

**UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION**

**BEFORE THE COMMISSION**

In the Matter of:	)	
	)	Docket No. 50-271
ENTERGY NUCLEAR VERMONT YANKEE, LLC, and ENTERGY NUCLEAR OPERATIONS, INC.	)	
	)	March 23, 2015
(Vermont Yankee Nuclear Power Station)	)	
	)	

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**ENTERGY’S ANSWER OPPOSING  
STATE OF VERMONT’S PETITION FOR RECONSIDERATION OF COMMISSION  
DECISION APPROVING ENTERGY’S EXEMPTION REQUESTS**

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**ENTERGY’S ANSWER OPPOSING  
STATE OF VERMONT’S PETITION FOR RECONSIDERATION OF COMMISSION  
DECISION APPROVING ENTERGY’S EXEMPTION REQUESTS**

**I. INTRODUCTION**

Pursuant to 10 C.F.R. §§ 2.323, 2.341, and 2.345, Entergy Nuclear Vermont Yankee, LLC and Entergy Nuclear Operations, Inc. (collectively, “Entergy”) submit this Answer opposing the “Petition for Reconsideration of Commission Decision Approving Entergy’s Exemption Requests” (“Petition”), filed on March 12, 2015 by the State of Vermont (“State”).

The Petition requests that the Commission reconsider its March 2, 2015 approval<sup>1</sup> of Entergy’s request for exemptions related to certain specified requirements in 10 C.F.R. §§ 50.47(b), 50.47(c)(2), and Part 50, Appendix E, which would allow the permanently shutdown and defueled plant “to reduce emergency planning requirements and subsequently revise” the Vermont Yankee Emergency Plan.<sup>2</sup> The Petition also refers to and attaches the

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<sup>1</sup> See Staff Requirements – SECY-14-0125 – Request by Entergy Nuclear Operations, Inc., for Exemptions from Certain Emergency Planning Requirements (Mar. 2, 2015) (“SRM-SECY-14-0125”), available at ADAMS Accession No. ML15061A516. In SRM-SECY-14-0125, the Commission *approved* issuance of the requested exemptions. However, the NRC has not yet *issued* the exemptions.

<sup>2</sup> BVY 14-009, Letter from C. Wamser, Entergy Nuclear Operations, Inc., to NRC Document Control Desk, Request for Exemptions from Portions of 10 CFR 50.47 and 10 CFR 50, Appendix E (Mar. 14, 2014) (“Exemption Request”), available at ADAMS Accession No. ML14080A141.

State's pending February 9, 2015 Hearing Request,<sup>3</sup> which has not yet been ruled on by the Atomic Safety and Licensing Board ("Board"). The State submitted the Hearing Request in response to Entergy's License Amendment Request ("LAR") to revise the site Emergency Plan and Emergency Action Level ("EAL") scheme to reflect the plant's permanently defueled condition.<sup>4</sup> The State claims that the Exemption Request approval "interferes with the State's rights under the directly related [LAR] and was made without any apparent consideration of the State's interests in the matter" and violates the National Environmental Policy Act ("NEPA").<sup>5</sup>

As demonstrated below, the Commission should deny the Petition in its entirety. It is procedurally deficient because there is no adjudicatory proceeding for the Exemption Request, and therefore, the State has no right to seek reconsideration of the Commission's approval. The Petition also amounts to an improper request for interlocutory review of matters before the Board regarding the LAR. Even assuming, *arguendo*, that there might be some procedural basis upon which to consider the Petition, it still fails because it does not address, much less meet, the reconsideration standards set forth in 10 C.F.R. § 2.345; the Exemption Request does not create a hearing opportunity; the NRC has not violated NEPA; and the NRC is not responsible for reviewing alleged obligations between Entergy and the State.

