

ENTERGY NUCLEAR OPERATIONS, INC.,	)	Docket Nos.	50-003-LT-2
ENTERGY NUCLEAR INDIAN POINT 2, LLC, and	)		50-247-LT-2, and
ENTERGY NUCLEAR INDIAN POINT 3, LLC.	)		50-286-LT-2.
	)		72-51-LT
(Indian Point Nuclear Generating Unit Nos. 1, 2,	)		
and 3).	)		
	)		

On July 30, 2007, as later supplemented, Entergy Nuclear Operations, Inc. requested that the NRC consent to the indirect transfer of control of the facility operating licenses for Units 1 and 2 of the Indian Point Station as described in an internal corporate restructuring plan. (This restructuring plan also included the other Entergy plants, which are not at issue here.) The NRC issued a “Notice of Consideration ... and Opportunity for a Hearing” for the Indian Point portion of the plan, 73 Fed. Reg. 2955-56 (Jan. 16, 2008), and two groups of petitioners filed petitions to intervene. The NRC Staff issued an Order approving the indirect transfer on July 28, 2008, subject to the outcome of the hearing. 73 Fed. Reg. 45,253 (Aug. 4, 2008) (Units 2 and 3); 73 Fed. Reg. 45,255 (Aug. 4, 2008) (Unit 1). See 10 C.F.R. § 2.1316(a). Both Orders stated that the approval would become “null and void” after a period of one year, but “upon written application and good cause shown, such date may be extended by Order.” *Id.*

On June 3, 2009, Mr. Sherwood Martinelli sent an Email to the Office of the Secretary and the Chairman referencing a newspaper article dated June 2, 2009, which described Entergy's intent to seek an extension of the one year period. Mr. Martinelli stated that he

opposed the extension of the period in which Entergy could complete its corporate reorganization and he asked that, if the Commission decided to grant the request, that he be given a hearing on the extension. Mr. Martinelli did not submit any proposed contentions and did not serve his request on either the NRC Staff or Entergy. Entergy has indeed submitted such an extension request. See Letter dated May 15, 2009 (ML091420271), as corrected by Letter dated May 29, 2009 (ML091600059).

The Commission requests that Entergy and the NRC Staff file Responses to Mr. Martinelli's request for a hearing, within 10 days of the date of this Order, that address whether the proposed extension (*i.e.*, the extension in the effectiveness of the NRC's approval of the indirect transfer) is effectively a license amendment or change in a license condition requiring the opportunity for interested persons to request a hearing.¹ Mr. Martinelli may file a Reply within 7 days after the date of any Response. Mr. Martinelli's email will be served on Entergy and the Staff. After review of any Responses and any Reply, the Commission will issue an order that addresses whether the proposed extension requires the opportunity for interested persons to request a hearing.

This order is issued pursuant to my authority under 10 C.F.R. § 2.346(a).

IT IS SO ORDERED.

For the Commission

/RA/

Annette L. Vietti-Cook
Secretary of the Commission

Dated at Rockville, Maryland
this 24th day of July, 2009.

¹ The Staff may respond on this threshold issue without becoming a party to any subsequent proceeding in this matter. The Commission's separation of functions rule, 10 C.F.R. § 2.348 does not apply in this proceeding.

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

In the Matter of	)		
	)		
ENTERGY NUCLEAR OPERATIONS, INC.	)		Docket Nos.
	)	50-003-LT-2	
	)	50-247-LT-2	
	)	50-286-LT-2	
(Indian Point Nuclear Generating Station,	)		72-51-LT
Units 2 and 3)	)		

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing ORDER OF THE SECRETARY DATED JULY 24, 2009 AND THE E-MAIL REQUEST OF SHERWOOD MARTINELLI DATED JUNE 3, 2009, have been served upon the following persons by Electronic Information Exchange and to persons marked with * by electronic mail.

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[Original signed by Christine M. Pierpoint]
Office of the Secretary of the Commission

Dated at Rockville, Maryland
this 24th day of July 2009