

October 1, 2014

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matter of)
)
ENTERGY NUCLEAR OPERATIONS, INC.) Docket Nos. 50-247-LR/286-LR
)
(Indian Point Nuclear Generating)
Units 2 and 3))

NRC STAFF'S 32nd STATUS REPORT
IN RESPONSE TO THE ATOMIC SAFETY AND
LICENSING BOARD'S ORDER OF FEBRUARY 16, 2012

In accordance with the Atomic Safety and Licensing Board's ("Board") "Order (Granting NRC Staff's Unopposed Time Extension Motion and Directing Filing of Status Updates)" ("Order"), issued on February 16, 2012, the NRC Staff ("Staff") herewith provides its 32nd monthly status report to the Board.

Safety Issues

1. SER Supplement 2. As stated previously,¹ the Staff plans to issue Supplement 2 to its Safety Evaluation Report ("SER") related to license renewal of Indian Point Units 2 and 3 ("IP2/IP3"), in which it will address changes made to the license renewal application ("LRA") and information provided by Entergy Nuclear Operations, Inc. ("Entergy" or "Applicant") in response to Staff requests for additional information ("RAIs") following the issuance of SER Supplement 1;² this will include information concerning the Applicant's Reactor Vessel Internals ("RVI") Aging Management Program and Inspection Plan ("AMP").

¹ See, e.g., "NRC Staff's 31st Status Report in Response to the Atomic Safety and Licensing Board's Order of February 16, 2012" (Sept. 2, 2014) ("31st Status Report") at 1-2.

² "Safety Evaluation Report Related to the License Renewal of Indian Point Nuclear Generating Plant Units 2 and 3," NUREG-1930, Supp. 1 (Aug, 2011) ("SER Supplement 1").

On November 19, 2013, the Staff transmitted RAIs to Entergy with respect to RVI issues; Entergy responded to those RAIs on January 16, 2014.³ On April 9, 2014, the Staff transmitted additional RAIs on RVI issues to Entergy;⁴ Entergy responded to those RAIs on June 9, 2014,⁵ and submitted an amended response on August 5, 2014.⁶ The Staff has completed its review of Entergy's RAI responses and will present its evaluation of Entergy's RVI AMP in SER Supplement 2; the Staff anticipates that SER Supplement 2 will be issued in November 2014, although this date could slip to December 2014.⁷ The Staff will provide further information to the Board regarding this matter when available.

2. Track 2 Safety Issues. There has been no change in this item since the Staff filed its previous status report. As stated previously,⁸ the Staff believes that hearings on Track 2 safety issues related to the Applicant's RVI aging management program (Contentions NYS-25 and portions of NYS-38/ RK-TC-5) should be deferred until the Staff has completed its evaluation of this matter. In addition, to promote efficiency and conservation of resources, and to assure there is no overlap in the issues or testimony, the Staff believes that evidentiary hearings on the remaining Track 2 safety issues (Contentions NYS-26B/RK-TC-1B and

³ See (1) Letter from Fred Dacimo (Entergy) to NRC Document Control Desk, NL-14-010 (Jan. 16, 2014) (ADAMS Accession No. ML14027A413); and (2) Letter from Fred Dacimo (Entergy) to NRC Document Control Desk, NL-14-117 (Sept. 8, 2014) (ADAMS Accession No. ML14267A270 (replacing the attachments to the letter of January 16, 2014, with proprietary and non-proprietary versions).

⁴ Letter from Kimberly Green (NRC) to Vice President, Operations (Entergy), "Request for Additional Information for the Review of the Indian Point Nuclear Generating Unit Nos. 2 and 3, License Renewal Application, Set 2014-02" (April 9, 2014) (ADAMS Accession No. ML14094A173).

⁵ Letter from Fred Dacimo (Entergy) to NRC Document Control Desk, NL-14-067 (June 9, 2014) (ADAMS Accession No. ML14176A159).

⁶ Letter from Fred Dacimo (Entergy) to NRC Document Control Desk, NL-14-093 (Aug. 5, 2014) (ADAMS Accession No. ML14225A777); Transcript of Teleconference (July 17, 2014) ("Tr."), at 4603-04.