## **II. THE PETITION SHOULD BE REJECTED**

### **A. The Petition Is Procedurally Defective**

The Petition seeks reconsideration of the Commission's approval of Entergy's Exemption Request. No adjudicatory proceeding exists, however, in which to submit or consider the

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<sup>3</sup> State of Vermont's Petition for Leave to Intervene, and Hearing Request (Feb. 9, 2015) ("Hearing Request") (provided as Exhibit 1 to the Petition). Both Entergy and the NRC Staff opposed the Hearing Request. *See* Entergy's Answer Opposing Petition for Leave to Intervene and Hearing Request (Mar. 6, 2015); NRC Staff's Answer to State of Vermont's Petition for Leave to Intervene and Hearing Request (Mar. 6, 2015). Those answers provide more background information and a full discussion of why the Hearing Request should be rejected by the Board.

<sup>4</sup> BVY 14-033, Letter from C. Wamser to NRC Document Control Desk, Vermont Yankee Permanently Defueled Emergency Plan and Emergency Action Level Scheme (June 12, 2014) ("LAR"), *available at* ADAMS Accession No. ML14168A302.

<sup>5</sup> *See* Petition at 1-9.

Petition. In this regard, NRC regulations explain that “[a] proceeding commences when a notice of hearing or a notice of proposed action under § 2.105 is issued.”<sup>6</sup> No such notice has been published in conjunction with Entergy’s Exemption Request. The Commission has noted that “[i]t is axiomatic that a person cannot intervene in a proceeding before the proceeding actually exists.”<sup>7</sup> Because there is no existing adjudicatory proceeding for the Exemption Request, the State is not authorized to make related adjudicatory filings, and the Petition must be rejected.

Similarly, although the Petition invokes 10 C.F.R. §§ 2.341(d) and 2.345, those regulations apply to reconsideration of an adjudicatory decision.<sup>8</sup> But there is no adjudicatory proceeding, and the Commission has issued no adjudicatory decision for it to reconsider.

Nonetheless, even if the Commission were to consider the Petition, it is effectively a farfetched request for interlocutory review under 10 C.F.R. § 2.341(f). In fact, the State directly ties the Petition to its pending Hearing Request related to the LAR.<sup>9</sup> Likewise, the State’s proposed Contention 1 in the LAR proceeding asserts that “Entergy’s license amendment request is not ready for review, as the amendment request is predicated upon and assumes approval of an exemption request that has not been ruled upon by the Nuclear Regulatory Commission and/or Atomic Safety and Licensing Board.”<sup>10</sup> The Board has not yet ruled on the Hearing Request.

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<sup>6</sup> 10 C.F.R. § 2.318(a). Citing these regulations, the Commission explained in *Millstone* that “issuance of a ‘notice of hearing’ or a ‘notice of proposed action’ is a prerequisite to the initiation of a ‘proceeding.’” *See Dominion Nuclear Conn., Inc.* (Millstone Nuclear Power Station, Units 2 & 3), CLI-04-12, 59 NRC 237, 240 (2004).

<sup>7</sup> *Millstone*, CLI-04-12, 59 NRC at 237. The D.C. Circuit has further explained that there is no “automatic right of intervention upon anyone.” *BPI v. AEC*, 502 F.2d 424, 426 (D.C. Cir. 1974) (“Section 189(a) does not in literal terms state that any person whose interest is affected may intervene; it states that such a party shall be granted a hearing upon request and the Commission shall admit any such person as a party to the proceeding. The statute does not confer the automatic right of intervention upon anyone.”); *see also AmerGen Energy Co., LLC* (Oyster Creek Nuclear Generating Station), CLI-08-28, 68 NRC 658, 677-78 (2008) (“The hearing right provided in section 189(a) is not automatic . . . .”); *Union of Concerned Scientists v. NRC*, 920 F.2d 50, 55 (D.C. Cir. 1990) (quoting *BPI*, 502 F.2d at 428 (“Indeed, we have long recognized that Section 189(a) ‘does not confer the automatic right of intervention upon anyone’”)).

