UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matter of:	)	
	)	Docket No. 50-271-LA-3
ENTERGY NUCLEAR VERMONT YANKEE, LLC AND ENTERGY NUCLEAR OPERATIONS, INC.	)	
	)	October 13, 2015
(Vermont Yankee Nuclear Power Station)	)	

ENTERGY'S MOTION FOR LEAVE TO FILE REPLY AND REPLY IN SUPPORT OF MOTION TO WITHDRAW LICENSE AMENDMENT REQUEST

I. INTRODUCTION

On September 22, 2015, Entergy Nuclear Vermont Yankee, LLC and Entergy Nuclear Operations, Inc. (collectively, "Entergy") filed a motion[1] with the Atomic Safety and Licensing Board ("Board") seeking withdrawal of its license amendment request ("LAR")[2] related to the nuclear decommissioning trust for the Vermont Yankee Nuclear Power Station ("Vermont Yankee"). As withdrawal effectively imposes the very remedy that the State of Vermont ("State") requested in this proceeding—for Entergy to continue to be bound by its current license conditions regarding the decommissioning trust, including continued disbursement notifications to the NRC—Entergy requested that the Board grant withdrawal of the LAR without conditions and dismiss this proceeding without prejudice.

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1 Entergy's Motion to Withdraw Its September 4, 2014 License Amendment Request (Sept. 22, 2015) ("Motion to Withdraw").

2 BVY 14-062, Letter from C. Wamser, Entergy, to NRC Document Control Desk, Proposed Change No. 310 – Deletion of Renewed Facility Operating License Conditions Related to Decommissioning Trust Provisions (Sept. 4, 2014) ("LAR"), *available at* ADAMS Accession No. ML14254A405.

The State filed its Answer to the Motion to Withdraw on October 2, 2015.[3] The State does not oppose withdrawal of the LAR, but requests that the Board impose two conditions on Entergy's withdrawal of the LAR.[4] The proposed conditions relate to (1) dismissal with prejudice and a bar to vacatur of LBP-15-24; and (2) provision of information to the State regarding past and future decommissioning trust fund withdrawals.[5] As described further in Section III below, Entergy could not reasonably have anticipated the new information and arguments raised in the State Answer. Pursuant to 10 C.F.R. § 2.323, Entergy seeks leave to file this Reply to respond to the new information and arguments presented for the first time in the State Answer.

Entergy's Reply below demonstrates that the new information and arguments proffered in the State's Answer in support of the proposed conditions do not fulfill the State's "affirmative duty to demonstrate a legal injury," which is a prerequisite for imposing conditions on a withdrawal.[6] Contrary to Commission precedent, the new conditions proffered by the State are neither "curative,"[7] nor do they bear a "rational relationship" to any alleged legal harm.[8] Moreover, they are outside the scope of conditions that could be imposed as part of the defined LAR proceeding. Accordingly, Entergy requests the Board to grant this Motion for Leave to File

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3 State of Vermont's Response to Entergy's Motion to Withdraw (Oct. 2, 2015) ("State Answer").

4 *See id*. at 3, 13.

5 *Id*.

6 *Energy Fuels Nuclear, Inc.* (Source Material License No. SUA-1358), LBP-95-20, 42 NRC 197, 198 (1995) (citing *Sequoyah Fuels Corp.* (Source Material License No. SUB-1010), CLI-95-2, 41 NRC 179, 192-93 (1995)).

7 *Sequoyah Fuels Corp.* (Source Material License No. SUB-1010), LBP-93-25, 38 NRC 304, 315 (1993), *aff'd*, CLI-95-2, 41 NRC 179 (1995) (citing *Alamance Industries, Inc. v. Filene's*, 291 F.2d 142, 146 (1st Cir. 1961)) (explaining that the purpose of the withdrawal regulation is to permit "*curative* conditions" (emphasis added)).

8 *See Phila. Elec. Co.* (Fulton Generating Station, Units 1 & 2), ALAB-657, 14 NRC 967, 974 (1981) (explaining that terms on a withdrawal "*must* bear a rational relationship" to a legal harm (emphasis added)).

Reply, grant the Motion to Withdraw without conditions, and dismiss this proceeding without prejudice.

At the conclusion of its Answer, the State also requested this Board to hold oral argument, but did not provide any further discussion of, or justification for, this request. With this Reply, Entergy considers the issues surrounding the Motion to Withdraw to be fully briefed, and does not believe that an oral argument would provide any further benefit on these issues.

