

**UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION**

**BEFORE THE COMMISSION**

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) )	
	January 23, 2014

**JOINT MOTION FOR ENLARGEMENT OF PAGE LIMITATION  
FOR PETITIONS FOR REVIEW**

Pursuant to 10 C.F.R. § 2.323, Entergy Nuclear Operations, Inc. (“Entergy”); the State of New York (“New York”), Riverkeeper, Inc., (“Riverkeeper”), and Hudson River Sloop Clearwater, Inc. (“Clearwater,” collectively “Intervenors”) hereby request that the Nuclear Regulation Commission (“NRC” or “Commission”) grant an enlargement of the page limitation for petitions for review of the Atomic Safety and Licensing Board’s (“ASLB” or “Board”) Partial Initial Decision (“PID”) on the Track 1 Hearing Contentions (LBP-13-13), from 25 to a maximum 60 pages.

**I. BACKGROUND**

This proceeding arises out of the April 23, 2007 application of Entergy to renew its 10 C.F.R. Part 50 operating licenses for Indian Point Nuclear Generating Units 2 and 3 (“IP2” and “IP3,” respectively) which are located in Buchanan, New York. Between October 15 and December 13, 2012, the Board conducted 12 days of evidentiary hearings on nine admitted safety and environmental contentions. On November 27, 2013, the Board issued its PID concerning the nine Track 1 hearing contentions and related issues.<sup>1</sup> The Board’s PID is 390

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<sup>1</sup> *Entergy Nuclear Operations, Inc.* (Indian Point Nuclear Generating Units 2 and 3), LBP-13-13, 75 NRC \_\_\_, slip op. (2013).

pages in length and contains extensive references to the voluminous underlying evidentiary record, which includes several thousand pages of pre-filed written testimony (direct and rebuttal), almost 1,500 admitted exhibits, more than 3,200 pages of hearing transcript, and more than 3,000 pages of proposed findings and associated replies.

## II. LEGAL BACKGROUND

In accordance with 10 C.F.R. § 2.341(b)(2), petitions for review may not exceed 25 pages. The Commission has stated that its page limit requirements are “intended to encourage parties to make their strongest arguments clearly and concisely, and to hold all parties to the same number of pages of argument.”<sup>2</sup> The Commission is “quite aware” that the page limit for petitions for review requires parties to be “direct and concise.”<sup>3</sup>

The Commission has stated, however, that if parties do not believe the page limit specified in the regulations to be sufficient, then they should “file a motion to enlarge the number pages permitted.”<sup>4</sup> Requests for page limit enlargements must be supported by a showing of “good cause.”<sup>5</sup>

## III. ARGUMENT

The parties respectfully submit that good cause exists for the requested enlargement. The parties seek an enlargement due to the number of issues addressed by the Board’s PID, and the voluminous nature of the PID and the evidentiary record. It is not unprecedented for the Commission to grant enlargements under these circumstances. In *American Centrifuge Plant*,

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<sup>2</sup> *Hydro Resources, Inc.* (P.O. Box 15910, Rio Rancho, NM 87174), CLI-01-4, 53 NRC 31, 46 (2001).

<sup>3</sup> *Carolina Power & Light Co.* (Shearon Harris Nuclear Power Plant), CLI-01-11, 53 NRC 370, 393 (2001).

<sup>4</sup> *Id.* at 394; *see also Entergy Nuclear Operations, Inc.* (Indian Point Nuclear Generating Units 2 & 3), CLI-11-14, 74 NRC 801, 808 n.41 (2011) (“we expect the parties to adhere to our page-limit requirements, or timely seek leave for an enlargement of the page limitation”).

<sup>5</sup> *See AmerGen Energy Co.* (License Renewal for Oyster Creek Nuclear Generating Station), slip op. at 1 (Jan. 9, 2008) (unpublished).

the Commission granted an intervenor an additional 20 pages (for a total of 50 pages) for its petition for review.<sup>6</sup> That petition related to twenty contentions, but it only sought review of a contention admissibility decision rather than a decision on the merits following the development of an extensive evidentiary record.<sup>7</sup>

Much like the board's decision in *American Centrifuge Plant*, the PID in this proceeding involves many contentions and issues. However, appeals of LBP-13-13 will likely be more complex than the appeal in *American Centrifuge Plant* and will involve the 390-page PID that addressed numerous procedural, factual, and legal issues following the development of an extensive evidentiary record. Thus, the parties may have to address numerous complex legal and factual issues in any petitions for review, and the existing 25-page limit is insufficient to do so.

