



UNITED STATES  
NUCLEAR REGULATORY COMMISSION  
WASHINGTON, D.C. 20555-0001

March 16, 2010

SECRETARY

Susan H. Shapiro, Esq.  
21 Pearlman Drive  
Spring Valley, New York 10977

Dear Ms. Shapiro;

The Office of the Secretary has received your submission, dated March 1, 2010, entitled "Objection to Finding of Adequate Decommissioning Funds, Petition to Repeal Finding of Adequate Decommissioning Funds, Petition to Reopen For Consideration, Petition for Leave to Intervene and Request for Hearing, and Contentions." Your submission establishes no grounds for an NRC hearing.

Your submission requests a hearing under the provisions of the Nuclear Waste Policy Act ("NWP") of 1982, 42 U.S.C. § 10101, *et seq.*, to contest the NRC Staff's finding, dated December 28, 2009, that Entergy has provided "reasonable assurance of adequate decommissioning funding at the time of permanent cessation of operations ..." for the Indian Point Unit 2 facility.<sup>1</sup> Specifically, you submitted several proposed contentions for which you request a hearing under Section 134 of the NWP, 42 U.S.C. § 10154, and the Commission's implementing regulations at 10 C.F.R. Part 2, Subpart K. See Submission of March 1, 2010, at pp. 3-6. But as explained below, there is no "proceeding" under the Atomic Energy Act in which you may intervene or request an oral argument under the NWP.

Section 134 requires the Commission "at the request of any *party*" to provide an oral argument "[i]n any *proceeding* under section 189 of the Atomic Energy Act of 1954 (42 USC 2239) on an application for a license, or for an amendment to an existing license ... to expand the spent nuclear fuel storage capacity at the site of a civilian nuclear power reactor ...." (Emphasis added). Thus, in order to invoke the NWP provision for an oral argument, you must already be a "party" to a pre-existing "proceeding under section 189 of the Atomic Energy Act." No such proceeding exists here and you are not a "party."

The NRC Staff letter that you seek to challenge does not grant Entergy a license or license amendment or, indeed, "permission" or authority to do anything not already authorized by its license. It is in no sense a license or an amendment triggering an opportunity for an NRC hearing. Instead, the letter simply states that the NRC Staff has found that Entergy is in compliance with the applicable NRC regulations.

In view of your concern about this matter, I am referring your submission to the Director of Nuclear Reactor Regulation for appropriate action. See 10 C.F.R. §2.206.

Sincerely,

/RA/

Annette Vietti-Cook  
Secretary of the Commission

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<sup>1</sup> See Letter from John P. Boska, NRC, to Vice President, Operations, Entergy Nuclear Operations (December 28, 2009).