II. ABRIDGED PROCEDURAL HISTORY

On February 17, 2015, the Nuclear Regulatory Commission ("NRC") published in the *Federal Register* a notice of proposed action,[9] under 10 C.F.R. §§ 50.92(a)(2)(i) and 2.105, regarding Entergy's LAR. The LAR seeks NRC approval to exercise the option authorized in 10 C.F.R. § 50.75(h)(5) to delete certain license conditions related to nuclear decommissioning trust funds and, instead, be governed by the provisions in 10 C.F.R. §§ 50.75(h)(1)-(3).[10] The State filed a Petition for Leave to Intervene and Hearing Request on April 20, 2015,[11] and moved to add a new contention and additional bases on July 6, 2015.[12] On August 31, 2015, the Board issued LBP-15-24 granting the petition and hearing request as to Contentions I and V.[13] On September 18, 2015, the Board issued a Notice of Hearing.[14]

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9 Biweekly Notice; Applications and Amendments to Facility Operating Licenses and Combined Licenses Involving No Significant Hazards Considerations, 80 Fed. Reg. 8355, 8359 (Feb. 17, 2015).

10 *See* LAR at 1.

11 State of Vermont's Petition for Leave to Intervene and Hearing Request (Apr. 20, 2015).

12 *See* State of Vermont's Motion for Leave to File a New Contention Including the Proposed New Contention and to Add Additional Bases and Support to Existing Contentions I, III, and IV (July 6, 2015).

13 *See Entergy Nuclear Vermont Yankee, LLC and Entergy Nuclear Operations, Inc.* (Vermont Yankee Nuclear Power Station), LBP-15-24, 82 NRC __ (slip op.) (Aug. 31, 2015).

14 *See* Notice of Hearing (Sept. 18, 2015).

Entergy filed the Motion to Withdraw the LAR on September 22, 2015.[15] The State filed its Answer to the Motion to Withdraw on October 2, 2015, raising two proposed conditions on withdrawal.[16] The NRC Staff also filed its Answer to the Motion to Withdraw on October 2, 2015, proposing one procedural condition that would require Entergy to provide notice to the State when filing any substantively identical LAR in the future.[17] Entergy continues to conclude that no conditions are warranted on the withdrawal because there has been no demonstration of legal harm to any of the other parties.[18]

III. MOTION FOR LEAVE TO FILE REPLY

Under 10 C.F.R. § 2.323(c), the Board may permit a moving party to file a reply to an answer to a motion "in compelling circumstances, such as where the moving party demonstrates that it could not reasonably have anticipated the arguments to which it seeks leave to reply." As described below, Entergy could not reasonably have anticipated the specific arguments tendered by the State in support of its proposed conditions, and thus compelling circumstances exist to grant this Motion for Leave to File Reply. Entergy's Reply addresses the information it could not have reasonably anticipated.

The State's proposed conditions demand two things: (1) dismissal of the proceeding "with prejudice" and a bar to vacatur of LBP-15-24, and (2) a requirement that Entergy provide to the State "all supporting documentation" regarding both past and future trust fund

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15 *See* Motion to Withdraw.

16 *See* State Answer at 3, 13.

17 *See* NRC Staff's Answer to Entergy's Motion to Withdraw at 2, 16-17 (Oct. 2, 2015) ("Staff Answer").

18 In any event, the Staff's proposed condition is unnecessary, as Entergy already is required by regulation to notify the State of any request to amend the Vermont Yankee license. 10 C.F.R. § 50.91(b)(1). The *Energy Fuels* case relied upon by the Staff (*see* Staff Answer at 16-17) is distinguishable because it addressed a notice to an individual, and not the State in which the underlying facility was located. *Energy Fuels*, LBP-95-20, 42 NRC at 197.

disbursements.[19] During consultation on the Motion to Withdraw, counsel for the State noted the possibility that the State would ask the Board to impose conditions requiring Entergy to provide substantial additional detail in its disbursement notifications to the NRC, and to provide the State with disclosures regarding all past and future trust fund disbursements despite withdrawal of the LAR, and to seek dismissal "with prejudice."[20] However, the State did not provide any indication about what legal harm it would allege, how those proposed conditions would be "curative" of the alleged legal harm, how the alleged legal harm is demonstrated in the record of this proceeding, or how the State would fulfill its "affirmative duty" to make these demonstrations. The State offers this information for the first time in its Answer.