The parties fully recognize that the 25-page limit was deliberately imposed to encourage parties to clearly and concisely make their strongest arguments.<sup>8</sup> However, given the number of disputed issues and the length of this proceeding, the instant enlargement request is reasonable under the circumstances. Moreover, the requested enlargement will allow for more thorough petitions for review that will enhance the Commission's ability to render timely and well-informed decisions on appeal. The page enlargement will allow for greater specificity, and enable parties to limit the use of broad references and citations to earlier filings, which can force the Commission to "sift unaided through large swaths of earlier briefs."<sup>9</sup>

Importantly, the parties will endeavor to be as efficient and concise as possible in their filings. The parties intend the 60-page limit to be an upper-bound; some parties may use fewer

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<sup>6</sup> See *USEC, Inc. (American Centrifuge Plant)*, CLI-06-10, 63 NRC 451, 454 (2006). The Commission granted the request even though it was filed on the day petitions for review were due and it did not comply with the NRC's procedural requirements for motions. See *id.*

<sup>7</sup> See *id.* at 454-55, 459.

<sup>8</sup> See *Hydro Resources*, CLI-01-4, 53 NRC at 46.

<sup>9</sup> *Hydro Resources*, CLI-01-4, 53 NRC at 46.

pages, depending on the number of issues they seek to challenge and their complexity.<sup>10</sup>

In accordance with 10 C.F.R. § 2.323(b), counsel for the parties have consulted and the Intervenor and Entergy support this Motion. In consideration of the factors discussed above, Entergy and the Intervenor believe that a page limit enlargement, to a maximum of 60 pages, is warranted and appropriate. Counsel for the NRC Staff states that the Staff does not oppose this motion, with the understanding that the proposed page limit extension will apply to all parties.

#### IV. CONCLUSION

Accordingly, the Entergy and the Intervenor respectfully request that all parties be granted a page limit enlargement to a maximum of 60 pages for petitions for review of the Board's Partial Initial Decision in LBP-13-13.

Respectfully submitted,

*Signed (electronically) by Paul M. Bessette*

Paul M. Bessette, Esq.  
MORGAN, LEWIS & BOCKIUS LLP  
1111 Pennsylvania Avenue, N.W.  
Washington, D.C. 20004  
Phone: (202) 739-5796  
E-mail: pbessette@morganlewis.com

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<sup>10</sup> In presenting this joint motion, the parties acknowledge that it is limited to an agreement regarding page limits. Nothing in the joint motion enlarges, limits, or affects the scope of a petition for review.

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

Kathryn M. Sutton, Esq.  
Paul M. Bessette, Esq.  
MORGAN, LEWIS & BOCKIUS LLP  
1111 Pennsylvania Avenue, N.W.  
Washington, D.C. 20004  
Phone: (202) 739-5738  
E-mail: ksutton@morganlewis.com  
E-mail: pbessette@morganlewis.com

William B. Glew, Jr., Esq.  
William C. Dennis, Esq.  
Entergy Services, Inc.  
440 Hamilton Avenue  
White Plains, NY 10601  
Phone: (914) 272-3202  
E-mail: wglew@entergy.com  
E-mail: wdennis@entergy.com

*Counsel for Entergy Nuclear Operations, Inc.*

Phillip Musegaas, Esq.  
Deborah Brancato, Esq.  
Riverkeeper, Inc.  
20 Secor Road  
Ossining, NY 10562  
E-mail: phillip@riverkeeper.org  
E-mail: dbrancato@riverkeeper.org

*Counsel for Riverkeeper, Inc.*

Richard Webster, Esq.  
Public Justice, P.C.  
1825 K Street, NW, Suite 200  
Washington, D.C. 20006  
E-mail: rwebster@publicjustice.net

*Counsel for Hudson River Sloop Clearwater, Inc.*

Dated at Washington, DC  
this 23rd day of January 2014

John J. Sipos, Esq.  
Office of the Attorney General  
of the State of New York  
The Capitol, State Street  
Albany, New York 12224  
E-mail: john.sipos@ag.ny.gov

Janice A. Dean, Esq.  
Kathryn M. DeLuca, Esq.  
Office of the Attorney General  
of the State of New York  
120 Broadway, 26th Floor  
New York, New York 10271  
E-mail: janice.dean@ag.ny.gov  
E-mail: kathryn.deluca@ag.ny.gov

*Counsel for the State of New York*

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**CERTIFICATION OF COUNSEL**

In accordance with 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 to the extent practicable, and that his efforts have been successful, in part, as reflected in the instant motion.

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

Paul M. Bessette, Esq.  
MORGAN, LEWIS & BOCKIUS LLP  
1111 Pennsylvania Ave  
Washington, DC 20001  
Phone: (202) 739-5796  
Fax: (202) 739-3001  
E-mail: pbessette@morganlewis.com

*Counsel for Entergy Nuclear Operations, Inc.*

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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 “Joint Motion for Enlargement of Page Limitation for Petitions for Review” were served upon the Electronic Information Exchange (the NRC’s E-Filing System), in the above-captioned proceeding.

*Signed (electronically) by Lance A. Escher*

Lance A. Escher, Esq.  
MORGAN, LEWIS & BOCKIUS LLP  
1111 Pennsylvania Ave. NW  
Washington, DC 20004  
Phone: (202) 739-5080  
Fax: (202) 739-3001  
E-mail: lescher@morganlewis.com

*Counsel for Entergy Nuclear Operations, Inc.*