

**UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION**

**BEFORE THE ATOMIC SAFETY AND LICENSING BOARD**

In the Matter of:	)	
	)	Docket No. 50-255-LA-2
ENTERGY NUCLEAR OPERATIONS, INC.	)	
(Palisades Nuclear Plant)	)	June 29, 2015

**ENTERGY’S MOTION TO DEFER INITIAL DISCLOSURES**

In accordance with 10 C.F.R. § 2.323, Entergy Nuclear Operations, Inc. (“Entergy”) hereby moves the Atomic Safety and Licensing Board (“Board”) to defer initial disclosures required by 10 C.F.R. § 2.336 and the Nuclear Regulatory Commission (“NRC”) Staff’s production of the hearing file required by 10 C.F.R. § 2.1203 until after disposition of Entergy’s planned appeal of the Board’s June 18, 2015 Memorandum and Order (Granting Petition to Intervene and Request for a Hearing), LBP-15-20 (“Order”). Entergy recognizes that the Board’s June 26, 2015 Order (Identifying Hearing Procedures and Scheduling Conference Call) contemplates that the parties will confer to develop a proposed schedule for disclosures in advance of the July 8, 2015 conference call, and Entergy intends to continue consultations in good faith on all of the issues identified in the June 26 Order. Nevertheless, as discussed below, Entergy believes that the relief requested in this motion is warranted and that it must submit this motion in advance of the 10-day deadline set forth in 10 C.F.R. § 2.323(a)(2).

Entergy has informed the parties to this proceeding that it intends to appeal the Board’s ruling admitting a contention filed by Petitioners,<sup>1</sup> within the period allowed by 10 C.F.R.

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<sup>1</sup> Petitioners are Beyond Nuclear, Don’t Waste Michigan, Michigan Safe Energy Future – Shoreline Chapter, and the Nuclear Energy Information Service. The parties include Petitioners, the NRC Staff, and Entergy.

§ 2.311(b). To avoid the considerable burden on all parties of proceeding with disclosures on an admitted contention that could be affected by Commission review, Entergy requests a modest deferral of the disclosure obligations on the admitted contention until 30 days after Commission action on the planned appeal, or three months from the date of the Board's ruling in LBP-15-20, whichever comes first.<sup>2</sup>

Entergy's proposal is consistent with joint motions for deferred initial disclosures and hearing file productions that have been granted in numerous other NRC proceedings.<sup>3</sup> For example, the Board in the *Davis-Besse* license renewal proceeding found that a limited deferral of all mandatory disclosures and the NRC Staff's hearing file to 30 days after the Commission's disposition of a pending appeal in that case, or no later than a date over five months after the appealed order was issued, would not unduly interfere with the parties' preparations for the adjudicatory proceeding in that case.<sup>4</sup> Here, Entergy is similarly asking for a limited deferral of

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<sup>2</sup> In accordance with 10 C.F.R. § 2.323(b), counsel for Entergy certify that they made a sincere effort to contact the other parties and resolve the issues raised in this motion, beginning on June 23, 2015. NRC Staff does not object to this motion. The Petitioners object.

<sup>3</sup> See, e.g., *DTE Electric Co.* (Fermi Nuclear Power Plant, Unit 2), Docket No. 50-341, Joint Proposal on Schedule and Joint Motion on Mandatory Disclosures at Section II (Feb. 23, 2015), *granted in relevant part by Fermi*, Docket No. 50-341, Initial Scheduling Order ¶1 (Feb. 27, 2015) (unpublished) (initial disclosure deadline set for approximately 3 months after issuance of Order Ruling on Petitions to Intervene and Requests for a Hearing); *FirstEnergy Nuclear Operating Company* (Davis-Besse Nuclear Power Station, Unit 1), Docket No. 50-346-LR, Initial Scheduling Order ¶ A.1 (June 15, 2011) (unpublished) (initial disclosure deadline set for 30 days after Commission disposition of pending appeal, but in no event later than a date five months after issuance of Memorandum and Order Ruling on Petition to Intervene and Request for Hearing); *Detroit Edison Co.* (Fermi Nuclear Power Plant, Unit 3), Docket No. 52-033-COL, Joint Motion on Mandatory Disclosures (Aug. 19, 2009), *granted in relevant part by Fermi*, Docket No. 52-033-COL, Order (Establishing schedule and procedures to govern further proceeding) ¶ 1 (Sept 11, 2009) (unpublished) (initial disclosure deadline set for three months after issuance of Memorandum and Order (Ruling on Hearing Requests)).

<sup>4</sup> *FirstEnergy Nuclear Operating Company* (Davis-Besse Nuclear Power Station, Unit 1), Docket No. 50-346-LR, Initial Scheduling Order ¶ A.1 (June 15, 2011) (unpublished). See also *DTE Electric Co.* (Fermi Nuclear Power Plant, Unit 2), Docket No. 50-341, Joint Proposal on Schedule and Joint Motion on Mandatory Disclosures at Section II (Feb. 23, 2015), *granted in relevant part by Fermi*, Docket No. 50-341, Initial Scheduling Order ¶1 (Feb. 27, 2015) (unpublished) (initial disclosure deadline set for approximately 3 months after issuance of Order Ruling on Petitions to Intervene and Requests for a Hearing); *Detroit Edison Co.* (Fermi Nuclear Power Plant, Unit 3), Docket No. 52-033-COL, Joint Motion on Mandatory Disclosures (Aug. 19, 2009), *granted in relevant part by Fermi*, Docket No. 52-033-COL, Order (Establishing schedule and procedures to govern further proceeding) ¶ 1 (Sept 11, 2009) (unpublished) (initial disclosure deadline set for three months after issuance of Memorandum and Order (Ruling on Hearing Requests)).

initial mandatory disclosures to 30 days after the Commission's disposition of Entergy's planned appeal of LBP-15-20, or no later than three months after LBP-15-20 was issued. While the Petitioners have not joined this motion, Entergy believes its requested deferral will have no detrimental impact on any party's ability to prepare for a potential adjudicatory hearing in this case.

NRC regulations contemplate and authorize the Board to approve this alteration of the schedule pursuant to 10 C.F.R. §§ 2.319(k) and 2.332(a)(1). Entergy would need to expend considerable resources to work with its contractors and internal personnel to identify and disclose its relevant documents by the 30-day deadline set forth in 10 C.F.R. § 2.336(a). The 30-day time frame will also require Entergy and its contractors to divert personnel from their normal responsibilities. In light of the fact that Commission review of the Board's split decision may ultimately render the disclosures unnecessary, Entergy respectfully requests that the Board defer the obligation to collect and identify this documentation.

Respectfully submitted,

*Signed (electronically) by Raphael P. Kuyler*

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*Counsel for Entergy Nuclear Operations, Inc.*

Dated in Washington, DC  
this 29th day of June 2015

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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 Motion to Defer Initial Disclosures” were served upon the Electronic Information Exchange (the NRC’s E-Filing System), in the above-captioned proceeding.

*Signed (electronically) by Raphael P. Kuyler*

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