

RAS E-366

DOCKETED  
USNRC

June 17, 2010 (8:30a.m.)

OFFICE OF SECRETARY  
RULEMAKINGS AND  
ADJUDICATIONS STAFF

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

-----x

In re:	Docket Nos. 50-247-LR and 50-286-LR
License Renewal Application Submitted by	ASLBP No. 07-858-03-LR-BD01
Entergy Nuclear Indian Point 2, LLC, Entergy Nuclear Indian Point 3, LLC, and Entergy Nuclear Operations, Inc.	DPR-26, DPR-64  June 16, 2010

-----x

**THE STATE OF NEW YORK, RIVERKEEPER, AND HUDSON RIVER SLOOP  
CLEARWATER'S SUPPLEMENTAL JOINT COMMENTS TO ATOMIC SAFETY AND  
LICENSING BOARD DRAFT SCHEDULING ORDER**

The State of New York, Riverkeeper, Inc., and the Hudson River Sloop Clearwater, Inc. ("Intervenors")<sup>1</sup> respectfully submit the following comments to the Atomic Safety and Licensing Board's ("ASLB") Draft Scheduling Order dated June 2, 2010 ("Draft Scheduling Order"), as a supplement to comments submitted by Intervenors earlier today. Specifically, in light of the NRC Staff's position to the contrary, Intervenors would like to explicitly articulate their support of the ASLB's currently proposed 60-day timeframe for submission of revised statements of position and rebuttal testimony by Intervenors pursuant to paragraph K.3. of the Draft Scheduling Order.

Intervenors submit that 60 days is appropriate and necessary for filing of these critical hearing documents. When the applicant and NRC Staff file their statements of position and direct testimony, it will be the first time that Intervenors will know the full extent of Entergy and NRC Staff's substantive positions on those issues. Intervenors respectfully submit that it is improper for NRC Staff to attempt to limit Intervenors' rights, including those of a sovereign

<sup>1</sup> Due to the late nature of this filing, counsel for the State of Connecticut, a signatory to Intervenors' earlier comments, could not be reached. Connecticut's absence from this supplemental comment does not necessarily signify disagreement with the positions expressed herein.

TEMPLATE = SECX-035

DS 03

state, to fully address admitted contentions, and that Staff is ill-positioned to opine on what rebuttal testimony may be necessary for a full airing of Intervenor positions and the development of a full record in this proceeding. To the contrary, as the ASLB has observed, a 60-day period of time in which to submit revised statements of position and rebuttal testimony is a reasonable amount of time in order for Intervenor to properly review Entergy and NRC Staff's submissions and respond meaningfully. Intervenor support the Board's proposed paragraph K.3.

In addition, the Staff's position on proposed paragraph H.2 could prevent Intervenor from having any time to file summary disposition motions after the FEIS<sup>2</sup> and would inequitably allow the Applicant and the Staff more time than the Intervenor to file summary disposition motions. See NRC Staff's Comments on the Board's Draft Scheduling Order (June 16, 2010) ("Staff Comments") at 7, referencing proposed paragraph H.2.

However, the Intervenor would like to express their support for the Staff's proposal to extend the time to submit initial testimony to 90 days following the FEIS, provided this is the default to be adopted in the absence of motions for summary disposition. See Staff Comments at 9.

The Intervenor respectfully submit the above supplemental comments for the ASLB's consideration, and reiterate support for the comments made in Intervenor's joint filing submitted earlier today.

---

<sup>2</sup> Specifically, if the Board does not adopt the Staff's proposal to extend the deadline for initial testimony to 90 days after publication of the FEIS, but adopts the Staff's proposal that summary disposition motions must be filed 60 days prior to the initial testimony, there would be no time at which Intervenor could file a motion for summary disposition based upon the FEIS.