<sup>8</sup> 10 C.F.R. § 2.341(d) refers to reconsideration of a “Commission decision” and 10 C.F.R. § 2.345(a)(1) refers to reconsideration of a “final decision.” Neither situation applies here regarding the Exemption Request.

<sup>9</sup> *See* Petition at 1-4.

<sup>10</sup> Hearing Request at 3.

Rather than wait for any Board ruling on its Hearing Request, the State attempts to circumvent the Rules of Practice by raising similar issues directly with the Commission.<sup>11</sup> Even if authorized, the State has not addressed the strict requirements in Section 2.341(f)(2) by showing that this issue would result in “serious irreparable impact” or “[a]ffects the basic structure of the proceeding in a pervasive or unusual manner.”<sup>12</sup> Therefore, the Commission should reject the State’s unfounded request for interlocutory review. The State will have an opportunity to challenge any unfavorable Board action as part of the LAR proceeding at the appropriate time and consistent with the Commission’s Rules of Practice.<sup>13</sup>

**B. The Petition Does Not Address, Much Less Satisfy, the Reconsideration Standards**

Although the State references 10 C.F.R. §§ 2.341(d) and 2.345 regarding reconsideration, it does not discuss, much less satisfy, those standards. Section 2.345(b) states that “[a] petition for reconsideration must demonstrate a compelling circumstance, such as the existence of a clear and material error in a decision, which could not have been reasonably anticipated, which renders the decision invalid.” While the standard is a high one, reconsideration is appropriate only when a party “brings decisive new information” to the attention of the decisionmaker or “demonstrates a fundamental [] misunderstanding of a key point.”<sup>14</sup>

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<sup>11</sup> This conclusion is supported by the State providing its entire Hearing Request as Exhibit 1 to the Petition.

<sup>12</sup> The Commission considers the interlocutory review standard to be a “high bar.” See *Entergy Nuclear Vt. Yankee, LLC & Entergy Nuclear Operations, Inc.* (Vermont Yankee Nuclear Power Station), CLI-07-1, 65 NRC 1, 3 (2007).

<sup>13</sup> If not considered a request for interlocutory review, then the Petition should be considered a general motion. See 10 C.F.R. § 2.323 (procedures for general motions); *AmerGen Energy Co., LLC* (Oyster Creek Nuclear Generating Station), CLI-08-23, 68 NRC 461, 476 (2008) (stating that when “Petitioners’ requests do not fit cleanly within any of the procedures described within [NRC] rules of practice,” the NRC will treat them “as general motions brought under the procedural requirements of 10 C.F.R. § 2.323.” (citation omitted)). If so, then the Petition must be rejected due to the State’s failure to consult with Entergy. Under 10 C.F.R. § 2.323(b), “[a] motion must be rejected if it does not include a *certification* by the attorney or representative of the moving party that the movant has made a *sincere effort to contact other parties* in the proceeding and resolve the issue(s) raised in the motion, and that the movant’s efforts to *resolve* the issue(s) have been unsuccessful.” (emphasis added). See also *Entergy Nuclear Operations, Inc.* (Indian Point, Units 2 & 3), CLI-08-29, 68 NRC 899, 902 n.12 (2008) (rejecting a motion for failing to comply with consultation requirements of Section 2.323(b)); *Entergy Nuclear Vt. Yankee, LLC, & Entergy Nuclear Operations, Inc.* (Vermont Yankee Nuclear Power Station) Licensing Board Order (Denying Motion to Stay Proceeding) (Mar. 13, 2015) (unpublished).

<sup>14</sup> *La. Energy Servs., L.P.* (National Enrichment Facility), CLI-04-35, 60 NRC 619, 622 (2004).

