

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

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. 50-0247-LR and 50-286-LR

ASLBP No. 07-858-03-LR-BD01

February 24, 2010

ORDER

(Extending Time Within Which To File New Contentions)

Before the Board is a Motion by the State of New York (New York) seeking a two-week extension of time within which to file new or amended contentions arising from the Applicant's revised submission concerning Severe Accident Mitigation Alternatives (SAMA).¹ The Board hereby grants the motion and extends the deadline to March 11, 2010. We note that the Motion was timely and we believe that granting New York an additional two weeks for the consideration of and, if appropriate, the preparation of, new or amended contentions may result in either a well-considered decision not to file new contentions or, in the alternative, the submission of contentions that are fully thought-out and well-articulated, without materially interfering with or delaying the hearing in this proceeding.

The Applicant, Entergy Nuclear Operations, Inc. (Entergy) has filed an Answer in opposition to the granting of New York's Motion.² The NRC Staff has not taken a position

¹ Motion by the State of New York Requesting a Two-Week Extension of the Schedule Within Which the State May File Contentions Related to Entergy's Revised Submission Concerning Severe Accident Mitigation Alternatives (Feb. 22, 2010) [hereinafter New York Motion].

² Answer of Entergy Nuclear Operations, Inc. to New York State's Motion for Extension of Time (Feb. 23, 2010) [hereinafter Entergy Answer].

regarding whether this motion should be granted.³ Entergy opposes this motion, arguing that New York has not shown good cause for granting the extension and that the granting of the motion could have a material impact on the schedule for completing the evidentiary hearing in this proceeding.⁴ We disagree.

Since the date on which the Board originally set the allowable period for submitting motions to file new or amended contentions arising from the Applicant's revised SAMA analyses,⁵ we have been advised by the NRC Staff that the publication of the Final Supplemental Environmental Impact Statement would be postponed by several months.⁶ Given that development, the Board does not believe that, nor does Entergy explain how, the granting of the requested two-week extension could possibly delay the hearing in this proceeding. Accordingly, since in the Board's judgment, the granting of this motion could not delay the proceeding nor work any conceivable hardship on the other parties to this proceeding, the explanation of need offered by New York is sufficient to establish "good cause" within the meaning of Section 2.307(a).

In granting this motion, we note that if a request for an extension of time would delay the resolution of this proceeding, the showing needed to establish "good cause" would be proportional to the delay occasioned.

³ See New York Motion at 4.

⁴ Entergy Answer at 2-4.

⁵ See Licensing Board Order (Granting New York's Motion To Establish February 25, 2010 As The Date By Which New York May File Contentions Related To Entergy's Revised Submission Concerning Severe Accident Mitigation Alternatives) (Jan. 22, 2010) (unpublished).

⁶ On February 4, 2010, the NRC Staff gave notice that the anticipated release of the Final Environmental Impact Statement has been changed from February 2010 until May 31, 2010. Letter from Sherwin E. Turk, Counsel for NRC Staff, to Administrative Judges, Indian Point Licensing Board (Feb. 4, 2010).

The Board will contact the parties after March 11, 2010, in order to determine their availability to participate in a status conference at which a revised schedule for the conduct of this proceeding will be discussed.

It is so ORDERED.

FOR THE ATOMIC SAFETY
AND LICENSING BOARD⁷

/RA, by Edward R. Hawkens for/

Lawrence G. McDade, Chairman
ADMINISTRATIVE JUDGE

Rockville, Maryland
February 24, 2010

⁷ Copies of this Order were sent this date by Internet e-mail to: (1) Counsel for the NRC Staff; (2) Counsel for Entergy; (3) Counsel for the State of New York; (4) Counsel for Riverkeeper, Inc.; (5) Manna Jo Green, the Representative for Clearwater; (6) Counsel for the State of Connecticut; (7) Counsel for Westchester County; (8) Counsel for the Town of Cortlandt; (9) Mayor Alfred J. Donahue, the Representative for the Village of Buchanan; and (10) Counsel for the New York City Economic Development Corporation.