

October 9, 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 UNOPPOSED MOTION FOR LEAVE TO FILE
ADDITIONAL AND REVISED EXHIBITS

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 staff of the Nuclear Regulatory Commission ("Staff") requests leave to file an additional exhibit ("Ex."), NRC000164, and revised Exs. NRCR00080, NRCR00081 and NRCR00086. As discussed below, good cause exists for allowing the Staff to file the revised exhibits and the additional exhibit. The revised exhibit, Ex. NRCR00086, is being submitted to include pages that were inadvertently omitted in the original filing. The additional exhibit is being submitted in response to the Board's recent order admitting the State of New York's ("New York") Ex. NYS000441.¹ This additional exhibit is relevant and likely to be discussed in the course of the upcoming evidentiary hearing and particularly with respect to the scope and content of Ex. NYS000441.

In addition, the Staff requests leave to file revised Exs. NRCR00080 and NRCR00081. Ex. NRCR00081 consists of the Staff's testimony on Contention NYS-17B (Land Values). It includes the testimony of Andrew Stuyvenberg. The Staff requests leave to delete the following sentence on page 26 that reads: "Because we don't have Dr. Sheppard's data in evidence, I

¹ ORDER (Granting New York's Motion for Leave to File an Additional Exhibit and Additional Cross-Examination Questions), sl. op. at 3 (Oct. 4, 2012). The Staff has also filed, in camera, proposed questions for the Board.

will use the Case-Shiller data as a rough analog.” Also, the Staff requests leave to delete paragraph 7 on pages 28 and 29 that reads:

Dr. Sheppard’s Data Are Not In Evidence: Finally, as I have noted in passing, Dr. Sheppard’s data are not in evidence, so we cannot confirm the effect on property values that he claims has occurred. Also, we are unable to test whether other types of events may have had a similar, long-term effect on the local housing market. Given that Dr. Sheppard’s “treatment” window is historically disconnected from the plant-site changes he claims to analyze, it is possible that his reported effect is the result of other events.

The deletion of paragraph 7 in the testimony necessitates the removal of a similar discussion in Ex. NRCR00080, the Staff’s Statement of Position at page 18:

Finally, Dr. Sheppard has not provided the data he used. *Id.* at 29. Consequently, the Staff is unable to confirm the effect on property values that Dr. Sheppard claims has occurred. *Id.* In addition, the Staff is unable to determine whether other types of events may have had a similar, long-term effect on property values. *Id.* Given that Dr. Sheppard’s “treatment group” is not supportable from a historical perspective, it is possible that the effect, or some portion of the effect, that Dr. Sheppard claims is a result of Indian Point may actually be attributable to other events. *Id.*

Dr. Sheppard’s data have been made available to the parties. The way in which the testimony discusses that data in the sections identified above suggests that the data have not been available and as this is not correct, the Staff wishes to remove those portions of the testimony and the corresponding discussion in the Statement of Position.

The deletion of these portions of the Staff’s testimony and Statement of Position and the admission of these exhibits will not result in harm to any other party, will not cause any delay in the proceeding, and is otherwise in the public interest.

The Staff has consulted with New York and Entergy pursuant to 10 C.F.R. § 2.323(b), and none of these parties opposes this Motion.

WHEREFORE, the Staff respectfully requests that the Staff's Exs. NRC000164, NRCR00080, NRCR00081, and NRCR00086 should be admitted into evidence.

Executed in Accord with 10 C.F.R. 2.304(d)

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/Signed Electronically by/

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Dated at Rockville, Maryland
this 9th day of October 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 contention (Entergy and New York) to resolve the issues raised in this Motion, and that his efforts to resolve this issue have been successful.

Respectfully submitted,

/Signed Electronically by/
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CERTIFICATE OF SERVICE

Pursuant to 10 C.F.R § 2.305 (revised), I hereby certify that copies of the foregoing "NRC STAFF'S UNOPPOSED MOTION FOR LEAVE TO FILE ADDITIONAL AND REVISED EXHIBITS" dated October 9, 2012; Exhibits NRC000164, NRCR00080, NRCR00081, NRCR00086, and NRCR30001 have been served upon the Electronic Information Exchange, the NRC's E-Filing System, in the above captioned proceeding, this 9th day of October, 2012.

/Signed (electronically) by/

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Date of signature: October 9, 201