Operations, Inc., Entergy Nuclear Vermont Yankee LLC, and Entergy Nuclear Generation Company as the

appellant(s)

appellee(s)

amicus curiae

petitioner(s)

respondent(s)

intervenor(s)

The party I represented below is not a party to the appeal and I wish to be removed from the service list. Please list the names of all parties represented:

Jessica L Ellsworth  
Signature

October 28, 2008

Date

Jessica L. Ellsworth  
Name

Hogan & Hartson LLP  
Firm Name (if applicable)

(202) 637-5886  
Telephone Number

555 Thirteenth Street, NW  
Address

(202) 637-5910  
Fax Number

Washington, DC 20004  
City, State, Zip Code

JLEllsworth@hhlaw.com  
Email

Court of Appeals Bar Number: pending

Has this case or any related case previously been on appeal?

No

Yes Court of Appeals No. \_\_\_\_\_

=====  
**Attorneys for both appellant and appellee must file a notice of appearance within 14 days of case opening.** New or additional counsel may enter an appearance outside the 14 day period; however, a notice of appearance may not be filed after the appellee/respondent brief has been filed without leave of court. 1st Cir. R. 12.0(a).

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**CERTIFICATE OF SERVICE**

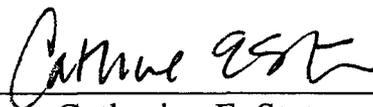
I, Catherine E. Stetson, hereby certify that on October 28, 2008, copies of (1) the Motion of Entergy Nuclear Operations, Inc., Entergy Nuclear Vermont Yankee LLC, and Entergy Nuclear Generation Company for Leave to Intervene, (2) the Corporate Disclosure Statement of Entergy Nuclear Operations, Inc., Entergy Nuclear Vermont Yankee LLC, and Entergy Nuclear Generation Company, and (3) the completed Appearance Forms for Catherine E. Stetson and Jessica L. Ellsworth were served on the following parties by United States first class mail, postage prepaid:

Matthew T. Brock  
Assistant Attorney General  
Environmental Protection Division  
Office of the Attorney General of the  
Commonwealth of Massachusetts  
One Ashburton Place  
Boston, MA 02108

James E. Adler  
Office of the General Counsel  
U.S. Nuclear Regulatory Commission  
11555 Rockville Pike  
Rockville, MD 20852

John F. Cordes  
Steven C. Hamrick  
Office of the General Counsel  
U.S. Nuclear Regulatory Commission  
Mail Stop 0-15021  
Washington, D.C. 20555

Honorable Michael B. Mukasey  
Attorney General of the United States  
U.S. Department of Justice  
950 Pennsylvania Avenue, N.W.  
Washington, D.C. 20530

A handwritten signature in cursive script, appearing to read "Catherine E. Stetson", written in black ink.

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Catherine E. Stetson