

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION  
ATOMIC SAFETY AND LICENSING BOARD

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In the Matter of	)	
	)	
Entergy Nuclear Operations, Inc.	)	Docket Nos.
(Indian Point Nuclear Generating	)	50-247-LR
Units 2 and 3)	)	and 50-286-LR
	)	

**JOINT MOTION FOR ALTERATION TO FILING SCHEDULE**

In accordance with 10 C.F.R. § 2.323 and pursuant to the Atomic Safety and Licensing Board’s (“ASLB”) July 1, 2010 Order,<sup>1</sup> Riverkeeper, Inc. (“Riverkeeper”), Hudson Riverkeeper Sloop Clearwater, Inc. (“Clearwater”), the State of New York (“the State”), Entergy Nuclear Operations, Inc. (“Entergy”), and the Nuclear Regulatory Commission (“NRC”) Staff hereby move for certain alterations to current filing deadlines in the above-referenced proceeding. The parties seek changes to current dates and timeframes for filing initial and reply proposed findings of fact and conclusions of law, as well as responses to Entergy’s Motion for Declaratory Order concerning coastal consistency review.

**Background**

Adjudicatory hearings on “Track 1” contentions were conducted before the ASLB in October, November, and December of 2012. Thereafter, the parties to the proceeding conferred regarding a date by which to file proposed findings of fact and conclusions of law on Track 1 contentions. The ASLB subsequently adopted the parties’ suggested date for such filings of

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<sup>1</sup> In the Matter of Entergy Nuclear Operations, Inc. (Indian Point Nuclear Generating Units 2 and 3), Docket Nos. 50-0247-LR and 50-286-LR, ASLBP No. 07-858-03-LR-BD01, Scheduling Order (July 1, 2010), ¶ G.4.

March 8, 2013.<sup>2</sup> The ASLB's July 1, 2010 scheduling order in this proceeding indicates that the parties may submit responses to initial findings of fact and conclusions of law within 30 days.<sup>3</sup> Thus, the current deadline for replies to findings of fact and conclusions of law is April 8, 2013. In addition, the current deadline for answers to the Motion and Memorandum by Applicant Entergy Nuclear Operations, Inc. for Declaratory Order that It Has Already Obtained the Required New York State Coastal Management Program Consistency Review of Indian Point Units 2 and 3 for Renewal of Operating Licenses (July 30, 2012), is March 22, 2013.<sup>4</sup>

The parties seek alterations to these current filing dates as follows:

- Initial findings of fact and conclusions of law: 2 week extension, from March 8, 2013 to March 22, 2013;
- Answers to Entergy's Motion for Declaratory Order concerning compliance with the Coastal Zone Management Act, 2 week extension, from March 22, 2013 to April 5, 2013;
- Replies to findings of fact and conclusions of law, corresponding 2 week extension plus 11 days, from April 8, 2013 to May 3, 2013.

### **Argument**

Appropriate cause supports the above requested changes. In relation to the filing date for initial findings of fact and conclusions of law, additional time is needed to accommodate scheduling matters that were not foreseen by Riverkeeper and Clearwater at the time the parties

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<sup>2</sup> See In the Matter of Entergy Nuclear Operations, Inc. (Indian Point Nuclear Generating Units 2 and 3), Docket Nos. 50-0247-LR and 50-286-LR, ASLBP No. 07-858-03-LR-BD01, Order (Scheduling Post-Hearing Matters and Ruling on Motions to File Additional Exhibits) (Jan. 15, 2013), at ¶ II.

<sup>3</sup> In the Matter of Entergy Nuclear Operations, Inc. (Indian Point Nuclear Generating Units 2 and 3), Docket Nos. 50-0247-LR and 50-286-LR, ASLBP No. 07-858-03-LR-BD01, Scheduling Order (July 1, 2010), ¶ N.

<sup>4</sup> See In the Matter of Entergy Nuclear Operations, Inc. (Indian Point Nuclear Generating Units 2 and 3), Docket Nos. 50-0247-LR and 50-286-LR, ASLBP No. 07-858-03-LR-BD01, Order (Granting New York's Motion for an Extension of Time) (Jan. 7, 2013).

suggested and agreed to an original filing date. In particular, Riverkeeper's counsel requires limited additional time due to a previously unanticipated work-related trip, which limits counsel's availability during the week prior to and the week of the current filing deadline. Clearwater's counsel requires limited additional time because recent organizational and staffing changes have limited Clearwater's resources, and in addition, counsel for Clearwater will be out of town for several days due to plans that, again, were not anticipated at the time the parties agreed to the current filing deadline. The State supports the request for additional time, and NRC Staff and Entergy are amenable to a request for a limited extension of the filing date to March 22, 2013. In order to avoid overlapping and competing filings, the parties agree that shifting the current deadline for responses to Entergy's Motion for Declaratory Order from March 22, 2013 to April 5, 2013, is necessary and appropriate.

In relation to the filing date for replies to findings of fact and conclusions of law, the parties do not believe that 30 days is sufficient given the number and complexity of issues involved. The parties, thus, agree that some additional time is warranted, and suggest a filing date of May 3, 2013 for any reply findings of fact and conclusions of law. That is, a 2-week corresponding extension, plus 11 additional days.

The parties respectfully submit that the filing date alterations requested will not materially alter the timing of the proceeding, since the tribunal is currently awaiting several milestones before adjudicatory hearings can resume on "Track 2" contentions.

### **Conclusion**

In light of the foregoing, appropriate cause supports the ASLB permitting the requested changes to filing deadlines in this proceeding.

Respectfully submitted,

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

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Dated: February 27, 2013

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NUCLEAR REGULATORY COMMISSION  
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In the Matter of	)	Docket Nos.
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(Indian Point Nuclear Generating	)	
Units 2 and 3)	)	February 27, 2013
_____	)	

**Certification Pursuant to 10 C.F.R. § 2.323(b)**

I certify that the parties made a sincere effort to discuss the factual and legal issues raised in this motion, and to resolve those issues, and I certify that those efforts have been successful.

*Signed (electronically) by Deborah Brancato*  
Deborah Brancato, Esq.

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Units 2 and 3)	)	February 27, 2013

**CERTIFICATE OF SERVICE**

I certify that on February 27, 2013, copies of the parties' Joint Motion for Alteration to Filing Schedule were served on the following via NRC's Electronic Information Exchange:

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**Signed (electronically) by Deborah Brancato**  
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February 27, 2013