⁷ 31st Status Report, at 2; Tr. at 4624-25.

⁸ 31st Status Report, at 2.

remaining portions of NYS-38/RK-TC-5) should be deferred to coincide with hearings on Contention NYS-25 and RVI-related portions of Contention NYS-38/RK-TC-5.

3. UFSAR Revision and LRA Update. There has been no change in this item since the Staff filed its previous status report. As stated previously,⁹ on September 26, 2013, the Applicant submitted a letter to the NRC, in which it revised the Indian Point Unit 2 (“IP2”) Updated Final Safety Analysis Report (“UFSAR”) to incorporate the provisions in Appendix A (UFSAR Supplement) of the IP2 LRA, in accordance with a commitment stated in Entergy’s letter of May 1, 2013 (NL-13-071).¹⁰ Also on September 26, 2013, the Applicant submitted Amendment No. 14 to its LRA, amending certain aspects of the IP2 LRA.¹¹ That information has been reviewed by the Staff and will be addressed in SER Supplement 2.

Environmental Issues

4. FSEIS Supplement. As stated previously,¹² the Staff intends to issue a second supplement to the Final Supplemental Environmental Impact Statement (“FSEIS”) for license renewal of Indian Point Units 2 and 3,¹³ which will address new information received by the Staff since preparation and publication of the previous FSEIS Supplement (FSEIS Vol. 4) in June 2013. The matters to be addressed in this supplement include the Applicant’s May 6, 2013 submittal of engineering project cost information for severe accident mitigation alternatives

⁹ See, e.g., *id.*, at 3.

¹⁰ See Letter from F. Dacimo, Entergy, to NRC Document Control Desk, “Indian Point Energy Center Letters to NRC, License Renewal Application, dated April 23, 2007,” NL-13-130 (Sept. 26, 2013) (ADAMS Accession No. ML13269A452).

¹¹ See Letter from F. Dacimo, Entergy, to NRC Document Control Desk, “Amendment 14 to License Renewal Application,” NL-13-131 (Sept. 26, 2013) (ADAMS Accession No. ML13269A452).

¹² See Letter from Sherwin E. Turk to the Atomic Safety and Licensing Board (July 15, 2014).

¹³ “Generic Environmental Impact Statement for License Renewal of Nuclear Plants, Supplement 38 Regarding Indian Point Nuclear Generating Unit Nos. 2 and 3, Final Report,” NUREG-1437, Supplement 38 (Dec. 2010) (“FSEIS”) (Ex. NYS000133A-J).

(SAMAs); Entergy's February 19, 2014 submittal of new aquatic impact information; the June 2013 revision of 10 C.F.R. Part 51, Table B-1, and the Generic Environmental Impact Statement for license renewal; and the September 2014 amendment of 10 C.F.R. § 51.23(b) regarding the continued storage of spent nuclear fuel.¹⁴ As stated previously, the Staff expects to issue the draft FSEIS supplement in 2015, and will issue a schedule for publication shortly.¹⁵

5. Continued Storage. In July 2012, following issuance of the D.C. Circuit Court of Appeals' decision in *State of New York v. NRC*, 681 F.3d 471 (D.C. Cir. 2012), the Intervenor's filed two new contentions (CW-SC-4 and NYS-39/RK-EC-9/CW-EC-10) related to waste storage and/or disposal;¹⁶ the Applicant and Staff responded to those contentions on August 2 and 3, 2012.¹⁷ On August 8, 2012, the Board ordered that all other pleadings concerning these proposed contentions be held in abeyance, in accordance with CLI-12-16.¹⁸

¹⁴ See (1) NUREG-1437, Revision 1, "Generic Environmental Impact Statement for License Renewal of Nuclear Plants" (NUREG-1437, Rev. 1) (June 2013); (2) NUREG-1437, Volumes 1-2: Generic Environmental Impact Statement for License Renewal of Nuclear Plants (May 1996) ("GEIS-LR") (Exh. NYS000131A-I).