The State has not brought any such decisive new information forward, nor has it demonstrated a fundamental misunderstanding on a key point. The Commission’s decision to approve the Exemption Request is reasonable and consistent with approvals of similar requests for other defueled plants.<sup>15</sup> In approving the request, the Commission explained that it “continues to support the current practice of approving appropriately justified exemptions from certain emergency planning requirements while plants are transitioning to decommissioning based on site-specific evaluations.”<sup>16</sup> Moreover, the Petition does not raise any decisive new information regarding the technical basis for the Commission’s approval of the Exemption Request, as set forth in SECY-14-0125.<sup>17</sup> The Petition does not address the underlying technical issues. Finally, in view of the consistent precedent granting other, similar exemption requests, the State cannot claim that the Commission’s approval of Entergy’s Exemption Request was a compelling circumstance that could not have been reasonably anticipated, as required by Section 2.345(b). Because the Petition fails to satisfy the reconsideration standards, it must be rejected.

**C. The Exemption Request Does Not Create a Hearing Opportunity**

The State claims that the Exemption Request is necessary for Entergy to amend its license, and that this triggers a hearing opportunity.<sup>18</sup> The State’s interpretation of the precedent on this issue is oversimplified and incorrect. As demonstrated below, the proposed Exemption Request would not amend the Vermont Yankee license. On the contrary, consistent with a

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<sup>15</sup> See SRM-SECY-14-0125 (approving the Vermont Yankee exemptions); Staff Requirements – SECY-14-0144 – Request by Southern California Edison for Exemptions from Certain Emergency Planning Requirements (Mar. 2, 2015) (approving the San Onofre Nuclear Generating Station exemptions), *available at* ADAMS Accession No. ML15061A521; Staff Requirements – SECY-14-0118 – Request by Duke Energy Florida, Inc., for Exemptions from Certain Emergency Planning Requirements (Dec. 30, 2014) (approving similar exemptions for the Crystal River 3 plant), *available at* ADAMS Accession No. ML14364A111; Exemption; issuance, Dominion Energy Kewaunee, Inc.; Kewaunee Power Station, 79 Fed. Reg. 65,715 (Nov. 5, 2014); Commonwealth Edison Company (Zion Nuclear Power Station, Units 1 and 2); Exemption, 64 Fed. Reg. 48,856 (Sept. 8, 1999).

<sup>16</sup> See SRM-SECY-14-0125 at 1.

<sup>17</sup> SECY-14-0125, Request by Entergy Nuclear Operations, Inc., for Exemptions from Certain Emergency Planning Requirements (Nov. 14, 2014), *available at* ADAMS Accession No. ML14227A711.

<sup>18</sup> See Petition at 4-5.

process *established by the Commission*, Entergy submitted an LAR separate and apart from the Exemption Request. For these reasons, there is no basis for the State’s argument that the Commission must afford it a hearing opportunity to challenge the Exemption Request.

As a general matter, there is no right to an adjudicatory hearing on an exemption request.<sup>19</sup> For example, in a decision involving the Zion plant, the Commission denied petitions to intervene challenging an exemption from physical security-related regulations to reflect the permanently shutdown status of the plant.<sup>20</sup> The Commission held that the exemption request was not effectively an amendment of the facility’s license and that “there is no right to request a hearing in this case because the action involves an exemption from NRC regulations and not one of those actions for which section 189a. of the AEA provides a right to request a hearing.”<sup>21</sup>

The Commission’s legal authority to distinguish between exemptions and licensing proceedings is well settled, and subject to only very limited, discretionary exceptions. For example, in the *PFS* Independent Spent Fuel Storage Installation (“ISFSI”) proceeding referenced by the State, the Commission chose, in its discretion, to allow a hearing to be held on a challenge to an exemption request when the applicant sought the exemption in the midst of an ongoing, contested initial licensing proceeding.<sup>22</sup> That situation, however, is distinct from the circumstances surrounding the Vermont Yankee Exemption Request.

