

**UNITED STATES**  
**NUCLEAR REGULATORY COMMISSION**  
**ATOMIC SAFETY AND LICENSING BOARD**

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In re: Docket Nos. 50-247-LR; 50-286-LR  
License Renewal Application Submitted by ASLB No. 07-858-03-LR-BD01  
Entergy Nuclear Indian Point 2, LLC, DPR-26, DPR-64  
Entergy Nuclear Indian Point 3, LLC, and  
Entergy Nuclear Operations, Inc. August 10, 2012  
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**STATE OF CONNECTICUT’S REPLY TO APPLICANT’S RESPONSE AND  
RESPONSE OF NRC STAFF TO THE STATEMENT OF POSITION OF THE  
ATTORNEY GENERAL OF CONNECTICUT**

On June 28, 2012, the State of Connecticut filed a timely Statement of Position (“Connecticut SOP”) with respect to the above captioned matter. On July 30, 2012, NRC staff and Entergy each filed timely responses (“Responses”) to the Connecticut SOP. Both Responses acknowledge that the Board permitted Connecticut’s participation as an interested State pursuant to 10 C.F.R. §2.315(c) and Connecticut identified NYS-12, NYS-16, NYS-26, Riverkeeper EC-3 and Clearwater EC-3 as contentions it particularly intended to address. However, both Applicant’s and Staff’s Responses state that the Connecticut SOP “does not mention any of [the specifically] admitted contentions” and, further, that the issues raised by Connecticut relating to spent nuclear fuel, surface water impacts, and environmental impacts associated with an evacuation are not relevant to this proceeding.

As an initial matter, it appears that Staff and Entergy are attempting to create a new rule of procedure that would vacate a statement of position if it does not reiterate the list of admitted

contentions that have already been identified by an interested State as relevant to its position. Neither of the Responses provides a citation to any authority in support of this new rule and the Board's original order permitting Connecticut to appear as an interested governmental entity does not require it.

Beyond this, the purpose of this reply is to clarify that, when the SOP states that Connecticut supports the position taken by New York, it means that Connecticut supports the position taken by New York as to the specific contentions that have already been identified by Connecticut in its original pleadings. Inasmuch as the specifically numbered contentions are already a matter of public record, it would appear that the Applicant and NRC staff are, or should be, aware of them and cannot have suffered any prejudice.

Further, the primary thrust of Connecticut's SOP relates to failures in the NEPA analysis in the relicensing of Indian Point. Not surprisingly, the specifically identified admitted contentions also prominently involve unresolved NEPA issues. In addition, as noted by Entergy in its Response, on July 8, 2012, New York and Riverkeeper have advanced a contention NYS-39 that is directly tied to NEPA issues and specifically the Waste Confidence Decision and the position advocated in the Connecticut SOP directly relates to this. In this regard, on August 7, 2010, the Commission issued an order holding in abeyance licensing contentions like NYS-39. See, Commission Memorandum and Order CLI-12-16. This order did not summarily reject any such contentions and, of course, Connecticut seeks to preserve its rights to address these issues in this or related proceedings as circumstances develop.

Finally, while Staff and Entergy suggest that the SOP does not include any relevant data, the State of Connecticut would note that its SOP specifically cites to publicly available important Connecticut surface water resources data that has never been evaluated in any NEPA analysis

related to the relicensing of Indian Point. See, Connecticut SOP p. 12 at fn 11. Furthermore, the specifically cited comments of Commissioner Magwood are of direct relevance and have not been previously admitted in this proceeding. See, Connecticut SOP p. 12 at fn 13.

Dated: August 10, 2012

Respectfully submitted

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