

May 14, 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/50-286-LR
)
(Indian Point Nuclear Generating)
Units 2 and 3))

NRC STAFF'S REQUEST FOR LEAVE TO PROPOSE TRANSCRIPT CORRECTIONS
AND FOR THE SCHEDULING OF A PREHEARING TELEPHONE CONFERENCE

Pursuant to 10 C.F.R. § 2.323(a), the NRC Staff ("Staff") hereby requests (a) that the parties be afforded an opportunity to propose corrections to the transcript of the telephone conference held on April 19, 2010, in a motion to be filed on or before May 21, 2010, and (b) that a further telephone conference be scheduled to allow discussion of the parties' views concerning the adoption of a hearing schedule in this license renewal proceeding. In support of this request, the Staff states as follows:

1. On April 19, 2010, the Atomic Safety and Licensing Board ("Board") conducted a telephone conference with the parties and other participants in this proceeding. The telephone conference was recorded, and a transcript of the conference was then prepared. Upon review of that transcript, the Staff observed that it contains certain inaccuracies, some of which appear to be sufficiently significant to require correction.¹ After circulating the Staff's proposed

¹ The Staff's proposed transcript corrections are set forth in Appendix A hereto. Upon seeking the parties' views on this matter, certain parties indicated that they could not take a position without having additional time to review the transcript, and that they may wish to propose other transcript corrections. Accordingly, the Staff does not seek the Board's approval of these proposed corrections at this time, but will attempt to incorporate its proposed transcript corrections into a joint motion to be submitted by the parties during the coming week.

transcript corrections to the other parties and participants in this proceeding, Staff Counsel was advised that certain parties would need additional time to review the Staff's proposed transcript corrections and that they may seek to propose additional corrections to the transcript. Further, certain parties expressed support for the filing of a single, joint motion to correct the transcript. Accordingly, the Staff requests leave for the parties to file a motion proposing corrections to the transcript on or before May 21, 2010.

2. In accordance with the Board's direction (Tr. 819-30), on May 4, 2010, Counsel for Entergy Nuclear Operations, Inc. ("Entergy" or Applicant") submitted, on behalf of the parties and participants in this proceeding, a proposed hearing schedule for consideration by the Board, along with the parties' comments on that schedule and a draft outline of a possible two-track hearing schedule.² On May 4, 2010, Counsel for the State of New York ("New York") submitted an additional set of comments on behalf of New York, Riverkeeper, Inc. ("Riverkeeper"), Hudson Sloop Clearwater, Inc. ("Clearwater"), the State of Connecticut ("Connecticut"), and the Town of Cortlandt ("Cortlandt").³

3. In its letter of May 4, 2010, New York presented various statements and arguments in support of its comments on the proposed schedule. Among other matters, those statements addressed the length of time to be afforded for Intervenors' submissions in this proceeding, and the sequence or order of filing to be established for the various parties' submissions.

4. In reviewing the State's letter, the Staff determined that certain of views expressed therein by the State are imbalanced and unreasonable, and could create substantial inequities and inefficiencies in the conduct of this proceeding. Specifically, the Staff notes that

² See Letter from Martin J. O'Neill to the Board (May 4, 2010) ("Entergy Letter"), and Attachments 1 and 2 thereto.

³ See Letter from John Sipos, *et al.*, to the Board (May 4, 2010) ("NYS Letter").

it substantially disagrees with (a) New York's request that the Intervenors be afforded "60 days to prepare rebuttal testimony" in response to the Staff and Applicant's direct testimony (NYS Letter at 2); (b) New York's request that "Entergy and the NRC Staff be required to provide a detailed statement of their position on the merits of all contentions long before direct testimony is required to be filed" (*id.*); and (c) New York's summary of the Staff's reasons for opposing the proposal set forth in item (b) above (*id.*).

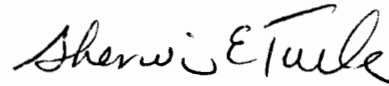
5. Accordingly, in the event that the Board may be contemplating the adoption of these proposals by the State, the Staff respectfully requests that the Board schedule a further telephone conference call to allow the parties to present their views on these and any other matters as to which the Board may wish further elucidation by the parties, prior to the adoption of a hearing schedule in this proceeding.