¹⁵ See Letter from Sherwin E. Turk, Esq., to the Board (July 15, 2014); Tr. at 4590, 4598.

¹⁶ See (1) "Hudson River Sloop Clearwater, Inc.'s Motion for Leave to Add A New Contention Based Upon New Information and Petition to Add New Contention" (July 9, 2012); (2) "State of New York, Riverkeeper, and Clearwater's Joint Motion for Leave to File A New Contention Concerning the On-Site Storage of Nuclear Waste at Indian Point" (July 8, 2012); and (3) "State of New York, Riverkeeper, Inc., and Hudson River Sloop Clearwater's Joint Contention NYS-39/RK-EC-9/CW-EC-10 Concerning the On-Site Storage of Nuclear Waste at Indian Point" (July 8, 2012).

¹⁷ See (1) "NRC Staff's Response to Intervenor's [] Joint Motion for Leave to File A New Contention Concerning the Onsite Storage of Nuclear Waste at Indian Point and [] Joint Contention NYS-39/RK-EC-9/CW-EC-10" (Aug. 2, 2012); (2) "Entergy's Answer to New York State, Riverkeeper, and Clearwater's Joint Contention NYS-39/RK-EC-9/CW-EC-10 Concerning On-Site Storage of Nuclear Waste at Indian Point" (Aug. 2, 2012); (3) "NRC Staff's Answer to 'Hudson River Sloop Clearwater, Inc.'s Motion for Leave to Add A New Contention Based Upon New Information and Petition to Add New Contention' (Contention CW-SC-4 (Safety of Long-Term Storage))" (Aug. 3, 2012); and (4) "Entergy's Answer to Hudson River Sloop Clearwater, Inc.'s New Safety Contention Concerning the Waste Confidence Rule" (Aug. 3, 2012).

¹⁸ See "Order (Holding Contentions NYS-39/RK-EC-9/CW-EC-10 and CW-SC-4 in Abeyance)" (Aug. 8, 2012); *Calvert Cliffs 3 Nuclear Project, LLC and Unistar Nuclear Operating Services, LLC* (Calvert Cliffs Nuclear Power Plant, Unit 3), CLI-12-16, 76 NRC 63, 67, 68-69 (Aug. 7, 2012).

On August 26, 2014, the Commission issued its decision in CLI-14-08.¹⁹ Therein, the Commission lifted its suspension of final licensing decisions, in view of its issuance of a generic environmental impact statement (“GEIS”) and a revised rule codifying its generic determinations regarding the environmental impacts of continued spent fuel storage beyond a reactor’s licensed operating life.²⁰ In addition, the Commission dismissed the long term storage/waste confidence-related contentions pending before it in seven combined license (“COL”) and license renewal proceedings, and terminated those proceedings; and it directed the Atomic Safety and Licensing Boards in all proceedings other than the Indian Point proceeding, to reject the spent fuel storage/waste confidence contentions pending before them. Finally, the Commission directed the Board in *Indian Point* to proceed as follows:

To the extent that Contentions CW-SC-4 and NYS-39/RK-EC-9/CW-EC-10 raise issues resolved by the Continued Storage Rule, the Board is directed to dismiss them consistent with our opinion today. To the extent that these contentions raise other matters, the Board should assess their admissibility under our generally applicable rules of practice.³²

³² See 10 C.F.R. § 2.309(c), (f).²¹

In accordance with CLI-14-08, on September 17, 2014, the Board directed the Intervenors to state their views, on or before October 1, 2014, “regarding the extent to which Contentions CW-SC-4 and NYS-39/RK-EC-9/ CW-EC-10 raise issues that have not been resolved by the

¹⁹ *Calvert Cliffs 3 Nuclear Project, LLC, and Unistar Nuclear Operating Services, LLC* (Calvert Cliffs Nuclear Power Plant, Unit 3), CLI-14-08, 80 NRC __ (Aug. 26, 2014) (slip op.).

