February 2, 2012

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE COMMISSION

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 MOTION FOR EXTENSION OF TIME
FOR THE FILING OF TESTIMONY, EXHIBITS AND STATEMENTS OF POSITION

Pursuant to 10 C.F.R. § 2.323(c), the NRC Staff ("Staff") hereby requests an extension of time until March 30, 2012, for the filing of testimony, exhibits and statements of position in this proceeding by the Staff and Entergy Nuclear Operations, Inc. ("Entergy" or "Applicant").[1] In support of this Motion, the Staff states as follows:

1. In accordance with the Atomic Safety and Licensing Board's ("Board") previous Scheduling Orders in this proceeding, the State of New York ("New York"), Riverkeeper, Inc. ("Riverkeeper") and Hudson Sloop Clearwater, Inc. ("Clearwater") (collectively, "Intervenors") filed their direct testimony, exhibits and statements of position on December 22, 2011.[2]

2. As stated in the Board's "Scheduling Order" of July 1, 2010, the Staff and Applicant are each required to file their testimony, exhibits and statements of position in filings

[1] The Staff notes that the possible filing of a motion for extension of time was discussed during the prehearing conference call held on January 18, 2012. *See* Tr. 1094-97.

[2] The Intervenors' testimony, exhibits and statements of position were due to be filed on or before October 11, 2011, pursuant to the Board's "Amended Scheduling Order" of June 7, 2011; that date was effectively extended by 51 days, until December 1, 2011, upon New York and Riverkeeper's filing of a new contention concerning the Staff's August 2011 Supplement to its Safety Evaluation Report. *See* "Order (Denying New York's Motion for an Extension of Time)" (Oct. 7, 2011), at 3. On November 17, 2011, the Board further extended the Intervenors' filing date until December 22, 2011, upon New York's and Riverkeeper's request, without opposition by the other parties. *See* "Order (Granting Unopposed Motion by the [New York] and [Riverkeeper] to Amend the Scheduling Order)" (Nov. 17, 2011) ("Order"), at 1.

that set out both their direct and rebuttal cases. *Id.* at 14. Under the current schedule, the Staff's and Applicant's testimony, exhibits and statements of position are now due to be filed on or before February 29, 2012. *See* Order of November 17, 2011, at 1.

3. The Intervenors' testimony, exhibits and statements of position, filed on December 22, 2011, address a multitude of issues related to the 12 contentions that are now scheduled for hearing.[3] The Intervenors' filings are quite voluminous; specifically, the Intervenors' testimony, exhibits and statements of position consist of 516 documents, totaling 36,475 pages.[4] The breadth and volume of the Intervenors' testimony, exhibits and statements of position lead the Staff to conclude that it will require an extension of time to enable it to complete and file its testimony, exhibits and statements of position on these contentions.

4. In addition, on January 30, 2012, the Applicant filed seven motions *in limine,* addressing various portions of the Intervenors' filings on Contentions NYS-12C, NYS-16B, NYS-17B, NYS--26B/Riverkeeper-TC1B, NYS-37, Riverkeeper-TC2, Riverkeeper-EC3/ Clearwater-EC1, and Clearwater-EC3A. The Staff is required to respond to these motions on or before February 9, 2012,[5] while it simultaneously works to complete the preparation of its testimony and related documents.

5. Further, on January 31, 2012, New York and Riverkeeper filed a motion to compel discovery against the Staff, in which they seek to compel the disclosure of a broad range of documents, notwithstanding the Staff's attempt to resolve this dispute without intervention by the Board and its view that it has fully satisfied its hearing file and mandatory

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[3] These are Contentions NYS-5 (buried piping and tanks), NYS-6/7 (Low and medium voltage cables), NYS-8 (transformers), NYS-12C (SAMA decontamination and cleanup costs), NYS-16B (SAMA population estimates), NYS-17B (property values), NYS-25 (reactor pressure vessel internals), NYS-26B/ Riverkeeper-TC1B (metal fatigue), NYS-37 (no action alternative), Riverkeeper-EC3/Clearwater-EC1 (spent fuel pool leaks), Riverkeeper-TC2 (flow accelerated corrosion), and Clearwater-EC3A (environmental justice).

[4] *See* "Attachment A" hereto.

[5] "Order (Setting Dates for Responsive Pleadings to Entergy's Motions in Limine)" (Feb. 1, 2012).

disclosure obligations in this proceeding.[6] In accordance with 10 C.F.R. § 2.323(c), the Staff's response to the motion to compel is required to be filed by February 9, 2012, during the period in which the Staff is also engaged in completing its testimony and responding to the Applicant's motions *in limine*.

