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December 17, 2012

Lawrence G. McDade, Chairman
Dr. Michael F. Kennedy
Dr. Richard E. Wardwell
Atomic Safety and Licensing Board
U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001

Docket: *Entergy Nuclear Operations, Inc. (Indian Point Nuclear Generating Units 2 and 3), Docket Nos. 50-247-LR and 50-286-LR*

Re: **Notification of Entergy's Consistency Certification Pursuant to the Coastal Zone Management Act**

Dear Administrative Judges:

Entergy Nuclear Operations, Inc. ("Entergy") is providing this notice to the Atomic Safety and Licensing Board ("Board") and the parties that on December 17, 2012, Entergy filed a certification with the U.S. Nuclear Regulatory Commission ("NRC") and the New York State Department of State ("NYSDOS") that Indian Point Units 2 and 3 ("IP2" and "IP3," respectively) license renewal is consistent with the applicable and enforceable policies of the New York State Coastal Management Program ("NYCMP"). This consistency certification was provided to NRC and NYSDOS under a full reservation of rights. Copies of the letters transmitting the consistency certification to the NRC and NYSDOS are attached.¹

On July 30, 2012, Entergy filed with the Board a Motion for Declaratory Order that IP2 and IP3 have already undergone the required consistency review under the Coastal Zone Management Act ("CZMA") for IP2 and IP3 license renewal. The issue of whether license renewal requires

¹ The attached letters do not include referenced appendices, exhibits, and attachments due to their volume. Entergy, however, will separately provide copies of these documents upon request.

any further CZMA review is still pending before, and to be resolved by, the Board.²

Entergy continues to maintain that it already obtained consistency reviews for purposes of IP2 and IP3 license renewal, and that IP2 and IP3 require no further review in connection with this proceeding. Nonetheless, because of delays in resolving whether license renewal requires any further CZMA review, Entergy has determined that it is prudent to file a consistency certification, under full reservation of rights, at this time. Entergy expressly reserves all rights to contest the validity and enforceability of the NYCMP, and the authority of NYSDOS to conduct federal consistency review, under both federal and state law. Further, notwithstanding this certification, Entergy urges the Board to rule on Entergy's Motion for Declaratory Order to resolve the legal uncertainty of whether Entergy must submit to a redundant consistency review process that is obviated by controlling CZMA regulations.

² In addition, for the reasons presented to NYSDOS by Entergy's petition filed on November 7, 2012, license renewal is exempt from review under the terms of the NYCMP itself. Entergy reserves its rights to seek judicial review in the event that NYSDOS should fail to recognize IPEC as grandfathered under the NYCMP. See Letter from K. Sutton, Counsel for Entergy Nuclear Operations, Inc., to Administrative Judges, Regarding Notification of Entergy's Petition for Declaratory Order Filed with the New York State Department of State (Nov. 9, 2012), Att. 2, *available at* ADAMS Accession No. ML12314A045.

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Respectfully submitted,

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

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Counsel for Entergy Nuclear Operations, Inc.

Attachments

**UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION**

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matter of)	Docket Nos. 50-247-LR and
)	50-286-LR
ENTERGY NUCLEAR OPERATIONS, INC.)	
)	
(Indian Point Nuclear Generating Units 2 and 3))	December 17, 2012

CERTIFICATE OF SERVICE

Pursuant to 10 C.F.R. § 2.305 (as revised), I certify that, on this date, a copy of Entergy's letter to the Administrative Judges was served upon the Electronic Information Exchange (the NRC's E-Filing System), in the above-captioned proceeding.

Signed (electronically) by Jonathan M. Rund
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