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<sup>19</sup> Section 189(a)(1)(A) of the Atomic Energy Act of 1954, as amended (“AEA”) limits NRC adjudicatory proceedings and hearings to “the granting, suspending, revoking, or amending of any license . . . .” See 42 U.S.C. § 2239(a)(1)(A); see also 10 C.F.R. § 2.1(a) (limiting the scope of 10 C.F.R. Part 2 to proceedings involving “[g]ranting, suspending, revoking, amending, or taking other action with respect to any license . . . .” and specified other proceedings, but not the review of exemptions from regulations). The statute simply does not identify exemptions from NRC regulations as subject to hearing rights. See also *Kelley v. Selin*, 42 F.3d 1501, 1517 (6th Cir. 1995) (“[T]he grant of an exemption from a generic requirement does not constitute an amendment to the reactor’s license that would trigger hearing rights.”); *Commonwealth Edison Co.* (Zion Nuclear Power Station, Units 1 & 2), CLI-00-05, 51 NRC 90 (2000).

<sup>20</sup> See *Zion*, CLI-00-05, 51 NRC at 90.

<sup>21</sup> *Id.* at 98; see also *id.* at 96-97.

<sup>22</sup> *Private Fuel Storage, L.L.C.* (Indep. Spent Fuel Storage Installation), CLI-01-12, 53 NRC 459, 467 (2001) (“*PFS*”). There can be a right to a hearing on an exemption request filed as part of a license amendment request. See *Honeywell Int’l, Inc.* (Metropolis Works Uranium Conversion Facility), CLI-13-1, 77 NRC 1, 10 (finding that “[a]n exemption standing alone does not give rise to an opportunity for hearing under [NRC] rules,” but also noting that “when a licensee requests an exemption in a related license amendment application, [the Commission will] consider the hearing rights on the amendment

First, in *PFS*, the applicant sought a unique exemption on its own initiative during the course of a contested initial licensing proceeding.<sup>23</sup> As the Commission explained, “PFS is in the midst of a licensing proceeding; it is asking to be excused from otherwise applicable . . . regulations . . . . In this context, PFS’s ‘exemption’ cannot remove a matter germane to a licensing proceeding from consideration in a hearing . . . .”<sup>24</sup> Here, Entergy filed the separate Exemption Request first, following an established, Commission-endorsed process.<sup>25</sup> Unlike *PFS*, Entergy did not file its Exemption Request “in the midst” of the LAR proceeding. It is the Commission—not the licensee or applicant, as in *PFS*—who has established a distinction between the exemption and license amendment reviews.<sup>26</sup>

Second, the *PFS* decision involved the initial licensing of the proposed ISFSI, not the decommissioning of an already-licensed facility. The Commission distinguished its prior decision in *Zion* on that basis, holding that “PFS is not an already-licensed facility asking for relief from performing a duty imposed by NRC regulations. Under *Zion* and *Massachusetts*, exemptions of that kind ordinarily do not trigger hearing rights.”<sup>27</sup> Accordingly, the present circumstances are more analogous to the *Zion* decision, in which the licensee of a

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application to encompass the exemption request as well.”) (citations omitted) (emphasis added); *Zion*, CLI-00-05, 51 NRC at 96, 98 (“there is no right to request a hearing” on an exemption unless the exemption is “in effect an amendment of the facility license”). But Entergy submitted its Exemption Request first and subsequently filed a separate LAR, so this authority is inapplicable.

<sup>23</sup> See *PFS*, CLI-01-12, 53 NRC at 467.

<sup>24</sup> *Id.*

<sup>25</sup> See, e.g., Letter from Chairman Macfarlane to Senator Markey, *et al.* at 1 (June 26, 2014) (“Macfarlane Letter to Markey”), available at ADAMS Accession No. ML14147A108 (“The practice of considering exemptions [for decommissioning plants from emergency planning and security requirements] . . . is a well-established part of the NRC’s regulatory process . . .”).

