

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

ATOMIC SAFETY AND LICENSING BOARD

Before Administrative Judges:

Lawrence G. McDade, Chairman
Dr. Michael F. Kennedy
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

August 31, 2012

ORDER

(Granting State of New York Motion for Extension of Time to File New Contentions)

On August 20, 2012, the State of New York (New York) filed a motion for an extension of time to file new contentions, resulting from Entergy Nuclear Operations, Inc.'s (Entergy's) Coastal Zone Management Act (CZMA) environmental report supplement.¹ The motion requested that time be extended such that any new contention arising from the contents of Entergy's supplement would be timely up to thirty days after the Board rules on Entergy's motion for declaratory order on the CZMA issue.² Responses to the motion for declaratory order have been delayed by Board order until January 14, 2013.³

¹ State of New York Motion for Extension of Time to File New Contentions, If Any, on Entergy's Environmental Report "Supplement" Regarding the Coastal Zone Management Act (Aug. 20, 2012).

² Id. at 1. See also Motion and Memorandum by Applicant Entergy Nuclear Operations, Inc. for Declaratory Order that It has Already Obtained the Required New York State Coastal Management Program Consistency Review of Indian Point Units 2 and 3 for Renewal of Operating Licenses (July 30, 2012).

³ Licensing Board Order (Granting, in Part, the NRC Staff's and New York's Motions for Extension of Time) (Aug. 8, 2012) at 2 (unpublished).

In order to give Entergy and the NRC Staff adequate time to respond to New York's request, the Board allowed Entergy and the NRC Staff until August 30, 2012, to file responses and indicated that the Board would make a determination on New York's motion for an extension of time "[o]nce the Board has had the opportunity to review those responses."⁴

On August 27, 2012, the NRC Staff filed an answer, in which the Staff stated that New York's request is "unreasonable and excessive" but noted that the Staff does not oppose an extension until January 14, 2013, the date by which both the Staff and New York must respond to Entergy's motion for declaratory order on the CZMA issue.⁵ On August 28, 2012, Entergy filed its opposition to the extension request—agreeing that January 14, 2013 was an appropriate extension and arguing that New York failed to demonstrate appropriate cause for a longer extension.⁶ In addition, Entergy argued that the issues contained in its motion for declaratory order and those that would arise in a new filed contention overlap, and similar filing deadlines "would allow the Board to consider the same issue just once."⁷

After reviewing the parties' filings, we agree with New York. It is reasonable to file motions for new contentions arising from the CZMA supplement to the environmental report after the Board's ruling on Entergy's motion for declaratory order on the CZMA issue because the Order may affect the scope and content of proposed new contentions. Thus, New York is granted an extension until thirty days after the Board has issued its ruling on Entergy's motion

⁴ Licensing Board Order (Concerning State of New York's Motion for Extension of Time to File New Contentions) (Aug. 21, 2012) at 2 (unpublished).

⁵ NRC Staff's Answer to "State of New York Motion for Extension of Time to File New Contentions, If Any, on Entergy's Environmental Report 'Supplement' Regarding the Coastal Zone Management Act" (Aug. 27, 2012) at 1-2.

⁶ Entergy Nuclear Operations, Inc.'s Answer for Opposing New York State's Motion for Extension of Time to File New Contentions (Aug. 28, 2012) at 1.

⁷ Id. at 2-3.

for a declaratory order to file any contentions arising from Entergy's CZMA supplement to its Environmental Report.

It is so ORDERED.

FOR THE ATOMIC SAFETY
AND LICENSING BOARD

/RA/

Lawrence G. McDade, Chairman
ADMINISTRATIVE JUDGE

Rockville, Maryland
August 31, 2012

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NUCLEAR REGULATORY COMMISSION

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

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing **ORDER (Granting State of New York Motion for Extension of Time to File New Contentions)** have been served upon the following persons by Electronic Information Exchange.

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Dated at Rockville, Maryland
this 31st day of August 2012

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