

September 4, 2012

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-LR/286-LR
)
(Indian Point Nuclear Generating)
Units 2 and 3))

NRC STAFF'S SEVENTH STATUS REPORT
IN RESPONSE TO THE ATOMIC SAFETY AND
LICENSING BOARD'S ORDER OF FEBRUARY 16, 2012

In accordance with the Atomic Safety and Licensing Board's ("Board") "Order (Granting NRC Staff's Unopposed Time Extension Motion and Directing Filing of Status Updates)" ("Order"), issued on February 16, 2012, the NRC Staff ("Staff") herewith provides its seventh monthly status report to the Board. As directed by the Board, the Staff provides the following information:

1. As discussed in the Staff's previous status report,¹ the Staff is continuing its review of the additional information it received from Entergy Nuclear Operations, Inc. ("Entergy" or "Applicant"), concerning its Reactor Vessel Internals ("RVI") Aging Management Program and Inspection Plan,² and the Applicant's partial response to the Staff's May 15, 2012 requests

¹ See "NRC Staff's Sixth Status Report in Response to the Atomic Safety and Licensing Board's Order of February 16, 2012" (Aug. 1, 2012) ("Sixth Status Report"), at 1-2.

² Letter from Fred Dacimo, Vice President, Operations License Renewal to NRC Document Control Desk, Subject: "License Renewal Application - Revised Reactor Vessel Internals Program and Inspection Plan Compliant with MRP-227-A, Indian Point Nuclear Generating Unit Nos. 2 and 3" (NL-12-037) (Feb. 17, 2012) (ADAMS Accession No. ML12060A312).

for additional information (“RAIs”) concerning that program, dated June 14, 2012.³ The Staff has determined that it needs to issue supplemental RAIs concerning this matter; those RAIs are in preparation, and will be issued shortly. The Staff expects to receive Entergy’s final responses to the Staff’s initial RAIs on or before September 28, 2012, and to receive Entergy’s responses to the Staff’s supplemental RAIs within 30 days after issuance of the RAIs.

2. In the Staff’s Fifth Status Report,⁴ the Staff stated that it expects to complete its review of the Applicant’s RVI submittal and its responses to the Staff’s initial RAIs on or before December 28, 2012, and to issue its SER Supplement by that date, assuming the Applicant’s responses are complete and do not require supplementation or any additional RAIs; the Staff noted, however, that “[i]f Entergy’s further responses of September 28, 2012 are incomplete or require the Staff to issue additional RAIs, the SER Supplement will be deferred to await completion of the Staff’s review.”⁵ Inasmuch as the Staff has identified the need to issue additional RAIs, the issuance date for the SER Supplement is expected to be deferred until early 2013. The Staff will provide further information to the Board concerning this matter when it becomes available. This matter affects the litigation of Contention NYS-25 (Reactor Vessel Internals) and related portions of Contention NYS-38/ RK-TC-5, but does not affect the litigation of any other contention.

³ See (1) Letter from Robert F. Kuntz (NRC) to Vice President, Operations (Entergy), Subject: “Request for Additional Information for the Review of the Indian Point Nuclear Generating Unit Nos. 2 and 3 (“IP2” and “IP3”), License Renewal Application” (May 15, 2012) (ADAMS Accession No. ML12125A342); and (2).Letter from Fred Dacimo (Entergy) to NRC Document Control Desk (June 14, 2012) (Subject: Reply to Request for Additional Information Regarding the License Renewal Application, (NL-12-089) (“Initial RAI Response”) (ADAMS Accession No. ML12184A037).

⁴ See “NRC Staff’s Fifth Status Report in Response to the Atomic Safety and Licensing Board’s Order of February 16, 2012” (July 2, 2012) (“Fifth Status Report”), at 2.

⁵ *Id.* at 2, ¶ 2; footnotes omitted.

3. As further stated in the Staff's Sixth Status Report,⁶ public comments were due to be submitted on or before August 20, 2012, concerning the Staff's draft Supplement to the Final Supplemental Environmental Impact Statement ("FSEIS") for license renewal of Indian Point Units 2 and 3 ("IP2" and "IP3") (addressing new information on entrainment, impingement, the thermal effects of once-through cooling, shortnose sturgeon, and Atlantic sturgeon consultations). The Staff has received comments from various members of the public and interested governmental agencies, and has commenced its review of those comments. The Staff continues to expect to issue the final FSEIS Supplement in or about December 2012, although this projected date could change if warranted by the Staff's review of the comments or other developments, as discussed in ¶ 4, *infra*. Inasmuch as the draft FSEIS Supplement addresses aquatic impacts only, it does not affect the litigation of any admitted contention in this proceeding other than Riverkeeper Contention EC-8 (Endangered Species).