Respectfully submitted,

\_\_\_\_\_  
/s

Janice A. Dean  
John J. Sipos  
Assistant Attorney General  
Office of the Attorney General  
for the State of New York  
The Capitol  
Albany, New York 12224  
(518) 402-2251  
john.sipos@ag.ny.gov

\_\_\_\_\_  
/s

Deborah Brancato, Esq.  
Phillip Musegaas, Esq.  
Riverkeeper, Inc.  
828 South Broadway  
Tarrytown, NY 10591  
(914) 478-4501  
dbrancato@riverkeeper.org  
phillip@riverkeeper.org

\_\_\_\_\_  
/s

Manna Jo Greene  
Ross Gould  
Hudson River Sloop Clearwater, Inc.  
112 Little Market Street  
Poughkeepsie, NY 12601  
mannajo@clearwater.org  
rgould@gmail.com

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

-----X  
In re: Docket Nos. 50-247-LR and 50-286-LR  
  
License Renewal Application Submitted by ASLBP No. 07-858-03-LR-BD01  
  
Entergy Nuclear Indian Point 2, LLC, DPR-26, DPR-64  
Entergy Nuclear Indian Point 3, LLC, and  
Entergy Nuclear Operations, Inc. June 16, 2010  
-----X

**CERTIFICATE OF SERVICE**

I hereby certify that on June 16, 2010 copies of the foregoing Supplemental Joint Comments to Atomic Safety and Licensing Board Draft Scheduling Order on behalf of the State of New York, Riverkeeper, Inc., and the Hudson River Sloop Clearwater were served on the following by U.S. Mail and e-mail:

Lawrence G. McDade, Chair Atomic Safety and Licensing Board Panel Atomic Safety and Licensing Board U.S. Nuclear Regulatory Commission Washington, D.C. 20555 E-mail: <a href="mailto:Lawrence.McDade@nrc.gov">Lawrence.McDade@nrc.gov</a>	Judge Kaye D. Lathrop 190 Cedar Lane East Ridgeway, CO 81432 E-mail: <a href="mailto:Kaye.Lathrop@nrc.gov">Kaye.Lathrop@nrc.gov</a>
Richard E. Wardwell Atomic Safety and Licensing Board U.S. Nuclear Regulatory Commission Washington, D.C. 20555 E-mail: <a href="mailto:Richard.Wardwell@nrc.gov">Richard.Wardwell@nrc.gov</a>	Michael J. Delaney, V.P. – Energy New York City Econ. Development Corp. 110 William Street New York, NY 10038 E-mail: <a href="mailto:mdelaney@nycedc.com">mdelaney@nycedc.com</a>
John J. Sipos, Esq. Assistant Attorney General Office of the New York Attorney General for the State of New York The Capitol Albany, NY 12224 E-mail: <a href="mailto:John.Sipos@oag.state.ny.us">John.Sipos@oag.state.ny.us</a>	Kathryn M. Sutton, Esq. Paul M. Bessette, Esq. Jonathan M. Rund, Esq. Morgan, Lewis & Bockius, LLP 1111 Pennsylvania Ave. N.W. Washington, D.C. 20004 E-mail: <a href="mailto:pbessette@morganlewis.com">pbessette@morganlewis.com</a> <a href="mailto:ksutton@morganlewis.com">ksutton@morganlewis.com</a> <a href="mailto:jrund@morganlewis.com">jrund@morganlewis.com</a>