6. In accordance with 10 C.F.R. § 2.323(b), Staff Counsel attempted to contact Counsel for Entergy, New York, Riverkeeper, Clearwater, Connecticut, Cortlandt, Westchester County, the Village of Buchanan, and the New York City Economic Development Corporation ("NYCDEC"), prior to the filing of this motion. Entergy and Cortlandt stated that they support the filing of a joint motion to correct the transcript and the scheduling of a telephone conference to discuss the hearing schedule. New York stated that it supports the filing of a joint motion to correct the transcript and expects to complete its review of the transcript by May 19, 2010; it further stated that it takes no position on the substance of the Staff's position on scheduling issues and reserves the right to respond to the Staff's position after it has had an opportunity to review any written submission that the Staff may make on this issue. Westchester stated that it supports New York's position. Clearwater and Riverkeeper concurred in New York's position with respect to transcript corrections; Clearwater expressed no position with respect to the convening of a telephone conference, while Riverkeeper questioned the need for convening such a call in light of the filings to date, and suggested that the Board convene a conference if

and when the Board deems it necessary. NYCDEC stated that it takes no position on these matters. Counsel for the Staff was unsuccessful in several attempts to contact Counsel or representatives of Connecticut, Westchester, and Buchanan prior to filing this Motion.

WHEREFORE, the Staff respectfully requests (a) that the parties be afforded an opportunity to file a motion proposing corrections to the transcript of the April 19, 2010 telephone conference call, on or before May 21, 2010, and (b) that a further telephone conference call be scheduled to provide an opportunity for the parties to present their views on the establishment of a hearing schedule in this proceeding.

Respectfully submitted,

A handwritten signature in black ink that reads "Sherwin E. Turk". The signature is written in a cursive style with a large, stylized 'S' and 'T'.

Sherwin E. Turk
Counsel for NRC Staff

Dated at Rockville, Maryland
this 14th day of May 2010

APPENDIX A

NRC STAFF'S PROPOSED TRANSCRIPT CORRECTIONS

Page/Line	Delete	Insert
827/15	basic contentions	safety contentions
827/16	the submit	the submission
828/1	full-accelerated corrosion	flow-accelerated corrosion
828/2-3	work has completed the SER	work has been completed. The SER
854/4-5	you're now in the design basis accident space	you're now in the beyond design basis accident space
854/13	operator license.	operating license.
855/8	issued the FEIS	issue the FEIS
857/20	10 CFR Part 34	10 CFR Part 54
858/2	it there might becomes a requirement of license renewal.	it therefore becomes a requirement of license renewal,
859/10	It depends on the trier.	It depends on the nature.
869/20	exemption	exception
871/9	to issuing	to issue
875/24-25	environmental impacts where were excessive to CLB states.	environmental impacts which are outside CLB space.
881/6	addressed and re-addressed.	addressed and redressed.
881/25 - 882/1	that licensing will stage.	at the license renewal stage.
882/7	as a	at the
890/18-19	SAMAs of 33 identified as the	SAMAs. Footnote 33 identifies the
890/20	And for 035	And footnote 35
893/22	MR. SIPOS:	MR. TURK:
896/7	would change	would not change

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CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing "NRC STAFF'S REQUEST FOR LEAVE TO PROPOSE TRANSCRIPT CORRECTIONS AND FOR THE SCHEDULING OF A PREHEARING TELEPHONE CONFERENCE," dated May 14, 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 14th day of May, 2010:

Lawrence G. McDade, Chair*
Atomic Safety and Licensing Board Panel
Mail Stop - T-3 F23
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555-0001
E-mail: Lawrence.McDade@nrc.gov

Office of Commission Appellate
Adjudication*
U.S. Nuclear Regulatory Commission
Mail Stop: O-16G4
Washington, DC 20555-0001
E-mail: OCAAMAIL.resource@nrc.gov

Dr. Richard E. Wardwell*
Atomic Safety and Licensing Board Panel
Mail Stop - T-3 F23
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555-0001
E-mail: Richard.Wardwell@nrc.gov

Office of the Secretary*
Attn: Rulemaking and Adjudications Staff
Mail Stop: O-16G4
U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001
E-mail: Hearing.Docket@nrc.gov

Dr. Kaye D. Lathrop*
Atomic Safety and Licensing Board Panel
190 Cedar Lane E.
Ridgway, CO 81432
E-mail: Kaye.Lathrop@nrc.gov