<sup>26</sup> In this respect, this proceeding is more akin to decisions in the *Prairie Island* and *Palisades* license renewal proceedings, rejecting proposed contentions that alleged a connection between a license renewal proceeding and later potential expansions of the ISFSI to accommodate spent fuel generated during the additional years of operation. In these cases, it was the Commission that established the distinction between the two licensing actions, not the applicant. See *N. States Power Co. (formerly Nuclear Mgmt. Co., LLC)* (Prairie Island Nuclear Generating Plant, Units 1 & 2), LBP-08-26, 68 NRC 905, 922-23 (rejecting a contention alleging a connection between the proposed license renewal and a later potential expansion of the ISFSI to accommodate additional spent fuel, because the ISFSI expansion was “a separate project, subject to a separate proceeding”); *Nuclear Mgmt. Co., LLC* (Palisades Nuclear Plant), CLI-06-17, 63 NRC 727, 733 (2006) (“The current proceeding concerns the renewal of the reactor operating license pursuant to 10 C.F.R. Parts 51 and 54, and not the ISFSI, which is licensed pursuant to 10 C.F.R. Part 72.”).

<sup>27</sup> *PFS*, 53 NRC at 467 (citing *Mass. v. NRC*, 878 F.2d 1516 (1st Cir. 1989)).

decommissioning facility sought exemptions from security-related regulations that applied to operating reactors.<sup>28</sup> As discussed above, the Commission dismissed the petitions in *Zion* because it determined that there was no hearing right for an exemption request unless the exemption is, in effect, an amendment to the license.<sup>29</sup> Here, the Exemption Request would clearly not amend the Vermont Yankee license. On the contrary, Entergy has submitted a separate LAR to obtain approval of changes to the Emergency Plan and EAL scheme through license amendment. Therefore, there is no basis for the State’s Petition.

**D. The NRC Has Not Violated NEPA**

The State alleges that the NRC violated NEPA when the Commission approved the Exemption Request, because the action did not include an analysis of environmental impacts and the “lack of public participation” leading to the Commission’s approval.<sup>30</sup> This is incorrect and reflects a misunderstanding of the exemption process and the Staff’s actions before issuance.

Notwithstanding the Commission’s approval of the Exemption Request, NEPA and NRC regulations in 10 C.F.R. Part 51 require the NRC Staff to determine that a categorical exclusion applies or to complete an environmental review, such as an Environmental Assessment, before it can issue the requested exemptions.<sup>31</sup> Moreover, the Staff may notify the State and provide it an opportunity to submit comments related to any Environmental Assessment and Finding of No Significant Impact,<sup>32</sup> and will publish a final notice after the exemptions are issued.<sup>33</sup> Any claim that the NRC has not satisfied its NEPA requirements is premature and disregards these

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<sup>28</sup> *Zion*, CLI-00-05, 51 NRC at 96.

<sup>29</sup> *See id.* at 96-98.

<sup>30</sup> *See* Petition at 6-9.

<sup>31</sup> *See* 10 C.F.R. §§ 51.21, 51.22, 51.30 to 51.35.

<sup>32</sup> *See, e.g.*, Environmental assessment and finding of no significant impact; issuance, Duke Energy Fla., Inc.; Crystal River Unit 3 Nuclear Generating Plant, 80 Fed. Reg. 11,233, 11,235 (Mar. 2, 2015) (“On January 20, 2015, the Florida state representative was notified of this EA and FONSI and did not provide any comments.”).

<sup>33</sup> *See* Dominion Energy Kewaunee, Inc., 79 Fed. Reg. at 65,715 (issuing exemption to Emergency Planning requirements).

requirements. The State conflates the Commission’s approval of the exemptions with the Staff’s eventual issuance of the exemptions, which has not yet occurred.<sup>34</sup>

The State’s claim that it is not allowed “public comment and participation”<sup>35</sup> also must fail. Entergy served a copy of the Exemption Request on the State when it submitted the request to the NRC in March 2014.<sup>36</sup> Thus, the State has been aware of the Exemption Request for about one year. There is no prohibition on the State’s submitting comments to the NRC on the Exemption Request,<sup>37</sup> yet the State apparently has chosen not to do so.<sup>38</sup> Therefore, any claims about the lack of public participation must be rejected.

