

**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. July 1, 2013  
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**STATE OF NEW YORK'S ANSWER TO NRC STAFF'S MOTION FOR  
PARTIAL RECONSIDERATION OF THE BOARD'S ORDER OF  
JUNE 12, 2013 (GRANTING NEW YORK'S MOTIONS TO SUPPLEMENT  
THE RECORD ON CONTENTIONS NYS-5 AND NYS-16B)**

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Pursuant to 10 C.F.R. § 2.323(c), the State of New York responds to NRC Staff's June 21, 2013 motion for partial reconsideration of the Board's June 12, 2013 Order. The Board's June 12, 2013 Order granted the State's motion for leave to enter a two-page table (Table 1) excerpted from Entergy communication NL-13-075, Attachment 1, License Renewal Application-Completed Engineering Project Cost Estimates for SAMAs Previously Identified as Potentially Cost-Beneficial (May 6, 2013) (ML13127A459) ("NL-13-075") as exhibit NYS000476 to NYS-16B and to submit supplemental Proposed Findings of Fact and Conclusions of Law ("Proposed Findings") regarding Contention NYS-16B. *Entergy Nuclear Operations, Inc.* (Indian Point, Units 2 and 3), Order (Granting New York's Motions, Denying Clearwater's Motion, and Denying CZMA Motions) at 2 (June 12, 2013) (unpublished) (ML3163A233). The Board's June 12, 2013 order also granted Entergy's May 28, 2013 request to submit Proposed Findings on Contention NYS-16B, but did not address Staff's request to submit Proposed Findings. *Id.* The Board's order also granted the State's June 10, 2013 motion to submit four documents as exhibits in connection with Contention NYS-5. *Id.* at 3.

Contention NYS-16B. In its June 21, 2013 motion for partial reconsideration, NRC Staff requests the opportunity to respond to the State's Proposed Findings by July 1, 2013. NRC Staff's Motion For Partial Reconsideration of the Board's Order of June 12, 2013 (Granting New York's Motions to Supplement the Record on Contentions NYS-5 and NYS-16B) at 4-5 (June 21, 2013) (ML13175A226).

While the State does not object to NRC Staff responding to the State's Proposed Findings, the State reiterates its request to submit brief reply findings.<sup>1</sup> As there will not be simultaneous filings as provided by the Board's July 1, 2010 Scheduling Order (§N) nor any opportunity for the State to respond to Staff and Entergy's proposed findings as provided by the Scheduling Order (§N), fairness supports the State being permitted an opportunity to respond to Entergy's and NRC Staff's Proposed Findings. NRC Staff and Entergy opposed this request when the State made its initial motion—and continue to oppose it.

For the sake of efficiency, the State respectfully requests that it be permitted to file combined responsive Proposed Findings, briefly replying to both Entergy and NRC Staff. Given that the two lead attorneys for the State on NYS-16B will be out of the country from July 4 through July 15 and that NRC Staff has had six weeks to formulate a response to the State's May 17, 2013 Proposed Findings, the State respectfully requests that it have until July 25, 2013 to submit its reply Proposed Findings.

Contention NYS-5. The State does not oppose the Staff's motion for reconsideration to the extent that it requests that Staff be permitted to file an answer to the State's motion to admit four documents (NYS000477-NYS000480) as exhibits with respect to Contention NYS-5. During consultations, the State informed Staff that the State reserved the right to respond to material, documents, or arguments contained in Staff's future submissions. At this point, the

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<sup>1</sup> The State advanced this request in its May 17, 2013 motion for leave as well as in its June 6, 2013 answer to Entergy's request to submit Proposed Findings and the entirety of NL-13-075 as an exhibit. *See* State of New York Motion Seeking Leave to File an Additional Exhibit and Supplemental Proposed Findings of Fact and Conclusions of Law on Contention NYS-16B (May 17, 2013) at 7-8 (ML13137A475); State of New York's Answer to Entergy's Request for Leave to File an Additional Exhibit and Supplemental Proposed Findings of Fact and Conclusions of Law in Response to New York's Supplemental Proposed Findings of Fact and Conclusions of Law on Contention NYS-16B (June 6, 2013) at 5 (ML13157A457).

State is not able to provide additional specificity as to what, if anything, it may say in response to the Staff's upcoming filings.

For the purposes of completeness, the State notes that on June 12, 2013 the NRC Staff submitted a letter to the Atomic Safety and Licensing Board that, among other things, noted that Staff planned to issue a request for additional information ("RAI") to Entergy about buried piping (p. 1, item 2). Staff followed that filing with a June 21, 2013 submission to the Board that attached the actual RAI: June 12, 2013 letter, Yoira Diaz-Sanabria, NRC Staff, to Vice President Entergy Nuclear Operations, Inc. (ML13162A606). In that RAI, Staff discussed and sought information about buried piping, cathodic protection, and other items.

Respectfully submitted,

*Signed (electronically) by*

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July 1, 2013

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**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 have made a sincere effort to make themselves available to listen and respond to the moving party, and to resolve the factual and legal issues raised in the motion, and that their efforts to resolve the issues have been unsuccessful. The State does not oppose NRC Staff's request to submit responsive proposed findings, but as discussed in this answer and in earlier filings, the State requests the opportunity to briefly respond to Entergy's and NRC Staff's Proposed Findings on Contention NYS-16B. NRC Staff and Entergy oppose this request. Neither Riverkeeper nor Clearwater oppose the State's request.

***Signed (electronically) by*** \_\_\_\_\_

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July 1, 2013