6. In view of the breadth and volume of the Intervenors' filings which the Staff is required to address in rebuttal testimony – as well as the need to address the motions in limine and motion to compel during this same period, the Staff has determined that it requires a 30-day extension of time, until March 30, 2012, for the filing of its testimony, exhibits and statements of position.

7. The Staff further notes that an extension of time for the filing of its testimony and related documents until March 30, 2012, would allow the Staff to review and consider certain additional information that Entergy plans to submit on February 17, 2012, concerning its reactor vessel internals program, prior to being required to file its testimony and statement of position on Contention NYS-25.[7] In addition, an extension of time may allow the Board to consider and rule upon some or all of the pending motions *in limine* before the Staff and Applicant are required to file their testimony and statements of position.[8]

8. The Staff is aware that this proceeding commenced more than four years ago, and that the Board has expressed interest in progressing to hearing without unnecessary delay (*e.g.*, Tr. 1096-97). The Staff respectfully submits, however, that the instant request for an

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[6] *See* Transcript of Prehearing Telephone Conference of January 18, 2012, at Tr. 1090-92 (Turk).

[7] *See* Letter from Sherwin E. Turk to the Board (Jan. 27, 2012), attaching "Summary of Conference Call Held on January 12, 2012, Between the U.S. Nuclear Regulatory Commission and Entergy Nuclear Operations, Inc., Concerning the Reactor Vessel Internals Program at Indian Point Nuclear Generating Station, Units 2 and 3" (Jan. 27, 2012) (ADAMS Accession No. ML12024A207).

[8] While the Staff believes that Board rulings on the pending motions to compel would assist the Staff in framing its rebuttal testimony and statements of position, the Staff does not seek to defer the filing of its testimony and related documents until the Board has issued those rulings.

extension of time is not unreasonable under the circumstances, and will not cause hardship for any party or substantial delay in the proceeding.

9. In accordance with 10 C.F.R. § 2.323(b), Staff Counsel has contacted Counsel for New York, Riverkeeper, Clearwater, and Entergy. Counsel for Entergy stated that the Applicant does not object to the Staff's request for an extension of time but requests, for the sake of efficiency and uniformity, that a single date be established for the filing of both the Staff's and Entergy's testimony, exhibits and statements of position; the Staff does not oppose that request. Counsel for Riverkeeper stated that Riverkeeper does not oppose the Staff's request, and stated its preference that a single filing date be established for both the Staff and Applicant's filings. Counsel for New York and Counsel for Clearwater stated that those parties do not oppose the Staff's request and are amenable to a common date being established for both the Staff's and Applicant's filings.

WHEREFORE, the Staff respectfully requests that the Staff and Applicant be afforded an extension of time, until March 30, 2012, in which to file their written testimony, exhibits, and statements of position in this proceeding.

Respectfully submitted,

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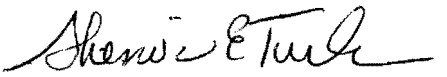
Dated at Rockville, Maryland
this 2nd day of February 2012

CERTIFICATION OF COUNSEL

Pursuant to 10 C.F.R. § 2.323(b), the undersigned attorney hereby certifies that he has made a sincere effort to contact the other parties to this proceeding (Entergy, New York, Clearwater, and Riverkeeper), to resolve the issues raised in this Motion, and that his efforts to resolve this issue have been successful.

Respectfully submitted,



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Dated at Rockville, Maryland
this 2nd day of February 2012

ATTACHMENT "A"

Contention	Number of Exhibits	Total Number of pages
EC-3A	43	3215
NYS-5	43	1678
NYS-6 & 7	28	3263
NYS-8	45	4479
NYS-12C	53	5428
NYS-16B	19	2736
NYS-17B	17	337
NYS-25	50	3727
NYS-26B/RK-TC1B	53	4952
NYS-37	90	4261
RK-EC3/ CW-EC1	43	1215
RK-TC2	32	1184
Total # of Exhibits	516	
Total # of pages		36475

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matter of	)	
	)	
ENTERGY NUCLEAR OPERATIONS, INC.	)	Docket Nos. 50-247/286-LR
	)	
(Indian Point Nuclear Generating Units 2 and 3)	)	

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing "NRC STAFF'S UNOPPOSED MOTION FOR EXTENSION OF TIME FOR THE FILING OF TESTIMONY, EXHIBITS AND STATEMENTS OF POSITION," dated February 2, 2012, in the above-captioned proceeding have been served on the following by Electronic Information Exchange this 2nd day of February, 2012.

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