**E. The NRC Is Not Responsible for Reviewing “Obligations” Between Entergy and the State**

The State vaguely argues that the Commission should review existing “obligations” between Entergy and the State that it claims are “precisely the kinds of obligations Entergy seeks to avoid as a result of the requested exemptions.”<sup>39</sup> The State attaches various documents as Exhibit 2 that purportedly provide examples of such obligations Entergy allegedly has to the State, but provides no discussion of those obligations and their relevance to the Exemption Request.

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<sup>34</sup> The State now appears to recognize that the NRC has not yet issued the requested exemptions. *See* The State of Vermont’s Reply to NRC Staff and Entergy Answers to Petition for Leave to Intervene and Hearing Request at 5-6 (Mar. 17, 2015) (“the exemption request has not yet been granted, even though the Commission has voted to approve it”).

<sup>35</sup> Petition at 4.

<sup>36</sup> *See* Exemption Request at 3.

<sup>37</sup> For example, in 2011, the State of New York submitted comments opposing an exemption request filed by Entergy regarding the Indian Point facility. The NRC Staff provided a detailed response to New York’s comments. *See* Response to New York State Comments on Fire Protection Exemption Requests for the Indian Point Nuclear Generating Unit Nos. 2 and 3 (Feb. 1, 2012), *available at* ADAMS Accession No. ML112991557.

<sup>38</sup> In 2014, the NRC did receive at least three letters from members of the Vermont Congressional delegation and other State officials providing comments on state and public participation in the decommissioning process. Then-Chairman Macfarlane provided responses to these letters, explaining the NRC’s practice of using exemptions in the decommissioning process, and explaining the opportunities for public participation in the decommissioning process. *See* Letter from Chairman Macfarlane to Senator Sanders, *et al.* (May 5, 2014), *available at* ADAMS Accession No. ML14079A131; Macfarlane Letter to Markey; Letter from Chairman Macfarlane to Senator Boxer, *et al.* (July 24, 2014), *available at* ADAMS Accession No. ML14157A098.

<sup>39</sup> Petition at 9-10.

Moreover, the standards for exemption requests in 10 C.F.R. § 50.12 do not require the Commission to generally consider “obligations” between a licensee requesting an exemption and the state in which the facility resides—or any other third party.<sup>40</sup> Indeed, the State has not identified any NRC regulatory requirement for the Commission to review any of the information it provides about alleged obligations, and the State concedes that the obligations are “beyond those required by NRC regulation.”<sup>41</sup> For these reasons, claims about these obligations do not support reconsideration of the Exemption Request.

### III. CONCLUSION

As demonstrated above, the State’s Petition should be rejected as procedurally and substantively deficient. Reconsideration of the Commission’s approval of the Exemption Request is not appropriate.

Respectfully submitted,

*Signed (electronically) by Raphael P. Kuyler*

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Dated in Washington, DC  
this 23rd day of March 2015

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<sup>40</sup> See 10 C.F.R. § 50.12 (stating that the Commission may grant exemptions from NRC requirements if “special circumstances are present” and the exemptions are “[a]uthorized by law, will not present an undue risk to the public health and safety, and are consistent with the common defense and security.”).

<sup>41</sup> Petition at 9.

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**CERTIFICATE OF SERVICE**

Pursuant to 10 C.F.R. § 2.305, I certify that, on this date, copies of the foregoing “Entergy’s Answer Opposing State of Vermont’s Petition for Reconsideration of Commission Decision Approving Entergy’s Exemption Requests” were served upon the Electronic Information Exchange (the NRC’s E-Filing System) in the proceeding for Docket No. 50-271-LA-2, because that was the only docket in which the State provided the underlying Petition.

*Signed (electronically) by Raphael P. Kuyler*

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