

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

December 14, 2011

ORDER

On December 6, 2011, a status conference was held in this proceeding¹ during which the Board was made aware of a conflict between the State of New York (New York) and Riverkeeper, Inc. (Riverkeeper) (collectively, the Intervenors) and the NRC Staff (the Staff) regarding the adequacy and scope of the Staff's mandatory disclosures on Contention NYS-38/RK-TC-5.² With no motion before it, the Board directed the parties to attempt to resolve the situation amongst themselves, and, if a resolution were not promptly reached, directed New York and/or Riverkeeper to file a motion to compel if they concluded that it will be necessary for the Board to resolve this matter.³ While the Board initially considered a shorter timeline,⁴ the Board extends the deadline to no later than January 6, 2012 for the Staff, in tandem with New York and/or Riverkeeper, to report the status of discussions regarding the adequacy and scope of mandatory disclosures for Contention NYS-38/RK-TC-5. In addition, by the same date, New

¹ Tr. 987-1053.

² Id. at 994-95.

³ Id. at 996.

⁴ Id. at 997.

York and/or Riverkeeper shall inform the Board as to whether a motion to compel will be filed and, if so, shall suggest a date by which they will be able to submit any such motion. If such a motion is not to be forthcoming, they shall suggest the date by which they can proffer their evidentiary submissions regarding Contention NYS-38/RK-TC-5.

An issue was also raised during the status conference as to whether deadlines for evidentiary submissions should be delayed to compensate for increased case activity over the past few weeks.⁵ After considering the arguments made by the parties, the Board will proceed with the schedule laid out in its November 17, 2011 Order, which sets December 22, 2011 as the deadline for the majority of Intervenors' initial evidentiary submissions.⁶ However, submissions relating to Contention NYS-38/RK-TC-5 are held in abeyance pending further order of this Board. Likewise, the initial evidentiary submissions of Riverkeeper relating to Contention RK-EC-8 are also held in abeyance pending further order of this Board in light of the Staff's announcement that a draft supplement to its Final Supplemental Environmental Impact Statement that addresses issues raised in this contention is expected to be issued in draft form in May 2012⁷ with a final version to be issued approximately six to seven months thereafter.⁸

It is so ORDERED.

FOR THE ATOMIC SAFETY
AND LICENSING BOARD

/RA/

Lawrence G. McDade, Chairman
ADMINISTRATIVE JUDGE

Rockville, Maryland
December 14, 2011

⁵ Id. at 1034-51.

⁶ Licensing Board Order (Granting Unopposed Motion by the State of New York and Riverkeeper, Inc. to Amend the Scheduling Order) (Nov. 17, 2011) at 1 (unpublished).

⁷ See Letter from Sherwin E. Turk, Counsel for NRC Staff, to Atomic Safety and Licensing Board (Nov. 30, 2011).

⁸ Tr. at 1011.

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CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing Licensing Board ORDER have been served upon the following persons by Electronic Information Exchange.

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

Dated at Rockville, Maryland
this 14th day of December 2011