²⁰ See (1) “Generic Environmental Impact Statement for Continued Storage of Spent Nuclear Fuel,” NUREG-2157 (Aug. 2014) (ADAMS Accession No. ML14188B749); (2) “Generic Environmental Impact Statement for Continued Storage of Spent Nuclear Fuel,” 79 Fed. Reg. 56,263 (Sept. 19, 2014); and (3) Final Rule, “Continued Storage of Spent Nuclear Fuel,” 79 Fed. Reg. 56,238 (Sept. 19, 2014).

²¹ CLI-14-08, slip op. at 10.

Continued Storage Rule,” and directed Entergy and the Staff to respond to those statements on or before October 15, 2014.²²

6. Contention NYS-35/36. On July 14, 2011, the Board issued LBP-11-17, granting summary disposition on Contention NYS-35/36 (Cost-Beneficial SAMAs) in favor of New York.²³ On February 14, 2014, the Applicant and Staff filed petitions for Commission review of that decision;²⁴ New York filed an answer opposing those petitions on March 25, 2014; the Applicant and Staff filed replies to New York’s answer on April 9, 2014. Those petitions are currently pending before the Commission.

As stated previously,²⁵ on May 7, 2013, the Applicant notified the Board that it had submitted a letter to the Staff (NL-13-075), reporting the results of its completed engineering project cost estimates for Severe Accident Mitigation Alternatives (“SAMAs”) that previously had been identified as potentially cost-beneficial.²⁶ In its notification, the Applicant noted, *inter alia*, that it was submitting the information “to support resolution of certain issues identified by the Board” in LBP-11-17.²⁷ On July 9, 2013, the Board directed that “adjudicatory submissions based on NL-13-075 are due no later than 60 days after the Staff issues its draft FSEIS

²² “Order (Requesting Briefs on NYS-39/RK-EC-9/CW-EC-10 and CW-SC-4)” (Sept. 17, 2014), at 2.

²³ *Entergy Nuclear Operations, Inc.* (Indian Point Nuclear Generating Units 2 and 3), LBP-11-17, 74 NRC 11, *petition for interlocutory review denied*, CLI-11-14, 74 NRC 801 (2011).

²⁴ See (1) “Applicant’s Petition for Review of Board Decisions Regarding Contentions NYS-8 (Electrical Transformers), CW-EC-3A (Environmental Justice), and NYS-35/36 (SAMA Cost Estimates)” (Feb. 14, 2014) (“Applicant’s Petition for Review”); and (2) “NRC Staff’s Petition for Commission Review of LBP-13-13 in Part (Contentions NYS-8 and CW-EC-3A), and LBP-11-17 (Contention NYS-35/36)” (Feb. 14, 2014) (“Staff Petition for Review”).

²⁵ See, e.g., 31st Status Report, at 5-6.

²⁶ See Letter from Kathryn M. Sutton, Esq., *et al.*, to the Board (May 7, 2013), attaching Letter from Fred Dacimo (Entergy) to the NRC Document Control Desk, NL-13-075 (May 6, 2013) (ADAMS Accession No. ML13142A014).

²⁷ *Id.*, at 1 and 2.

supplement or an equivalent document discussing its review of NL-13-075, or alternatively, no later than 60 days after the NRC Staff notifies the parties that it will not issue a written evaluation of NL-13-075 in any form.”²⁸

The Staff has reviewed the Applicant’s refined engineering project cost information and plans to issue RAIs to the Applicant concerning this information shortly; the Staff will present its evaluation in the FSEIS Supplement to be published in 2015.²⁹ As stated previously, the Staff will provide further information to the Board regarding this issue when available.

7. Contention NYS-12C (SAMAs). There has been no change in this item since the Staff filed its previous status report.³⁰ On February 14, 2014, New York filed a petition for Commission review of the Board’s decision in LBP-13-13,³¹ concerning its resolution of Contention NYS-12C;³² Entergy and the Staff responded to that petition on April 28, 2014; New York filed its reply on May 22, 2014.³³ On April 28, 2014, New York filed a petition for review of the Board’s Order denying its motion to reopen and reconsider;³⁴ Entergy and the Staff filed

²⁸ “Order (Granting Entergy’s Motion [for] Clarification)” (July 9, 2013), at 2.

