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OFFICE OF SECRETARY  
RULEMAKINGS AND  
ADJUDICATIONS STAFF

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. December 23, 2010  
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**JOINT MOTION OF THE STATE OF NEW YORK,  
THE STATE OF CONNECTICUT, RIVERKEEPER, INC., AND  
THE HUDSON RIVER SLOOP CLEARWATER  
FOR AN EXTENSION OF TIME TO FILE CONTENTIONS AND SUMMARY  
DISPOSITION MOTIONS CONCERNING THE NRC STAFF'S FINAL  
SUPPLEMENTAL ENVIRONMENTAL IMPACT STATEMENT**

TEMPLATE = SECY 041

DS03

The State of New York, the State of Connecticut, Riverkeeper, Inc., and the Hudson River Sloop Clearwater respectfully request that the Atomic Safety and Licensing Board extend the time to file contentions or motions for summary disposition concerning NRC Staff's Final Supplemental Environmental Impact Statement (FSEIS) for the requested renewal of the Indian Point operating licenses until February 3, 2011. NRC Staff and Entergy do not oppose this request.

### **REGULATORY BACKGROUND**

This Board's July 1, 2010 Scheduling Order provides that:

A motion and proposed new contention specified in the preceding paragraph shall be deemed timely under 10 C.F.R. § 2.309(f)(2)(iii) if it is filed within thirty (30) days of the date when the new and material information on which it is based first becomes available.

Scheduling Order ¶ F.2. The Scheduling Order also states:

[N]o motion for summary disposition or other dispositive motion relating to a National Environmental Policy Act (NEPA) contention may be filed more than thirty (30) days after the NRC Staff publishes the FEIS. With regard to any motion for summary disposition filed after that date, the moving party shall identify and explain the new information or event that gave rise to the motion and the reason why the motion could not be filed by the due date.

Scheduling Order ¶ H.4. The Scheduling Order further 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 REQUEST

The National Environmental Policy Act requires NRC to prepare an environmental impact statement concerning Entergy's request to renew the operating licenses for the Indian Point reactors. Two years ago, on December 22, 2008, Staff completed the Draft Supplemental Environmental Impact Statement (DSEIS). The DSEIS consisted of two volumes spanning 730 pages.<sup>1</sup> Thereafter, the Staff received written and oral comments on the DSEIS. Staff initially projected that it would complete the FSEIS in February 2010. Ultimately, Staff notified the Board and parties that the FSEIS was completed on December 3, 2010. The FSEIS consists of three volumes and spans 2,200 pages.<sup>2</sup> Staff mailed paper copies of the FSEIS to the State on December 15, 2010.<sup>3</sup>

The movants seek additional time to review the Staff's Final Supplemental Environmental Impact Statement (FSEIS) and prepare and submit contentions concerning the Staff's environmental review and motions for summary disposition concerning the FSEIS. The following reasons support the request:

1. The length of the FSEIS document. The FSEIS is a 2,200 page document and apparently is one of the longest in NRC history. According to NRC, "The average SEIS for a license renewal application totals about 480 pages in a single volume." NRC Press Release No. 10-215.
2. The FSEIS contains many changes from the DSEIS. In the FSEIS, the NRC Staff amended its previous discussion of various issues that had appeared in the DSEIS. In

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<sup>1</sup> ML083540594 (DSEIS Vol. 1), ML083540614 (DSEIS Vol. 2).

<sup>2</sup> ML103350405 (FSEIS Vol. 1), ML103350438, ML103360209, ML103360212 (FSEIS Vol. 2), and ML103350442 (FSEIS Vol. 3).

<sup>3</sup> The New York State Office of the Attorney General received a paper copy of the FSEIS on Friday, December 17, 2010; the New York State Department of Environmental Conservation received a paper copy on Monday, December 20, 2010; Riverkeeper received a paper copy on Tuesday, December 21, 2010. Notice of the FSEIS appeared in the December 14 edition of the Federal Register, 75 Fed. Reg. 77920 (Dec. 14, 2010).

addition, the FSEIS (Appendix A) contains NRC Staff responses to public comments on the December 2008 DSEIS.

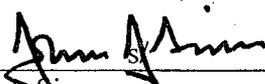
3. The release of the FSEIS and the 30-day period for contentions and summary disposition motions come in the midst of the end-of-year holidays. A number of experts and attorneys for movants had and have preexisting vacations scheduled during this period.
4. The State of New York and the State of Connecticut are both experiencing changes in government. Voters elected new Governors and Attorneys General in both States in the November 2010 elections. On January 1, 2011, New York will have a new Governor (Governor Elect Andrew Cuomo (currently Attorney General)) and Attorney General (Attorney General Elect Eric Schneiderman). Connecticut also will have a new Governor (Governor Elect Daniel Malloy) and Attorney General (Attorney General Elect George Jepsen). Connecticut Attorney General Richard Blumenthal was elected to the U.S. Senate. These transitions are taking place during the 30-day period for contentions and summary disposition motions.

Energy and NRC Staff do not oppose the requested extension, and this motion is timely pursuant to the Scheduling Order, ¶ G.4.

### **CONCLUSION**

In light of the above, the State of New York, the State of Connecticut, Riverkeeper, Inc., and the Hudson River Sloop Clearwater respectfully submit that appropriate cause exists to justify the proposed extension and request that the Board grant this unopposed motion to extend the filing date for contentions concerning the NRC Staff's FSEIS and motions for summary disposition concerning the FSEIS until February 3, 2011.

Respectfully submitted,



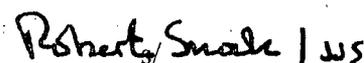
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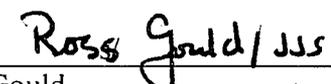
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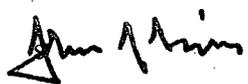
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Dated: December 23, 2010

**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 J. Sipos

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

ATOMIC SAFETY AND LICENSING BOARD

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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. December 23, 2010  
-----X

CERTIFICATE OF SERVICE

I hereby certify that on December 23, 2010, copies of the Combined Motion of the State of New York, The State of Connecticut, Riverkeeper, Inc., and The Hudson River Sloop Clearwater for an Extension of Time to File Contentions and Summary Disposition Motions Concerning The NRC Staff's Final Environmental Impact Statement were served upon the following persons via U.S. Mail and e-mail at the following addresses:

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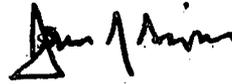
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Dated at Albany, New York  
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