

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION  
ATOMIC SAFETY AND LICENSING BOARD

Before Administrative Judges:

William J. Froehlich, Chairman  
Dr. Michael F. Kennedy  
Dr. Richard E. Wardwell

In the Matter of

ENTERGY NUCLEAR VERMONT YANKEE,  
LLC, AND ENTERGY NUCLEAR  
OPERATIONS, INC.

(Vermont Yankee Nuclear Power Station)

Docket No. 50-271-LA-3

ASLBP No. 15-940-03-LA-BD01

September 3, 2015

ORDER

(Scheduling Conference Call and Establishing Hearing Procedures)

On August 31, 2015, the Atomic Safety and Licensing Board (“Board”) granted a petition to intervene and hearing request filed by the State of Vermont challenging a license amendment request (“LAR”) filed by Entergy Nuclear Vermont Yankee, LLC and Entergy Nuclear Operations, Inc. (together “Entergy”).<sup>1</sup> The Board’s order admitted two contentions. Contention I concerns the necessity of a 30-day notice requirement prior to use of the decommissioning trust fund for expenses other than ordinary administrative costs to operate the fund.<sup>2</sup> Contention V deals with the legal issue of whether the LAR is “in accordance with the provisions of paragraph (h) of [10 C.F.R. § 50.75]” when a licensee is already exempt from two provisions of 10 C.F.R. § 50.75(h)(1)(iv).<sup>3</sup>

This is to notify Entergy, Vermont, and the NRC Staff that, in accordance with 10 C.F.R. §§ 2.329 and 2.332, the Board will hold an initial conference call on Thursday, September 10,

<sup>1</sup> LBP-15-24, 82 NRC \_\_, \_\_ (slip op. at 1) (August 31, 2015).

<sup>2</sup> Id. at \_\_ (slip op. at 11, 27–30).

<sup>3</sup> Id. at \_\_ (slip op. at 44–45).

2015, at 1 p.m. EDT for the purpose of developing a scheduling order to govern the conduct of this proceeding. Prior to the conference call, the parties and the NRC Staff should familiarize themselves with the relevant procedural rules of 10 C.F.R. Part 2, including but not limited to 10 C.F.R. §§ 2.309(c) and (f), 2.310, 2.323, 2.329, 2.332, 2.333, 2.334, 2.338, all of Subpart L, and the model milestones set forth in Appendix B to Part 2.

**A. Hearing Procedures**

The Board intends to resolve the two admitted contentions in a bifurcated manner. Contention V will be addressed first and will be decided based on legal briefs and oral argument. An initial decision on Contention V will be issued before the Board addresses Contention I.

Pursuant to 10 C.F.R. § 2.332(d), the Board is to consider the NRC Staff's projected schedule for completion of its safety and environmental evaluations in developing the hearing schedule. Accordingly, the NRC Staff should be prepared to address its projected schedule for completion of such safety and environmental evaluations.

In accordance with 10 C.F.R. § 2.310(a), and in the absence of a request for a different hearing procedure, the Board has determined that the simplified hearing procedures of Subpart L of 10 C.F.R. Part 2 will apply to Contention I and any subsequently filed proposed contentions.

**B. Mandatory Disclosures**

Initial disclosures by all parties<sup>4</sup> and the NRC Staff prepared hearing file<sup>5</sup> are due September 30, 2015. The parties may propose a different schedule and if they intend to propose a different schedule they may raise this issue during the conference call. The Board expects to require monthly updates on the first business day of every month beginning November 2, 2015. If the parties wish to waive privilege logs or otherwise modify the disclosure contents or schedule, they should consult with one another and submit a motion to the Board.

---

<sup>4</sup> 10 C.F.R. § 2.336(a).

<sup>5</sup> 10 C.F.R. § 2.336(b).

**C. New or Amended Contentions**

The Board envisions consolidated briefing for any motions pursuant to 10 C.F.R. § 2.309(f)(2) or 2.309(c). The motion should cover the elements of both (a) 10 C.F.R. § 2.309(c) or 2.309(f)(2), and (b) the elements of 10 C.F.R. § 2.309(f)(1). Within 25 days of service of the motion, Entergy and the NRC Staff may file answers, responding to both the motion and the substance of the proposed contention. Within 7 days of service of the last answer to be served, Vermont may file a reply to the answers.

The deadline to file any new contention based on new information, including the completion of the NRC Staff's environmental review, shall be 30 days.

**D. Schedule**

The Board proposes the following schedules. The schedule for the briefing of Contention V is pegged to the date the Board issues the Initial Scheduling Order (ISO). The dates for the hearing of Contention I are keyed to the date the NRC Staff issues the outcome of its environmental review (ER).

The parties and the NRC Staff shall confer with one another for the purpose of discussing the foregoing procedural matters and, where possible, developing agreement, joint positions, or proposals. It would be helpful if, for the purpose of the September 10, 2015 conference call, the parties and the NRC Staff agreed upon a lead spokesperson for areas where they are in agreement.