²⁹ See Letter from Sherwin E. Turk, Esq., to the Board (July 15, 2014); Tr. at 4598; “Indian Point Nuclear Generating Units 2 and 3; Entergy Nuclear Operations, Inc., License Renewal Application; Intent to Prepare A Second Supplement to Final Supplemental Environmental Impact Statement,” 79 Fed. Reg. 52,058 (Sept. 2, 2014).

³⁰ See 31st Status Report, at 7.

³¹ *Entergy Nuclear Operations, Inc.* (Indian Point Nuclear Generating Units 2 and 3), LBP-13-13, 78 NRC 246 (Nov. 27, 2013).

³² “State of New York Petition for Review of Atomic Safety and Licensing Board Decision LBP-13-13 With Respect to Consolidated Contention NYS-12C” (Feb. 14, 2014).

³³ Petitions for review of LBP-13-13 were also filed by Clearwater (on Contention CW-EC3A), and by Entergy and the Staff (on Contentions NYS-8, CW-EC3A, and NYS-35/36); answers to those petitions were filed on March 25, 2014; replies were filed on April 9, 2014.

³⁴ See (1) “State of New York Petition for Review of Atomic Safety and Licensing Board’s April 1, 2014 Decision Denying the State’s Motion to Reopen the Record and for Reconsideration of the Board’s November 27, 2013 Partial Initial Decision Concerning Consolidated Contention NYS-12C” (Apr. 28, 2014); and (2) “Order (Denying New York’s Motion to Reopen the Record; Setting Deadline for New or Amended Contention)” (Apr. 1, 2014).

answers to that petition on May 23, 2014; New York filed a combined reply to those answers on June 2, 2014. New York's petitions are currently pending before the Commission.

8. CZMA Issues. On June 12, 2013, the Board denied the Applicant's and New York's motions seeking the entry of a declaratory order regarding the need to review the IP2/IP3 LRA to determine its consistency with the New York State Coastal Management Program, pursuant to the Coastal Zone Management Act ("CZMA").³⁵ As the Board noted, consultations had not yet been held between the Staff, New York and Entergy, pursuant to 15 C.F.R. § 930.51(e); the Board left open the possibility that the motions might be re-filed after consultation occurs.³⁶ The Staff has initiated consultations with the New York State Department of State ("NYSDOS"), and has engaged in further consultations with NYSDOS and Entergy. On December 6, 2013, the Staff transmitted a request for information to NYSDOS regarding prior reviews of Indian Point's consistency with the New York Coastal Management Program;³⁷ NYSDOS provided its response to the Staff on May 30, 2014.³⁸ On July 15, 2014, Entergy

³⁵ "Order (Granting New York's Motions, Denying Clearwater's Motion, and Denying CZMA Motions)" (June 12, 2013).

³⁶ In its Order of June 12, 2013, the Board ruled that its "denial of Entergy's and New York's motions does not trigger the time for filing new contentions." *Id.* at 4 n.16, *citing* "Order (Granting State of New York Motion for Extension of Time to File New Contentions)" (Aug. 31, 2012) (requiring the filing of new contentions on Entergy's LRA amendment regarding the need for a CZMA consistency determination within 30 days after the Board rules on Entergy's motion).

³⁷ See (1) Letter from Sherwin E. Turk to the Board (Dec. 12, 2013), transmitting letter from David J. Wrona (NRC) to George Stafford (NYSDOS) (Dec. 6, 2013) (ADAMS Accession No. ML13281A065); (2) Letter from George R Stafford (NYSDOS) to David J. Wrona (NRC) (Jan. 6, 2014) (ADAMS Accession No. ML14028A209); (3) "Summary of Phone Call Between [NYSDOS] and [NRC] on January 13, 2014" (Feb. 19, 2014) (ADAMS Accession No. ML14024A372); (4) Letter from David J. Wrona (NRC) to George Stafford (NYSDOS) ("Consistency of the Indian Point Nuclear Generating Unit Nos. 2 and 3 License Renewal Application with New York State Coastal Management Program") (Mar. 4, 2014) (ADAMS Accession No. ML14024A064); and (5) Summary of Phone Call Between New York State Department of State and U.S. Nuclear Regulatory Commission on May 7, 2014, Regarding the Coastal Zone Management Act Consistency Review (ADAMS Accession No. ML14136A005).

