

**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 ASLBP 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. October 9, 2012
-----X

**UNOPPOSED MOTION BY
STATE OF NEW YORK FOR LEAVE TO FILE
ADDITIONAL EXHIBITS CONCERNING CONTENTION NYS-37**

Office of the Attorney General
for the State of New York
The Capitol
State Street
Albany, New York 12224

INTRODUCTION

In accordance with 10 C.F.R. § 2.323(a) and the Atomic Safety and Licensing Board's ("Board") direction during the September 24, 2012 prehearing teleconference, the State of New York requests leave to file three additional New York Exhibits NYS000443 to NYS000445. Good cause exists for allowing the State to file these additional exhibits because they came into existence very recently and are relevant to issues likely to be discussed at the upcoming evidentiary hearing. Their admission is necessary to develop a full hearing record and will not cause delay or harm to any party. The State has disclosed the documents to the parties. The State of New York has consulted with Entergy, NRC Staff, Riverkeeper, and Clearwater have consulted pursuant to 10 C.F.R. § 2.323(b), and none of these parties opposes this motion.

ARGUMENT

GOOD CAUSE EXISTS FOR ALLOWING THE STATE TO FILE THE ADDITIONAL EXHIBITS

It is of the utmost importance that the Board has a full record of all material and relevant evidence when rendering its relicensing decision. *See Pacific Gas & Electric Co.* (Diablo Canyon Nuclear Power Plant, Units 1 & 2), ALAB-580, 11 N.R.C. 227, 230 (Atomic Licensing Appeal Board 1980) ("No conceivable good is served by making empty findings in the absence of essential evidence."). To that end, the Board has indicated that parties may proffer newly-created, relevant documents identified as new exhibits. *See Teleconference Tr.* at 1220, 1245-46 (Sept. 24, 2012). Therefore, the State respectfully requests these exhibits be admitted to ensure that the ultimate decision on relicensing is based on a complete record.

New York Exhibits NYS000443 to NYS000445 include the following three documents:

- New York State Planning Board, New York State Transmission and Distribution Systems Reliability Study and Report, <http://www.nysenergyplan.com/2013stateenergyplan-documents/reliability-study.pdf> (August 30, 2012) (NYS000443);

- New York State Department of Environmental Conservation, State Environmental Quality Review (SEQR), Findings Statement, Cricket Valley Energy Center, http://www.dec.ny.gov/docs/permits_ej_operations_pdf/cvseqrfind.pdf (September 26, 2012) (NYS000444);
- New York State Department of Environmental Conservation, News, DEC Approves New Cricket Valley Energy Center (CVE): Allows State-of-the-Art 1,000 Megawatt Natural Gas Fired Power Plant in Dutchess County to Move Forward, <http://www.dec.ny.gov/press/85841.html> (October 2, 2012) (NYS000445).

None of these documents—dated August, September, and October 2012—were previously available to the State for inclusion in the State’s June 29, 2012 rebuttal submissions. The documents refer to approvals for additional electric generation capacity. Thus, the issues addressed in these documents were already likely hearing topics and the introduction of these exhibits will not expand the scope of the hearing, delay the hearing, or have any adverse effect on the proceeding.

CONCLUSION

For the above reasons, the State respectfully requests that the Board grant the State of New York leave to file NYS000443 to NYS000445 as additional exhibits.¹ The three documents – with exhibit markers – accompany this filing.

Respectfully submitted,

Signed (electronically) by

John J. Sipos
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 The Capitol
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Dated: October 9, 2012

¹ Last week, the State withdrew Exhibit NYS000442, and the State will not use exhibit number NYS000442 in this proceeding.

Certificate Pursuant to 10 C.F.R. § 2.323

In accordance with the Board's Scheduling Order of July 1, 2010 (at 8-9) and 10 C.F.R. § 2.323(b), the undersigned counsel hereby certifies that counsel for the State of New York has made a sincere effort to contact other parties in the proceeding and resolve the issues raised in the motion. The State of New York's efforts to resolve the issues with the other parties has been successful, and none of the parties oppose the State's motion.

Signed (electronically) by

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CERTIFICATE OF SERVICE

I hereby certify that on October 9, 2012, copies of the Unopposed Motion by State of New York Motion For Leave to File Additional Exhibits; Exhibits NYS000443 – NYS000445; Exhibit NYSR00399; and Exhibit NYSR17001 were served electronically via the Electronic Information Exchange on the following recipients:

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Dated at Albany, New York
this 9th day of October 2012