

February 3, 2011

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/286-LR
)
(Indian Point Nuclear Generating)
Units 2 and 3))

NRC STAFF'S UNOPPOSED REQUEST FOR AN EXTENSION OF TIME
TO FILE ITS CROSS-MOTION AND RESPONSE TO NEW YORK STATE'S
MOTION FOR SUMMARY DISPOSITION OF CONTENTION NYS 35/36

Pursuant to 10 C.F.R. § 2.323(a), the NRC Staff ("Staff") hereby requests an extension of time of two business days, until February 7, 2011, to file its cross-motion and response to New York State's motion for summary disposition of Contention NYS 35/36, filed by the State of New York ("New York") on January 14, 2011.¹ In support of this request, the Staff states as follows:

1. By Order dated January 21, 2011,² the Atomic Safety and Licensing Board ("Board") granted an unopposed motion filed by Entergy Nuclear Operations, Inc. ("Entergy"), to establish a date for filing Entergy's and the Staff's cross-motions and responses to New York's motion for summary disposition. As set forth therein, such cross-motions and responses are due to be filed today, February 3, 2011.

¹ "State of New York's Motion for Summary Disposition of Consolidated Contention NYS-35/36" (Jan. 14, 2011) ("New York's Motion").

² "Order (Establishing Deadline for Filing Responses and Cross-Motions for Summary Disposition of NYS-35/36)" (Jan. 21, 2011). A further Order was issued by the Board on February 1, 2011, permitting Entergy and the Staff to each file a consolidated cross-motion and response to New York's motion of up to 40 pages.

2. Counsel for the Staff has been preparing to file its cross motion and response to New York's motion in accordance with the schedule established by the Board, and, by the evening of February 2, 2011, had prepared a draft of that document, totalling in excess of 35 pages. On the evening of February 2, 2011, however, as the undersigned Staff Counsel was working with that document on his desktop computer, the document inexplicably became corrupted, losing all of its formatting and many of the Staff's recent revisions to the document.

3. Staff Counsel has attempted, without success, to retrieve an uncorrupted version of the draft document; further, he has sought assistance in that attempt from his secretary, his office Information Technology coordinator, and the NRC's Customer Support Center, all without success. It has therefore become apparent to Staff Counsel that the document will have to be re-created from an earlier draft, and that substantial changes will then be required to prepare the document for filing. Staff Counsel estimates that one or two additional days will be required to re-create and finalize the Staff's cross-motion and response to New York's motion, such that it would be ready for filing on or before Monday, February 7, 2011.

4. The Board's "Scheduling Order" of July 1, 2010, requires that "[u]nless modified by the Board . . . , 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." *Id.* at 7. The Staff recognizes that the instant motion fails to comply with that requirement; the Staff submits, however, that the computer malfunction described above constitutes an unanticipated emergency that was entirely beyond the Staff's control. Accordingly, while Staff regrets its late filing of this motion for extension of time, the instant motion should be granted for good cause shown.

5. In accordance with 10 C.F.R. § 2.323(a), Staff Counsel has contacted Counsel for New York and Counsel for Entergy, both of whom have stated that they do not object to the Staff's request for an extension of time, until Monday, February 7, 2011, to file its cross motion

and response to New York's motion. This morning, Staff Counsel also left voice-mail messages for the Board Chairman McDade, Administrative Judge Wardwell, and the Board's Law Clerk, to inform them of this motion.

6. Counsel for the Staff submits that an extension of time of two business days, until February 7, 2011, will not result in hardship for any other party and will not cause delay in the proceeding.

WHEREFORE, the Staff respectfully requests that it be afforded an extension of time, until February 7, 2011, in which to file its cross-motion and response to New York's motion for summary disposition of Contention NYS 35/36.

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 initial 'S'.

Sherwin E. Turk
Counsel for NRC Staff

Dated at Rockville, Maryland
this 3rd day of February 2011

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CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing "NRC STAFF'S UNOPPOSED REQUEST FOR AN EXTENSION OF TIME TO FILE ITS CROSS-MOTION AND RESPONSE TO NEW YORK STATE'S MOTION FOR SUMMARY DISPOSITION OF CONTENTION NYS 35/36," dated February 3, 2011, 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 3rd day of February, 2011:

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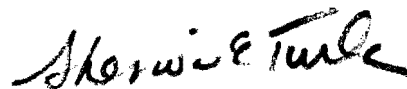
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