

January 25, 2010

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matter of)
)
ENTERGY NUCLEAR OPERATIONS, INC.) Docket Nos. 50-247-LR/286-LR
)
(Indian Point Nuclear Generating)
Units 2 and 3))

**NRC STAFF'S UNOPPOSED REQUEST FOR AN EXTENSION OF TIME
TO RESPOND TO THE STATE OF NEW YORK'S "MOTION TO
COMPEL NRC STAFF TO PRODUCE THE MACCS2 CODE ABSENT
A FEE IN COMPLIANCE WITH THE NATIONAL ENVIRONMENTAL
POLICY ACT AND NRC DISCLOSURE REGULATIONS"**

Pursuant to 10 C.F.R. § 2.323(a), the NRC Staff ("Staff") hereby requests a two-day extension of time, until January 27, 2010, to respond to the "Motion To Compel NRC Staff to Produce the MACCS2 Code Absent a Fee in Compliance with the National Environmental Policy Act and NRC Disclosure Regulations" ("Motion to Compel") filed by the State of New York ("New York" or "State") on January 15, 2010. In support of this request, the Staff states as follows:

1. On April 23, 2007, Entergy Nuclear Operations, Inc. ("Entergy" or "Applicant") submitted its license renewal application ("LRA") for Indian Point Nuclear Generating Units 2 and 3 ("Indian Point"). Included as Appendix E to the LRA was an Environmental Report ("ER"), in which the Applicant presented a Severe Accident Mitigation Alternatives ("SAMA") analysis. ER § 4.21, at 4-47 – 4-78. As indicated therein, the Applicant's SAMA analysis included a Probabilistic Safety Assessment model that utilized the MELCOR Accident Consequences Code System 2 ("MACCS2") computer code to convert release input to public dose and offsite property damage. *Id.* at 4-48.

2. On November 30, 2007, New York filed its petition for leave to intervene in this proceeding, along with numerous contentions challenging the Indian Point LRA.¹ On July 31, 2008, the Atomic Safety and Licensing Board (“Board”) admitted 11 of the State’s contentions, including two contentions (Contentions 12 and 16) challenging the Applicant’s SAMA analysis. *Entergy Nuclear Operations, Inc.* (Indian Point, Units 2 and 3), LBP-08-13, 68 NRC 43, 218 (2008). On June 16, 2009, the Board admitted Amended Contention 16A, following the Staff’s issuance of its Draft Environmental Impact Statement (“Draft SEIS”) for the Indian Point LRA.² *Entergy Nuclear Operations, Inc.* (Indian Point Nuclear Generating Units 2 and 3), “Order (Ruling on New York State’s New and Amended Contentions)” (June 16, 2009), slip op. at 4-7.

3. On Friday, January 15, 2010, the State filed its Motion to Compel, seeking to require the Staff to provide a copy of the MACCS2 computer code to the State without obtaining payment of the NRC’s \$1,000 user fee for the code. In accordance with 10 C.F.R. § 2.323(c), the Staff’s response to the State’s Motion is due on January 25, 2010.

4. The Staff has prepared a draft response to the State’s Motion, which is substantially complete at this time; however, it has become apparent to Staff counsel that additional time will be required, to permit consultations to conclude between Staff Counsel and various NRC Staff employees and Sandia National Laboratory personnel who possess specialized knowledge of the facts pertinent to the State’s Motion. Further, due to the State’s filing of its Motion shortly before the three-day holiday weekend on January 16-18, 2010, the time available for consultation and for preparation of a response to the State’s Motion has been rather limited.

¹ “New York State Notice of Intention to Participate and Petition to Intervene” (Nov. 30, 2007) (“NYS Petition”).

² “Generic Environmental Impact Statement for License Renewal of Nuclear Plants, Supplement 38, Regarding Indian Point Nuclear Generating Units 2 and 3, Draft Report for Comment,” NUREG-1437 (Dec. 2008).

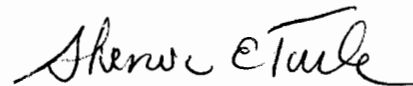
5. Counsel for the Staff has attempted to file the Staff's response to the State's Motion within the allotted time, as required. Due to the need to conclude consultations with various Staff personnel, a two-day extension of time is required to permit the orderly filing of its response to the State's Motion. The Staff recognizes that motions for an extension of time properly should be filed one day prior to the date on which the subject action is due to be taken; in this instance, however, an extension of time did not appear to be necessary on the previous business day (i.e., Friday, January 22), and Staff Counsel only concluded today that an extension of time would be necessary in this instance.

6. In accordance with 10 C.F.R. § 2.323(a), Counsel for the Staff has contacted Counsel for the State and Counsel for the Applicant. Counsel for those parties stated that they do not object to the Staff's request for a two-day extension of time. Counsel for the Staff then contacted Josh Kirstein, Esq., Law Clerk to the Board, to inform him that the instant motion would be filed this afternoon.

7. Counsel for the Staff submits that a two-day extension of time until January 27, 2010 will not result in hardship for any other party and will not cause delay in the proceeding.

WHEREFORE, the Staff respectfully requests that it be afforded a two-day extension of time, until January 27, 2010, in which to file its response to New York's Motion.

Respectfully submitted,

A handwritten signature in cursive script that reads "Sherwin E. Turk".

Sherwin E. Turk
Counsel for NRC Staff

Dated at Rockville, Maryland
this 25th day of January 2010

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CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing "NRC STAFF'S UNOPPOSED REQUEST FOR AN EXTENSION OF TIME TO RESPOND TO THE STATE OF NEW YORK'S 'MOTION TO COMPEL NRC STAFF TO PRODUCE THE MACCS2 CODE ABSENT A FEE IN COMPLIANCE WITH THE NATIONAL ENVIRONMENTAL POLICY ACT AND NRC DISCLOSURE REGULATIONS,'" dated January 25, 2010, have been served upon the following through deposit in the NRC's internal mail system, with copies by electronic mail, as indicated by an asterisk, or by deposit in the U.S. Postal Service, as indicated by double asterisk, with copies by electronic mail this 25th day of January, 2010:

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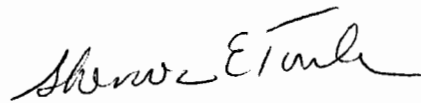
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