

**UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION**

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matter of)	Docket Nos. 50-247-LR and
ENTERGY NUCLEAR OPERATIONS, INC.)	50-286-LR
(Indian Point Nuclear Generating Units 2 and 3))	
	October 12, 2012

**ENTERGY UNOPPOSED MOTION FOR LEAVE TO FILE ADDITIONAL
QUESTIONS ON CONTENTION NYS-37**

I. INTRODUCTION

In accordance with 10 C.F.R. § 2.323(a), Entergy Nuclear Operations, Inc. (“Entergy”) requests leave to file supplemental proposed questions on Contention NYS-37.¹ As discussed below, good cause exists for allowing Entergy to file these additional questions because, on October 9, 2012, the State of New York (“New York”) submitted three additional exhibits that New York recently disclosed to the parties and therefore, were not reasonably available to Entergy when it submitted proposed questions on August 29, 2012.² Because these new documents, authored by official State bodies, express views directly contrary to positions taken by New York in this proceeding and are likely to be discussed in the course of the upcoming evidentiary hearing, these supplemental proposed questions will assist the Atomic Safety and Licensing Board (“Board”) in developing a sound record. Furthermore, the submission of these supplemental questions will not result in harm to any other party, will not cause any delay in the

¹ Entergy’s supplemental proposed questions on Contention NYS-37 are being filed *in camera* as Attachment 1.

² See Unopposed Motion by State of New York for Leave to File Additional Exhibits Concerning Contention NYS-37 at 1-2 (Oct. 9, 2012), *available at* ADAMS Accession No. ML12283A417.

proceeding, and is otherwise in the public interest. Entergy, New York, and the NRC Staff have consulted pursuant to 10 C.F.R. § 2.323(b), and none of these parties opposes this Motion.

II. ARGUMENT

On October 9, 2012, New York requested leave to file additional exhibits (NYS000443 to NYS000445). Because these documents were created recently and are relevant to issues likely to be discussed at the upcoming evidentiary hearing, Entergy did not oppose New York offering these documents as exhibits. Entergy further submits that, consistent with the Board's earlier acceptance of additional proposed questions from the parties that address newly-submitted exhibits,³ the Board should likewise grant Entergy leave to file supplemental proposed questions addressing New York's new exhibits. As demonstrated in the proposed questions that have been filed *in camera* as Attachment 1 to this Motion, these new exhibits include statements by official State bodies that directly contradict positions taken by New York in this proceeding and Entergy's supplemental proposed questions will assist the Board in developing a sound record.

Because the issues addressed in New York's new exhibits were already likely hearing topics, Entergy's submission of supplemental proposed questions will not expand the scope of the hearing, delay the hearing, or have any adverse effect on the proceeding. To the contrary, the Board's consideration of Entergy's supplemental proposed questions will assist the Board in developing a sound record at the upcoming evidentiary hearing.

III. CONCLUSION

For the reasons set forth above, the Board should accept Entergy's supplemental proposed questions on Contention NYS-37.

³ Licensing Board Order (Granting New York's Motion for Leave to File An Additional Exhibit and Additional Cross-Examination Questions) at 3 (Oct. 4, 2012) (unpublished).

Respectfully submitted,

Signed (electronically) by Jonathan M. Rund

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Counsel for Entergy Nuclear Operations, Inc.

Dated in Washington, D.C.
this 12th day of October 2012

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MOTION CERTIFICATION

Pursuant to 10 C.F.R. § 2.323(b), counsel for Entergy certifies that he made a sincere effort to contact the other parties in this proceeding, to explain to them the factual and legal issues raised in this Motion, and to resolve those issues, and he certifies that his efforts have been successful.

Signed (electronically) by Jonathan M. Rund

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CERTIFICATE OF SERVICE

Pursuant to 10 C.F.R. § 2.305 (as revised), I certify that, on this date, copies of the “Entergy Unopposed Motion for Leave to File Additional Questions on Contention NYS-37” were served on participants in the above-captioned proceeding through the Electronic Information Exchange, the NRC’s E-Filing System.

Signed (electronically) by Jonathan M. Rund

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