**TABLE 1: Briefing Schedule for Contention V**

ISO	Board issues Initial Scheduling Order
ISO+25	All parties submit initial briefs on Contention V
ISO+50	All parties submit rebuttal briefs on Contention V
ISO+95	Board Decision (BD) on Contention V (if oral argument is not required)
BD	Board Decision on Contention V

**TABLE 2: Hearing Schedule for Contention I**  
**If no new or amended contentions are filed**

ER	NRC Staff issues the results of its Environmental Review (ER)
ER+30	Deadline for summary disposition motions
ER+70	Vermont's direct testimony, statements of position, and exhibits
ER+115	Entergy's and NRC Staff's rebuttal testimony, statements of position, and exhibits
ER+160	Vermont's rebuttal testimony and exhibits
ER+190	Evidentiary Hearing (Hrg)
Hrg+90	Initial Decision

**TABLE 3: Schedule for New or Amended Contentions**

ER	NRC Staff issues the results of its Environmental Review (ER)
ER+30	Deadline for new or amended contentions based on the ER
ER+55	Answers to new or amended contentions
ER+62	Replies to answers to new or amended contentions
ER+107	Board Decision on admission of any new or amended contentions (if oral argument is not required)
BD	Board Decision on new or amended contentions
BD+30	Deadline for summary disposition motions
BD+70	Vermont's direct testimony, statements of position, and exhibits
BD+115	Entergy's and NRC Staff's rebuttal testimony, statements of position, and exhibits
BD+160	Vermont's rebuttal testimony and exhibits
BD+190	Evidentiary Hearing (Hrg)
Hrg+90	Initial Decision

The Board's law clerk will provide the parties with the phone number and passcode for the conference call. Members of the public or media who wish to listen to the call may do so, and should contact Nicole Pepperl at (301) 415-6626 for the listen-in number.

It is so ORDERED.

FOR THE ATOMIC SAFETY  
AND LICENSING BOARD

*/RA/*

William J. Froehlich, Chairman  
ADMINISTRATIVE JUDGE

Rockville, Maryland  
September 3, 2015

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

In the Matter of )  
)  
ENTERGY NUCLEAR VERMONT YANKEE, LLC ) Docket No. 50-271-LA-3  
AND ENTERGY NUCLEAR OPERATIONS, INC. )  
)  
(Vermont Yankee Nuclear Power Station) )

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing **ORDER (Scheduling Conference Call and Establishing Hearing Procedures)** have been served upon the following persons by the Electronic Information Exchange.

U.S. Nuclear Regulatory Commission  
Atomic Safety and Licensing Board Panel  
Mail Stop: T-3 F23  
Washington, DC 20555-0001

William J. Froehlich, Chairman  
[William.Froehlich@nrc.gov](mailto:William.Froehlich@nrc.gov)

Dr. Michael F. Kennedy  
[Michael.Kennedy@nrc.gov](mailto:Michael.Kennedy@nrc.gov)

Dr. Richard E. Wardwell  
[Richard.Wardwell@nrc.gov](mailto:Richard.Wardwell@nrc.gov)

U.S. Nuclear Regulatory Commission  
Office of the General Counsel  
Mail Stop: O15D21  
U.S. Nuclear Regulatory Commission  
Washington, DC 20555-0001  
Beth Mizuno, Esq.  
Mitzi Young, Esq.  
Anita Ghosh, Esq.  
Jeremy Wachutka, Esq.  
Daniel Straus, Esq.  
Edward Williamson, Esq.  
John Tibbetts, Paralegal  
[beth.mizuno@nrc.gov](mailto:beth.mizuno@nrc.gov)  
[mitzi.young@nrc.gov](mailto:mitzi.young@nrc.gov)  
[anita.ghosh@nrc.gov](mailto:anita.ghosh@nrc.gov)  
[jeremy.wachutka@nrc.gov](mailto:jeremy.wachutka@nrc.gov)  
[daniel.straus@nrc.gov](mailto:daniel.straus@nrc.gov)  
[edward.williamson@nrc.gov](mailto:edward.williamson@nrc.gov)  
[john.tibbetts@nrc.gov](mailto:john.tibbetts@nrc.gov)

Nicole Pepperl, Law Clerk  
[Nicole.Pepperl@nrc.gov](mailto:Nicole.Pepperl@nrc.gov)

Vermont Department of Public Service  
112 State Street – Drawer 20  
Montpelier, VT 05620-2601  
Aaron Kisicki, Esq.  
Kyle Landis-Marinello, Esq.  
[aaron.kisicki@state.vt.us](mailto:aaron.kisicki@state.vt.us)  
[kyle.landis-marinello@vermont.gov](mailto:kyle.landis-marinello@vermont.gov)

U.S. Nuclear Regulatory Commission  
Office of Commission Appellate  
Adjudication  
Mail Stop: O-7H4M  
Washington, DC 20555-0001  
[ocaamail@nrc.gov](mailto:ocaamail@nrc.gov)

DOCKET NO. 50-271-LA-3

**ORDER (Scheduling Conference Call and Establishing Hearing Procedures)**

U.S. Nuclear Regulatory Commission  
Office of the Secretary of the Commission  
Mail Stop: O-16C1  
Washington, DC 20555-0001  
Hearing Docket  
[hearingdocket@nrc.gov](mailto:hearingdocket@nrc.gov)

Entergy Services, Inc.  
101 Constitution Ave., NW  
Washington, DC 200012133  
Susan Raimo, Esq.  
[sraimo@entergy.com](mailto:sraimo@entergy.com)

Morgan, Lewis & Bockius LLP  
1111 Pennsylvania Avenue NW  
Washington, DC 20004  
Paul M. Bessette, Esq.  
Stephen Burdick, Esq.  
Raphael Kuyler, Esq.  
Ryan Lighty, Esq.  
[pbessette@morganlewis.com](mailto:pbessette@morganlewis.com)  
[sburdick@morganlewis.com](mailto:sburdick@morganlewis.com)  
[rkuyler@morganlewis.com](mailto:rkuyler@morganlewis.com)  
[rlighty@morganlewis.com](mailto:rlighty@morganlewis.com)

[Original signed by Brian Newell ]  
Office of the Secretary of the Commission

Dated at Rockville, Maryland  
this 3<sup>rd</sup> day of September, 2015