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NL-11-062

May 6, 2011

U.S. Nuclear Regulatory Commission
ATTN: Document Control Desk
Washington, DC 20555-0001

SUBJECT: Response to 10CFR2.206 Petition Submitted by the New York State Attorney General's Office Regarding Fire Protection at Indian Point Nuclear Generating Unit Nos. 1, 2, and 3
Docket Nos. 50-03, 50-247, 50-286
License Nos. DPR-5, DPR-26, DPR-64

Dear Sir or Madam:

- References:
- 1 Request for Exemption from 10 CFR 50, Appendix R, Paragraph III.G.2 for Use of Operator Manual Actions for Indian Point Unit No. 2, March 6, 2009
 - 2 Request for Exemption from 10 CFR 50, Appendix R, Paragraph III.G.2 for Use of Operator Manual Actions for Indian Point Unit No. 3, March 6, 2009

Dear Sir or Madam:

Entergy Nuclear Operations, Inc. ("Entergy") is providing the following comments in opposition to the "Petition Pursuant to 10 C.F.R. 2.206 Requesting That NRC Take Enforcement Action Against Entergy Nuclear Operations, Inc., and its Affiliates for Violations of NRC's 1980 Fire Safety Regulations at Indian Point Unit 1, Indian Point Unit 2, and Indian Point Unit 3 and to Compel Actual Compliance With Such Regulations" ("Petition"), dated March 28, 2011, submitted by the Office of the Attorney General for the State of New York (referred to herein as "NYS"). As described further below, the petition does not meet the criteria for further review in accordance with Nuclear Regulatory Commission ("NRC") Management Directive ("MD") 8.11, "Review Process for 10 CFR 2.206 Petitions." Specifically, the Petition fails to provide sufficient facts to support the requests and simply states a concern with NRC's current, generally applicable regulatory guidance and practice regarding review and approval of licensee exemption requests submitted pursuant to 10 C.F.R. 50.12, "Specific Exemptions," for certain credited operator manual actions ("OMAs").

First, Entergy's Indian Point Nuclear facilities are in compliance with current NRC guidance regarding implementation and approval of OMAs to address potential fires at

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Indian Point. In 2006, NRC issued Regulatory Issue Summary (“RIS”) 2006-010, “Regulatory Expectations With Appendix R Paragraph III.G.2 Operator Manual Actions.” RIS 2006-010 states that licensees may request, and the NRC has granted, exemption requests pursuant to 10 C.F.R. § 50.12 for the use of OMAs in lieu of certain criteria of paragraph III.G.2 of 10 C.F.R. Part 50, Appendix R where the exemption criteria were met. Further, NRC’s Enforcement Guidance Memorandum (“EGM”) 07-004, “Enforcement Discretion for Post-Fire Manual Actions Used as Compensatory Measures for Fire Induced Circuit Failures,” established March 6, 2009 as the date by which licensees must complete corrective actions associated with certain OMAs in order to receive enforcement discretion. Authorized corrective actions include submission of exemption requests pursuant to 10 C.F.R. 50.12. Entergy complied fully with this regulatory guidance by submitting exemption requests for Unit 2 (Reference 1) and Unit 3 (Reference 2) by the required due date. Those requests are currently under review by the NRC. Other licensees have requested and received NRC approval for exemptions associated with OMAs (see NRC approval of Oyster Creek Nuclear Generating Station: Request for Exemption From Title 10 of the Code of Federal Regulations Part 50, Appendix R Requirements, dated March 30, 2011 (ML110700451)).

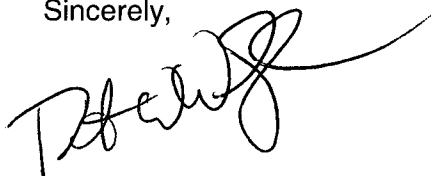
Second, Indian Point has maintained safe and technically appropriate fire protection methods that do not compromise fire or nuclear safety. The OMAs addressed in Entergy’s exemption requests are just one layer in a robust, defense-in-depth Fire Protection Program consisting of fire prevention, detection and suppression, and protection of safe shutdown capability. In addition, the OMAs consist of manual actions that can be reliably implemented in a timely manner using the normal plant operations shift staff. Each OMA was evaluated against NRC criteria for acceptable compensatory measures defined in NRC Inspection Procedure (“IP”) 71111.05 (Triennial Fire Protection Inspection Guidance). Entergy believes that the credited OMAs, in concert with other plant hardware and software features, ensure that an equivalent level of fire and nuclear safety is maintained at Indian Point.

Finally, as noted above, Entergy’s exemption requests are currently under review by the NRC, and Entergy has responded to requests from the NRC for further information, most recently in February 2011. Requests for additional information are a routine part of NRC safety reviews, and Entergy has provided detailed responses to all NRC requests. While Entergy believes that its exemption requests do not pose any undue risk to public health and safety, Entergy will abide by any NRC decision on the requested exemptions.

In summary, Entergy respectfully requests that the NRC not accept NYS’s Fire Protection Petition for review pursuant to 10 C.F.R. 2.206.

There are no new commitments contained in this letter. If you have any questions or require additional information, please contact me at 914-734-6710.

Sincerely,



RW/rw

cc: next page

cc: Mr. William Dean, Regional Administrator, NRC Region 1
Mr. John Boska, Senior Project Manager, NRC NRR DORL
IPEC NRC Resident Inspector's Office
Mr. Stephen Giebel, IPEC NRC Unit 1 Project Manager
Mr. Douglas Pickett, NRC Petition Manager
Mr. Paul Eddy, New York State Department of Public Service