4. As the Staff has stated previously,⁷ the Staff issued a Biological Assessment and reinitiated consultations with the National Marine Fisheries Service ("NMFS") under Section 7 of the Endangered Species Act ("ESA"), regarding Atlantic sturgeon at IP2/IP3.⁸ On July 23, 2012, the Applicant submitted additional information to NMFS concerning Atlantic sturgeon at Indian Point. At NMFS's request, the consultation period has been extended by 60 days to afford additional time for review of this information. As a result, the Staff currently expects that its consultations with NMFS will conclude in October 2012, and that NMFS will issue its Biological Opinion on or before December 28, 2012. The Staff is evaluating what effect, if any,

⁶ *Id.* at 2-3, ¶ 3.

⁷ *See id.*, at 3 ¶ 4.

⁸ *See* Letter from Sherwin E. Turk to the Board (May 17, 2012), attaching letter from Jeremy J. Susco (NRC) to Patricia A. Kurkul (NMFS) (May 16, 2012 (ADAMS Accession No. ML12100A082)).

this extension of time will have on the scheduled issuance of the Staff's FSEIS Supplement. The Staff will inform the Board promptly if there is any change to these dates.

5. As the Board is aware, on July 8 and 9, 2012, the State of New York, Riverkeeper, Inc., and Hudson River Sloop Clearwater (collectively, "Intervenors") filed two contentions related to waste storage and/or disposal, to which the Applicant and Staff responded on August 2 and 3, 2012. By Order dated August 8, 2012, the Board held all other pleadings concerning these contentions in abeyance, pending further order.⁹ This matter does not affect the schedule for evidentiary hearings on Track 1 contentions.

6. On July 24, 2012, the Applicant filed an amendment to its license renewal application ("LRA"), revising the discussion in the LRA's Environmental Report of the Coastal Zone Management Act ("CZMA") consistency determination for license renewal of IP2/IP3.¹⁰ On July 30, 2012, the Applicant filed a motion seeking issuance of a Declaratory Order that it has already obtained the required New York State Coastal Management Program consistency review for license renewal of IP2/IP3.¹¹ By Order dated August 8, 2012, the Board extended the time for filing responses to the Applicant's motion until January 14, 2013.¹² In addition, by Order dated August 31, 2012, the Board extended the time for the State of New York to file contentions on Entergy's amendment of its Environmental Report on CZMA issues, until

⁹ "Order (Holding Contentions NYS-39/RK-EC-9/CW-EC-10 and CW-SC-4 in Abeyance)" (Aug. 8, 2012).

¹⁰ Letter from Fred Dacimo (Entergy) to NRC Document Control Desk (July 24, 2012) (Subject: Supplement to License Renewal Application – Compliance with Coastal Zone Management Act" (NL-12-107) (ADAMS Accession No. ML12207A122).

¹¹ "Motion and Memorandum by [Entergy] for Declaratory Order that It Has Already Obtained the Required New York State Coastal Management Program Consistency Review of [IP2 and IP3] for Renewal of the Operating Licenses" (July 30, 2012).

¹² "Order (Granting, in Part, the NRC Staff's and New York's Motions for Extension of Time)" (Aug. 8, 2012).

30 days after the Board issues its ruling on Entergy's motion.¹³ This matter does not affect the schedule for evidentiary hearings on Track 1 contentions.

7. To the best of the Staff's knowledge, information and belief, none of the matters discussed above have any impact on the hearings on Track 1 contentions, scheduled to commence in October 2012. Further, the Staff is not currently aware of any other matter that has the potential to impact this proceeding. In accordance with the Board's direction (Order, at 2), the Staff will notify the Board as soon as any other event with potential to alter the hearing schedule arises.

Respectfully submitted,

/Signed (electronically) by/

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Dated at Rockville, Maryland
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¹³ "Order (Granting State of New York Motion for Extension of Time to File New Contentions)" (Aug. 31, 2012).

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CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing "NRC STAFF'S SEVENTH STATUS REPORT IN RESPONSE TO THE ATOMIC SAFETY AND LICENSING BOARD'S ORDER OF FEBRUARY 16, 2012," dated September 4, 2012, in the above-captioned proceeding have been served on the following by Electronic Information Exchange this 4th day of September, 2012.

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