

RAS E-417

UNITED STATES  
NUCLEAR REGULATORY COMMISSION  
ATOMIC SAFETY AND LICENSING BOARD

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In re: Docket Nos. 50-247-LR; 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. October 14, 2010  
-----X

UNOPPOSED MOTION  
BY THE STATE OF NEW YORK  
TO EXTEND TIME IN WHICH THE STATE MAY FILE A  
REPLY TO ENTERGY AND NRC STAFF'S OCTOBER 12, 2010 ANSWERS  
TO OCTOBER 22, 2010

Office of the Attorney General  
of the State of New York  
The Capitol  
State Street  
Albany, New York 12224

DOCKETED  
USNRC

October 15, 2010 (8:30am)

OFFICE OF SECRETARY  
RULEMAKINGS AND  
ADJUDICATIONS STAFF

TEMPLATE = SECY 041

DS 03

The State of New York respectfully requests that the Atomic Safety and Licensing Board extend the time in which the State may file a reply to Entergy and NRC Staff's October 12, 2010 Answers by three days – *i.e.*, until October 22, 2010. NRC Staff and Entergy do not oppose this request.

### **REGULATORY BACKGROUND**

NRC's Part 2 regulations permit a petitioner to file a reply to an answer to a proffered contention within seven days following service of the answer:

Except in a proceeding under 10 C.F.R. 52.103, the requestor/petitioner may file a reply to any answer. The reply must be filed within 7 days after service of that answer.

10 C.F.R. § 2.309(h)(2). This Board's July 1, 2010 Scheduling Order provides that:

Unless modified by the Board, or otherwise specified in this Order, a motion for extension of time shall be submitted in writing at least three (3) business days before the due date for the pleading or other submission for which an extension is sought. In addition to all other requirements, a motion for extension of time must (i) demonstrate appropriate cause that supports permitting the extension; and (ii) indicate whether the request is opposed or supported by the other participants in the proceeding; and, if opposed, succinctly describe the grounds stated for such opposition.

Scheduling Order ¶ G.4.

### **APPROPRIATE CAUSE SUPPORTS THE STATE'S REQUEST**

On September 15, 2010, the State of New York filed a Motion for Leave to File Additional Bases For Previously-Admitted Contention NYS-25. At the same time, the State proffered Additional Bases and Additional Supporting Evidence and the declaration of Dr. Richard T. Lahey (also dated September 15, 2010). On October 12, 2010, Entergy and NRC Staff filed separate answers opposing admission of the additional bases. Under 10 C.F.R. § 2.309(h)(2), the filing date for the State's reply is Tuesday, October 19, 2010.

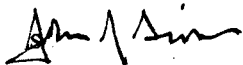
Dr. Lahey has been out of state during the week of October 11, 2010 attending previously-scheduled meetings and appointments on other matters. The preparation of the State's upcoming reply would be materially assisted by conferring with Dr. Lahey regarding various positions presented in the answers. Given Dr. Lahey's schedule, the State requests a three-day extension of the time in which to file a reply – from Tuesday, October 19 to Friday, October 22, 2010.

Entergy and NRC Staff do not oppose the State's request, and this motion is timely pursuant to the Scheduling Order, ¶ G.4.

### CONCLUSION

In light of the above, the State of New York respectfully submits that appropriate cause exists to justify the proposed extension and requests that the Board grant the State's unopposed motion to extend the filing date for a reply until Friday, October 22, 2010.

Respectfully submitted,



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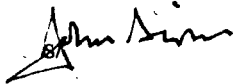
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Dated: October 14, 2010

**10 C.F.R. § 2.323(b) Certification**

I certify that I have made a sincere effort to contact the other parties in this proceeding, to explain to them the factual and legal issues raised in this motion, and to resolve those issues, and

I certify that Entergy and NRC Staff do not oppose the request.



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John Sipos

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

ATOMIC SAFETY AND LICENSING BOARD

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CERTIFICATE OF SERVICE

I hereby certify that on October 14, 2010, copies of the Unopposed Motion by the State of New York for Extension of Time to File a Reply were served upon the following persons via U.S. Mail and e-mail at the following addresses:

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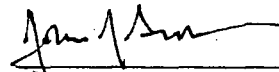
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Dated at Albany, New York  
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