Zachary S. Kahn*
Atomic Safety and Licensing Board Panel
Mail Stop – T-3 F23
U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001
E-mail: Zachary.Kahn@nrc.gov

Atomic Safety and Licensing Board Panel
U.S. Nuclear Regulatory Commission
Mail Stop: T-3 F23
Washington, DC 20555-0001
(Via Internal Mail Only)

Josh Kirstein, Esq.
Atomic Safety and Licensing Board Panel
Mail Stop - T-3 F23
U. S, Nuclear Regulatory Commission
Washington, D.C. 20555-0001
E-Mail: Josh.Kirstein@nrc.gov

Kathryn M. Sutton, Esq.**
Paul M. Bessette, Esq.
Morgan, Lewis & Bockius, LLP
1111 Pennsylvania Avenue, NW
Washington, D.C. 20004
E-mail: ksutton@morganlewis.com
E-mail: pbessette@morganlewis.com

Mylan L. Denerstein, Esq.**
Janice A. Dean, Esq.
Executive Deputy Attorney General,
Social Justice
Office of the Attorney General
of the State of New York
120 Broadway, 25th Floor
New York, NY 10271
E-mail: mylan.denerstein@oag.state.ny.us
janice.dean@oag.state.ny.us

Martin J. O'Neill, Esq.**
Morgan, Lewis & Bockius, LLP
1000 Louisiana Street, Suite 4000
Houston, TX 77002
E-mail: martin.o'neill@morganlewis.com

John J. Sipos, Esq.**
Charlie Donaldson, Esq.
Assistants Attorney General
New York State Department of Law
Environmental Protection Bureau
The Capitol
Albany, NY 12224
E-mail: john.sipos@oag.state.ny.us

Elise N. Zoli, Esq.**
Goodwin Procter, LLP
Exchange Place
53 State Street
Boston, MA 02109
E-mail: ezoli@goodwinprocter.com

Joan Leary Matthews, Esq.**
Senior Attorney for Special Projects
New York State Department of
Environmental Conservation
Office of the General Counsel
625 Broadway, 14th Floor
Albany, NY 12233-1500
E-mail: jlmatthe@gw.dec.state.ny.us

William C. Dennis, Esq.**
Assistant General Counsel
Entergy Nuclear Operations, Inc.
440 Hamilton Avenue
White Plains, NY 10601
E-mail: wdennis@entergy.com

John Louis Parker, Esq.**
Office of General Counsel, Region 3
New York State Department of
Environmental Conservation
21 South Putt Corners Road
New Paltz, NY 12561-1620
E-mail: jlparker@gw.dec.state.ny.us

Manna Jo Greene**
Hudson River Sloop Clearwater, Inc.
112 Little Market Street
Poughkeepsie, NY 12601
E-mail: MannaJo@clearwater.org

Ross H. Gould, Esq.**
10 Park Ave, 5L
New York, NY 10016
E-mail: rgouldesq@gmail.com

Daniel E. O'Neill, Mayor**
James Seirmarco, M.S.
Village of Buchanan
Municipal Building
Buchanan, NY 10511-1298
E-mail: vob@bestweb.net

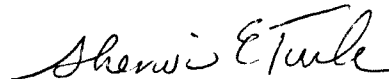
Daniel Riesel, Esq.**
Thomas F. Wood, Esq.
Ms. Jessica Steinberg, J.D.
Sive, Paget & Riesel, P.C.
460 Park Avenue
New York, NY 10022
E-mail: driese1@sprlaw.com
jsteinberg@sprlaw.com

Michael J. Delaney, Esq.**
Vice President – Energy Department
New York City Economic Development
Corporation (NYCDEC)
110 William Street
New York, NY 10038
E-mail: mdelaney@nycedc.com

Justin D. Pruyne, Esq.**
Assistant County Attorney
Office of the Westchester County Attorney
148 Martine Avenue, 6th Floor
White Plains, NY 10601
E-mail: jdp3@westchestergov.com

Robert Snook, Esq.**
Office of the Attorney General
State of Connecticut
55 Elm Street
P.O. Box 120
Hartford, CN 06141-0120
E-mail: robert.snook@ct.gov

Phillip Musegaas, Esq.**
Deborah Brancato, Esq.
Riverkeeper, Inc.
828 South Broadway
Tarrytown, NY 10591
E-mail: phillip@riverkeeper.org
dbrancato@riverkeeper.org



Sherwin E. Turk
Counsel for NRC Staff