

**UNITED STATES
NUCLEAR REGULATORY COMMISSION**

BEFORE THE COMMISSION

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In re: Docket Nos. 50-247-LR; 50-286-LR

License Renewal Application Submitted by ASLB 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. February 14, 2014
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**STATE OF CONNECTICUT’S MOTION FOR LEAVE TO FILE BRIEF
AMICUS CURIAE IN SUPPORT OF THE STATE OF NEW YORK’S PETITION
FOR REVIEW OF THE ATOMIC SAFETY AND LICENSING BOARD’S
PARTIAL INITIAL DECISION LBP-13-13**

SUMMARY

The State of Connecticut through its undersigned counsel, submits this motion for leave to file a brief *amicus curiae* in this matter in support of the State of New York’s petition for review (“Petition”) of the Licensing Board’s partial initial decision, LBP-13-13. The State’s brief *amicus curiae* accompanies this motion. The State respectfully requests that the Commission grant the motion and accept the brief pursuant to 10 C.F.R. § 2.315(d) or the Commission’s inherent authority. This motion is timely under 10 C.F.R. §§ 2.315(d).

New York’s Petition raises important public policy and legal questions that need to be resolved before any further action in this proceeding and the State of Connecticut has a direct interest in the outcome of this case.

Interests of the State of Connecticut

As chief legal officer of the State of Connecticut, the Attorney General has long supported efforts to protect the State's citizens and natural resources from the adverse impacts associated with a potential release of radionuclides from an accident or attack on a nuclear power station. Connecticut is a densely populated state containing several operating or decommissioned nuclear power facilities. In addition, the Attorney General is currently involved as an interested governmental body in the relicensing proceedings for the Indian Point nuclear power plant. *See* In the Matter of Entergy Nuclear Operations, Inc., ASLBP No. 07-858-03-LR-BD01, Memorandum and Order (July 31, 2008). Indian Point is located in New York, close to the border with Connecticut, and fully one-third of Connecticut's citizens reside within the 50-mile ingestion pathway zone (IPZ). *See*, GEIS NUREG-1437, Supp. 38, p. 2-3. As the NRC, the Federal Emergency Management Agency (FEMA), and the Department of Homeland Security (DHS) have recognized, Indian Point is located in one of the most densely populated regions of the United States. Any accident or attack at Indian Point that resulted in a release of radioisotopes could result in a major plume of wind driven radioactive debris that would immediately impact human health and safety, particularly in Connecticut. It is clear, therefore, that the State of Connecticut has a direct interest in this case.

As recognized by the U.S. Supreme Court, States have important sovereign interests in the regulation of atomic energy matters. *New York v. United States*, 505 U.S. at 188; *see generally*, *Massachusetts v. U.S. Env'tl Protection Agency*, 549 U.S. 497, 520 (2007) (Commonwealth of Massachusetts and other States "entitled to special solicitude" in standing analysis).

Consideration of the State’s *Amicus* Brief is Desirable

The State’s accompanying *amicus curiae* brief supplies a perspective that will aid the Commission in determining whether to grant New York’s petition for review of LBP-13-13. *See Pub. Serv. Co. of New Hampshire* (Seabrook Station, Units 1 and 2), ALAB-862, 25 N.R.C. 144, 150-51 (1987) (allowing a non-party to participate as *amicus curie* where he could “supply a perspective that would materially aid the Licensing Board’s deliberations.”). The State actively participated as an interested governmental entity in NRC adjudicatory proceeding and is in a unique position to address the adverse effects of the partial initial decision. The State’s brief neither “injects new issues into [the] proceeding nor alter[s] the content of the record developed by the parties;” instead, it provides a useful perspective concerning the broader implications of granting New York’s petition. *See NRC, Responses to Comments Not Addressed in the Statement of Considerations for Changes to the Adjudicatory Process: Final Rule*, at 19 (Dec. 17, 2003).

CONCLUSION

For the reasons set forth in this motion and the accompanying *amicus curiae* brief, the undersigned respectfully request that the Commission grant the State of Connecticut's motion and accept the proffered brief.

Respectfully submitted,

State of Connecticut

Signed (electronically) by

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10 C.F.R. § 2.323 Certification

Pursuant to 10 C.F.R. § 2.323(b) and the Board's July 1, 2010 Scheduling Order (at 8-9), I certify that I have made a sincere effort to contact counsel for NRC Staff and Entergy in this proceeding, to explain to them the factual and legal issues raised in this motion, and to resolve those issues, and I certify that my efforts have been unsuccessful. Entergy in particular did not believe that they had sufficient time to conduct a meaningful consultation.

Riverkeeper does not oppose the motion.