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UNITED STATES
NUCLEAR REGULATORY COMMISSION

In Re: Entergy Nuclear Vermont Yankee)
 LLC and Entergy Nuclear) Docket NRC-2014-0169
 Operations, Inc.) (License Amendment)

VERMONT DEPARTMENT OF PUBLIC SERVICE
NOTICE OF INTENTION TO PARTICIPATE,
PETITION TO INTERVENE, AND HEARING REQUEST

INTRODUCTION

On March 24, 2014, Entergy Nuclear Vermont Yankee, LLC and Entergy Nuclear Operations, Inc. (collectively, “Entergy”), filed a license amendment request (ADAMS No. ML14085A257) for the Vermont Yankee Nuclear Power Station, in Vernon, Vermont. The request is part of Docket NRC-2014-0169 and seeks to amend Vermont Yankee’s license in Docket 50-271. The State of Vermont (“the State”), through the Vermont Department of Public Service, now provides this notice of intention to participate, petition to intervene, and hearing request.

The State first learned of Entergy’s licensing amendment request when it was filed. Despite ongoing discussions with the State on decommissioning matters, Entergy did not consult with the State before making this filing. Recognizing this omission, the NRC staff, on May 5, 2014 sent Entergy a Request for Additional Information (RAI) (ADAMS No. ML14115A029), asking Entergy whether it had

considered “licensee interface and coordination with State and local response organizations.”¹ Entergy’s May 21, 2014 response to this RAI (ADAMS No. ML14149A048) was non-responsive, leading the NRC Staff to reiterate this request as follows in its July 1, 2014 RAI (ADAMS No. ML14163A590):

The staff’s previous request for additional information, RAI-VY-01, based on our initial acceptability review, requested the following:

Please identify whether the proposed changes to the [Vermont Yankee Nuclear Power Station] VY SEP were evaluated for their impact with the State and local response organizations ability to effectively implement their [Federal Emergency Management Agency) FEMA-approved [radiological emergency preparedness] REP plans, specifically in regards to licensee interface and coordination with State and local response organizations? If so, please provide evaluation performed and documentation regarding discussions with affected State and local response organizations used in making this determination.

In ENO’s response dated May 21, 2014, it is not apparent to the staff that the State and local response organizations performed this review of their plan. ENO’s response appears to indicate that ENO performed these evaluations. Please clarify whether the affected State and local response organizations independently performed the review of their affected plans and concur with the results provided in the ENO’s response dated May 21, 2014, or if not, please identify the areas of issues and how these issues are resolved.

ADAMS No. ML14163A590 at 4-5.

While Entergy has (at the NRC Staff’s express direction) now addressed some of the State’s concerns regarding this license amendment request, Entergy has failed to address at least one crucial aspect of licensee interface and coordination with State and local response organizations. The State thus gives notice of intention

¹ The State is grateful to the NRC Staff for stepping in and requesting that Entergy communicate with State and local response organizations on this important matter.

to participate and requests that the NRC grant the state intervention and hold an evidentiary hearing under 10 CFR Part 2, Subpart G, to fully examine the contentions noted below and any subsequent amendments it may submit to these contentions.

I. PARTICIPATION AS A MATTER OF RIGHT

The Vermont Yankee plant is located in Vermont. The State of Vermont, represented by the Vermont Department of Public Service in this proceeding, has an interest in license amendments to the Vermont Yankee plant. On August 21, 2014, the State filed timely comments in this proceeding, including comments on the contentions noted below (ADAMS No. ML14239A029). As explained in those comments and below, Entergy's license amendment request, if granted, would hamper the State's ability to assess Vermont Yankee conditions as part of Vermont's protective action decision-making process. This presents a safety risk to Vermont residents and meets the standing requirements of 10 CFR § 2.309(d).

II. PETITION TO INTERVENE AND HEARING REQUEST

The State requests intervention and a full evidentiary hearing on the contention noted below and any subsequent amendments it may submit to this contention. As demonstrated below, this contention should be admitted because it satisfies the NRC's admissibility requirements in 10 CFR § 2.309.

First Contention

Entergy has failed to ensure a Radiological Monitoring System that will provide the information that the State needs to assess Vermont Yankee conditions as part of the State's protective

action decision-making process, and Entergy has thus failed to demonstrate that its license amendment request (1) will not significantly reduce the margin of safety or significantly increase the consequences of an accident previously evaluated as required by 10 CFR § 50.92; (2) will provide adequate protection for the public health and safety as required by 10 CFR § 50.57(a)(3); and (3) will comply with the requirements of 10 CFR § 50.47 to provide reasonable assurance that adequate protective measures can and will be taken in the event of a radiological emergency.

Bases and Supporting Evidence

Vermont Yankee's Emergency Response Data System (ERDS) currently links to the NRC. This link provides crucial data that the State needs to assess Vermont Yankee conditions as part of the State's protective action decision-making process. ERDS is specifically identified in Vermont's Radiological Emergency Response Plan (RERP) as the means for the Public Service Coordinator, located at the State Emergency Operations Center during an emergency response condition, to assess Vermont Yankee conditions as part of Vermont's protective action decision-making process. Entergy's license amendment request includes an attachment with Time Motion Studies that assumes that the ERDS link to the NRC will not be operational in the permanently shut down and defueled condition. While many of the ERDS parameters (such as those related to the reactor coolant system and safety injection) are not needed once Vermont Yankee is in a permanently shut down and defueled condition, other ERDS parameters are still needed.

In particular, the ERDS Radiation Monitoring System, Meteorological Data, and Containment parameters related to the spent fuel pool will still provide

meaningful information. As a result, the State of Vermont requires that either (1) the ERDS link to the NRC be retained during Vermont Yankee's permanently shut down and defueled period; or (2) an alternate means similar to ERDS be made available to provide equivalent Radiation Monitoring System, Meteorological information, and Containment parameters relevant to the spent fuel pool conditions for as long as fuel remains within the spent fuel pool.

A hearing is required whenever a license amendment request "*creates the possibility of a new or different kind of accident.*" *San Luis Obispo Mothers for Peace v. NRC*, 799 F.2d 1268, 1270 (9th Cir. 1986). As explained above, Entergy's license amendment request, if granted, would hamper the State's ability to assess Vermont Yankee conditions as part of Vermont's protective action decision-making process. Without timely access to the spent fuel pool, radiological, and meteorological data currently available to the State's radiological response organizations via ERDS, the State would need significantly more time to obtain accurate data needed for State protective action recommendations. A hearing is required so that Vermont can put forward testimonial evidence on the potential consequences of that delay.

Requested Discovery and Hearing

The hearing on this contention should be a full evidentiary hearing conducted under 10 CFR Part 2, Subpart G. The State should be able to conduct full discovery with document production requests and, if needed, depositions, followed by a full evidentiary hearing with live witnesses subject to cross-examination. Extensive discovery and a full hearing are particularly important in light of Entergy's failure

to engage the State before submitting this license amendment request. The public, in Vermont and surrounding states, is interested in ensuring that any amendments to Vermont Yankee's license do not decrease safety. The above procedures are necessary to assure the public that whatever decision is reached, there has been a full and public airing of the important safety issues which this proposal raises.

CONCLUSION

For all the reasons stated, the State of Vermont, acting through its Department of Public Service, requests that an adjudicatory evidentiary hearing under 10 CFR Part 2, Subpart G, be held to fully examine the contentions it has raised in this pleading and any subsequent amendments it may submit to these contentions.

Respectfully submitted,

/s/ Christopher Recchia
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September 22, 2014