

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

Before Administrative Judges:

Lawrence G. McDade, Chairman
Dr. Kaye D. Lathrop
Dr. Richard E. Wardwell

In the Matter of

ENTERGY NUCLEAR OPERATIONS, INC.

(Indian Point Nuclear Generating Units 2 and 3)

Docket Nos. 50-247-LR and 50-286-LR

ASLBP No. 07-858-03-LR-BD01

July 25, 2011

ORDER

(Regarding Implementation of E-Filing Procedures)

The NRC has prescribed use of the agency's electronic filing (E-Filing) system, the Electronic Information Exchange (EIE), for filings in all proceedings noticed after October 15, 2007. However, "[f]or any proceeding noticed before that . . . date, filings may be submitted via the E-Filing system, but only . . . upon agreement of all participants and the presiding officer."¹

This proceeding was originally noticed on July 25, 2007, before the E-Filing rule took effect, and therefore commenced unencumbered by the NRC's E-Filing procedures.²

¹ Use of Electronic Submissions in Agency Hearings, 72 Fed. Reg. 49,139, 49,139, 49,144 (Aug. 28, 2007).

² See Entergy Nuclear Operations, Inc., Indian Point Nuclear Generating Unit Nos. 2 and 3; Notice of Acceptance for Docketing of the Application and Notice of Opportunity for Hearing Regarding Renewal of Facility Operating License Nos. DPR-26 and DPR-64 for an Additional 20-Year Period, 72 Fed. Reg. 42,134, 42,134-35 (Aug. 1, 2007) (outlining procedures for submission of hearing requests). On September 25, 2007, the original deadline for submission of hearing requests was extended to November 30, 2007, and that second notice was also made before application of the E-Filing procedures. See Entergy Nuclear Operations, Inc., Indian Point Nuclear Generating Unit Nos. 2 and 3; Notice of Opportunity for Hearing Regarding Renewal of Facility Operating License Nos. DPR-26 and DPR-64 for an Additional 20-Year Period: Extension of Time for Filing of Requests for Hearing or Petitions for Leave To Intervene in the License Renewal Proceeding, 72 Fed. Reg. 55,834, 55,834 (Oct. 1, 2007).

On February 19, 2009, we declined to transfer this proceeding to the EIE because not all participants to this proceeding assented to such a transfer, but we held open the possibility of revisiting this issue in the future.³

At a teleconference with participants in this proceeding convened on June 6, 2011, among other things, we instructed the NRC Staff to report the participants' views on converting this proceeding from a "non-EIE" proceeding to an "EIE" proceeding.⁴ In letters dated June 30, 2011, and July 1, 2011, the NRC Staff responded that all parties either favored or did not oppose converting this proceeding to an EIE proceeding.⁵ The Staff also noted that if E-filing procedures are adopted,

[T]he parties suggest that conversion to the electronic filing procedures occur on September 1, 2011, to allow time for the parties to obtain the necessary digital IDs and to acclimate themselves to the new procedures. In addition, if possible, the parties would like to begin using the electronic procedures on a trial basis during the months of July and August, along with the current filing and service procedures, to allow them to gain experience with the new procedures before those procedures go into effect.⁶

Our law clerk, Mr. Joshua Kirstein, Esq., communicated to the participants that the Board was not favorably disposed to the adoption of the NRC's E-Filing procedures on a "trial basis," and thus requested that any participants wishing to withdraw their support for adoption of the E-Filing procedures notify the Board and all other participants no later than July 22, 2011.

Because no participant has withdrawn its support expressed to the NRC Staff, we adopt the E-Filing procedures to govern all submissions filed on or after September 1, 2011 in this proceeding. All filings submitted on or after September 1, 2011, shall be pursuant to the E-

³ Licensing Board Order (Declining to Transfer the Proceeding to the NRC's Electronic Filing System) (Feb. 19, 2009) at 2 (unpublished).

⁴ Tr. at 974.

⁵ Letter from Sherwin E. Turk, Counsel for NRC Staff, to Atomic Safety and Licensing Board at 1 (July 1, 2011); Letter from Sherwin E. Turk, Counsel for NRC Staff, to Atomic Safety and Licensing Board at 1-2 (June 30, 2011) [hereinafter June 30, 2011 NRC Staff Letter].

⁶ June 30, 2011 NRC Staff Letter at 2.

Filing procedures in 10 C.F.R. §§ 2.302, 2.304, 2.305, and 2.306. Participants shall also follow the directions for obtaining digital certificates and submitting e-filings on the agency's E-Filing website.⁷

It is so ORDERED.

FOR THE ATOMIC SAFETY
AND LICENSING BOARD⁸

/RA/

Lawrence G. McDade, Chairman
ADMINISTRATIVE JUDGE

Rockville, Maryland
July 25, 2011

⁷ See Electronic Submittals, <http://www.nrc.gov/site-help/e-submittals.html>. Participants should contact the NRC's Office of the Secretary to obtain a digital certificate in advance of September 1, 2011 (by e-mail at hearing.docket@nrc.gov or by telephone at (301) 415-1677). If participants require assistance in navigating the agency's E-Filing system, they should contact the NRC's MetaSystem Help Desk (accessible through the "Contact Us" link located on E-Filing website, by e-mail at mshd.resource@nrc.gov, or by telephone at (866) 672-7640).

⁸ Copies of this Memorandum and Order were sent this date by Internet e-mail to: (1) Counsel for the NRC Staff; (2) Counsel for Entergy; (3) Counsel for the State of New York; (4) Counsel for Riverkeeper, Inc.; (5) Manna Jo Green, the Representative for Clearwater; (6) Counsel for the State of Connecticut; (7) Counsel for Westchester County; (8) Counsel for the Town of Cortlandt; (9) Mayor Sean Murray, the Representative for the Village of Buchanan; and (10) Michael J. Delaney, counsel for the City of New York.

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NUCLEAR REGULATORY COMMISSION

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ENTERGY NUCLEAR OPERATIONS, INC.) Docket Nos. 50-247-LR
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(Indian Point Nuclear Generating Station,)
Units 2 and 3))

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing ORDER (Regarding Implementation of E-Filing Procedures) have been served upon the following persons by U.S. mail, first class, or through NRC internal distribution.

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ORDER (Regarding Implementation of E-Filing Procedures)

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ORDER (Regarding Implementation of E-Filing Procedures)

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[Original signed by Christine M. Pierpoint]
Office of the Secretary of the Commission

Dated at Rockville, Maryland
this 25th day of July 2011