³⁸ See Letter from Linda M. Baldwin, Esq., General Counsel (NYSDOS), to David J. Wrona (NRC) (May 30, 2014) (ADAMS Accession No. ML14154A334).

submitted its views concerning the NYSDOS response,³⁹ to which NYSDOS replied on July 25, 2014.⁴⁰ The Staff is currently reviewing Entergy's comments and NYSDOS's reply, and is considering whether to seek additional information regarding this matter. The Staff will provide further information to the Board regarding this issue when available.

9. Aquatic Impacts. As stated previously,⁴¹ on February 19, 2014, Entergy submitted new information to the Staff regarding the impacts of plant operation on various aquatic species in the Hudson River,⁴² modifying the information that had been evaluated in the FSEIS (December 2010) and FSEIS Supplement (FSEIS Vol. 4) (June 2013).⁴³ The Staff is reviewing the new information and has determined that it requires additional information to complete its review, as set forth in an RAI issued on August 28, 2014, as amended on September 26, 2014.⁴⁴ As stated previously, the Staff plans to present its evaluation of the new information in an FSEIS supplement to be published in 2015. The Staff will provide further information to the Board regarding this issue when available.

³⁹ See Letter from Bobby R. Burchfield, Esq., to David J. Wrona (NRC) (July 15, 2014) (ADAMS Accession No. ML141198A229).

⁴⁰ See Letter from Linda M. Baldwin, Esq., General Counsel (NYSDOS), to David J. Wrona (NRC) (July 25, 2014) (ADAMS Accession No. ML14230A005).

⁴¹ See 31st Status Report, at 9.

⁴² See Letter from F. Dacimo, Entergy, to Lois James and NRC Document Control Desk, "Final Supplemental Environmental Impact Statement," NL-14-030 (Feb. 19, 2014) (ADAMS Accession No. ML14063A528).

⁴³ "Generic Environmental Impact Statement for License Renewal of Nuclear Plants, Supplement 38 Regarding Indian Point Nuclear Generating Unit Nos. 2 and 3, Final Report," NUREG-1437, Supplement 38, Volume 4 (June 2013) (ADAMS Accession No. ML13162A616).

⁴⁴ See (1) Letter from Michael Wentzel (NRC) to Vice President, Operations (Entergy), "Request for Additional Information for the Review of the Indian Point Nuclear Generating Unit Nos. 2 and 3, License Renewal Application Environmental Review" (Aug. 28, 2014) (ADAMS Accession No. ML14225A847); and (2) Letter from Michael Wentzel (NRC) to Vice President, Operations (Entergy), "Request for Additional Information for the Review of the Indian Point Nuclear Generating Unit Nos. 2 and 3, License Renewal Application Environmental Review" (Sept. 26, 2014) (ADAMS Accession No. ML14261A031).

10. Other Matters. The Staff is not currently aware of any other matter that has the potential to impact the schedule for hearings in this proceeding. In accordance with the Board's direction (Order, at 2), the Staff will notify the Board as soon as any other event with potential to alter the hearing schedule arises.

Respectfully submitted,

/Signed (electronically) by/

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Dated at Rockville, Maryland
this 1st day of October 2014

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matter of)
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ENTERGY NUCLEAR OPERATIONS, INC.) Docket Nos. 50-247/286-LR
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(Indian Point Nuclear Generating)
Units 2 and 3))

CERTIFICATE OF SERVICE

Pursuant to 10 C.F.R § 2.305 (as revised), I hereby certify that copies of the foregoing "NRC STAFF'S 32nd STATUS REPORT IN RESPONSE TO THE ATOMIC SAFETY AND LICENSING BOARD'S ORDER OF FEBRUARY 16, 2012," dated October 1, 2014, have been served upon the Electronic Information Exchange (the NRC's E-Filing System), in the above- captioned proceeding, this 1st day of October, 2014.

/Signed (electronically) by/

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