<p>Josh Kirstein, Law Clerk Atomic Safety and Licensing Board Panel U.S. Nuclear Regulatory Commission Washington, D.C. 20555 E-mail: <a href="mailto:Josh.Kirstein@nrc.gov">Josh.Kirstein@nrc.gov</a></p>	<p>Martin J. O'Neill, Esq. Morgan, Lewis &amp; Bockius, LLP 1000 Louisiana Street, Suite 4000 Houston, TX 77002 E-mail: <a href="mailto:martin.oneill@morganlewis.com">martin.oneill@morganlewis.com</a></p>
<p>Janice A. Dean, Esq. Assistant Attorney General Office of the Attorney General 120 Broadway, 26<sup>th</sup> Floor New York, NY 10271 E-mail: <a href="mailto:Janice.dean@oag.state.ny.us">Janice.dean@oag.state.ny.us</a></p>	<p>Office of Commission Appellate Adjudication U.S. Nuclear Regulatory Commission Washington, D.C. 20555 E-mail: <a href="mailto:OCAAMAIL@nrc.gov">OCAAMAIL@nrc.gov</a></p>
<p>Office of the Secretary Rulemakings and Adjudications Staff U.S. Nuclear Regulatory Commission Washington, D.C. 20555 E-mail: <a href="mailto:HEARINGDOCKET@nrc.gov">HEARINGDOCKET@nrc.gov</a></p>	<p>William C. Dennis, Esq. Entergy Nuclear Operations, Inc. 440 Hamilton Avenue White Plains, NY 10601 E-mail: <a href="mailto:wdennis@entergy.com">wdennis@entergy.com</a></p>
<p>Stephen C. Filler, Board Member Hudson River Sloop Clearwater, Inc. 303 South Broadway, Suite 222 Tarrytown, NY 10591 E-mail: <a href="mailto:sfiller@nylawline.com">sfiller@nylawline.com</a></p>	<p>Manna Jo Greene Hudson River Sloop Clearwater, Inc. 112 Little Market Street Poughkeepsie, NY 12601 E-mail: <a href="mailto:Mannajo@clearwater.org">Mannajo@clearwater.org</a></p>
<p>Greg Spicer, Esq. Assistant County Attorney, Litigation Bureau Of Counsel to Charlene M. Indelicato, Esq. Westchester County Attorney 148 Martine Avenue, 6<sup>th</sup> Floor White Plains, NY 10601 E-mail: <a href="mailto:gssl@westchestergov.com">gssl@westchestergov.com</a></p>	<p>Joan Leary Matthews, Esq. Senior Attorney for Special Projects New York State Department of Environmental Conservation 625 Broadway, 14<sup>th</sup> floor Albany, New York 12233-5500 E-mail: <a href="mailto:jlmatthe@gw.dec.state.ny.us">jlmatthe@gw.dec.state.ny.us</a></p>
<p>Ross H. Gould, Esq. 10 Park Ave, #5L New York, NY 10016 T: 917-658-7144 E-mail: <a href="mailto:rgouldesq@gmail.com">rgouldesq@gmail.com</a></p>	<p>Thomas F. Wood, Esq. Daniel Riesel, Esq. Jessica Steinberg, Esq. Sive, Paget and Riesel, P.C. 460 Park Avenue New York, NY 10022 E-mail: <a href="mailto:driesel@sprlaw.com">driesel@sprlaw.com</a> <a href="mailto:jsteinberg@sprlaw.com">jsteinberg@sprlaw.com</a></p>

<p>Robert D. Snook, Esq.  Assistant Attorney General  55 Elm Street, P.O. Box 120  Hartford, CT 06141-0120  E-mail: <a href="mailto:Robert.Snook@po.state.ct.us">Robert.Snook@po.state.ct.us</a></p>	<p>John L. Parker, Esq.  Regional Attorney, Region 3  New York State Department of  Environmental Conservation  21 South Putt Corners  New Paltz, NY 12561  E-mail: <a href="mailto:jlparker@gw.dec.state.ny.us">jlparker@gw.dec.state.ny.us</a></p>
<p>Elise N. Zoli, Esq.  Goodwin Procter, LLP  53 State Street  Boston, MA 02109  E-mail: <a href="mailto:ezoli@goodwinprocter.com">ezoli@goodwinprocter.com</a></p>	<p>Mylan L. Denerstein, Esq.  Executive Deputy Attorney General  120 Broadway, 25<sup>th</sup> Floor  New York, NY 10271  E-mail: <a href="mailto:mylan.denerstein@oag.state.ny.us">mylan.denerstein@oag.state.ny.us</a></p>
<p>Sherwin E. Turk  Beth N. Mizuno  Brian G. Harris  David E. Roth  Andrea Z. Jones  Office of General Counsel  Mail Stop: 0-15D21  U.S. Nuclear Regulatory Commission  Washington, D.C. 20555-0001  E-mail: <a href="mailto:Sherwin.Turk@nrc.gov">Sherwin.Turk@nrc.gov</a>;  <a href="mailto:Beth.Mizuno@nrc.gov">Beth.Mizuno@nrc.gov</a>; <a href="mailto:brian.harris@nrc.gov">brian.harris@nrc.gov</a>;  <a href="mailto:David.Roth@nrc.gov">David.Roth@nrc.gov</a>; <a href="mailto:andrea.jones@nrc.gov">andrea.jones@nrc.gov</a>;</p>	<p>Sean Murray, Mayor  Village of Buchanan  Municipal Building  236 Tate Avenue  Buchanan, NY 10511-1298  E-mail: <a href="mailto:vob@bestweb.net">vob@bestweb.net</a>,  <a href="mailto:SMurray@villageofbuchanan.com">SMurray@villageofbuchanan.com</a>,  <a href="mailto:Administrator@villageofbuchanan.com">Administrator@villageofbuchanan.com</a></p>

/s

---

Deborah Brancato

June 16, 2010