For these reasons, Entergy could not have anticipated the specific information and arguments proffered by the State in its Answer. Accordingly, Entergy respectfully requests the Board to grant this Motion for Leave to File Reply, and to receive Entergy's Reply in Support of Motion to Withdraw License Amendment Request for consideration in resolving Entergy's Motion to Withdraw.

IV. ENTERGY'S REPLY IN SUPPORT OF MOTION TO WITHDRAW LICENSE AMENDMENT REQUEST

As demonstrated below, imposing any of the State's proposed conditions on Entergy's withdrawal of the LAR would be contrary to bright line Commission precedent and arbitrary as a matter of law. Accordingly, the specific conditions proffered by the State must be rejected.

[19] State Answer at 3, 13.

[20] Motion to Withdraw at 5-6.

A. Legal Standards

The NRC's regulations provide that withdrawal after a notice of hearing "shall be on such terms as the presiding officer may prescribe."[21] However, it is "well-settled" that a licensing board's authority in this area "is not unfettered."[22] Licensing boards "may not abuse this discretion by exercising their power in an arbitrary manner."[23] A licensing board's authority to place conditions on a withdrawal is limited to instances where the party seeking imposition of the condition has fulfilled its "affirmative duty to demonstrate a legal injury,"[24] caused by the *proceeding*,[25] through support found in the record.[26]

B. The Board Should Reject the Proposed Conditions on Withdrawal

1. State's Proposed Condition 1 – Withdrawal With Prejudice and No Vacatur

The State proposed the following condition:

> (1) The Board's ruling on the admissibility of the State's Contentions I and V in LBP-15-24 resolves the admissibility of those contentions with prejudice and the decision shall not be vacated.[27]

Commission precedent on the subject of a "highly unusual" dismissal with prejudice is clear—it creates a *de facto* decision on the merits,[28] which is inappropriate "when in fact the

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21 10 C.F.R. § 2.107(a).

22 *Sequoyah*, LBP-93-25, 38 NRC at 315.

23 *See Fulton*, ALAB-657, 14 NRC at 974 (1981) (citing *LeCompte v. Mr. Chip, Inc.*, 528 F.2d 601, 604 (5th Cir. 1976); 5 Moore's Federal Practice ¶41.05[1] at 41-58 (2d ed. 1981)).

24 *Energy Fuels*, LBP-95-20, 42 NRC at 198 (citing *Sequoyah*, CLI-95-2, 41 NRC at 192-93).

25 *Sequoyah*, 38 NRC at 315 (citing *Fulton*, ALAB-657, 14 NRC at 978-79).

26 *Id*.

27 State Answer at 3, 13.

28 *See Fulton*, ALAB-657, 14 NRC at 973 (citing *Jamison v. Miracle Mile Rambler, Inc.*, 536 F.2d 560, 564 (3d Cir. 1976)).

health, safety and environmental merits of the application have not been reached."[29] The State urges the Board to ignore this precedent because, in its view, this proceeding has been "extensively litigated and addressed by the Board's [contention admissibility] decision,"[30] and "is close to being resolved."[31] However, the State's position is not supported by law or fact.

First, the State cites no authority in support of its theory that a decision on contention admissibility, alone, is equivalent to a decision on the merits. To the contrary, at the contention admissibility stage, a licensing board's sole charge is to determine whether the petitioner has satisfied its threshold burden of providing "sufficient support to justify" litigation of the merits.[32] The State ignores the significant additional steps that would be involved in reaching a decision on the merits for the admitted contentions.[33] In fact, the parties have not even started discovery,[34] and none of the parties has moved, nor has the Board ordered, the admission of any evidence—whatsoever—in this proceeding. Fundamentally, the State's theory conflates decisions under 10 C.F.R. § 2.309(j) (on requests for hearing and petitions to intervene) with decisions under 10 C.F.R. § 2.1210 (initial decisions on the merits), and is not supported by law, regulation, or Commission precedent.

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29 *P.R. Elec. Power Auth.* (N. Coast Nuclear Plant, Unit 1), ALAB-662, 14 NRC 1125, 1133 (1981).

30 State Answer at 4.

31 *Id.* at 6.

32 *S. Nuclear Operating Co.* (Vogtle Elec. Generating Plant, Units 3 & 4), CLI-11-08, 74 NRC 214, 221 (2011) (emphasis added); *see also id.* ("[T]he evaluation of a contention that is performed at the contention-admissibility stage *should not be confused* with the evaluation that is later conducted at the merits stage of a proceeding." (emphasis added)).

33 At a minimum, the proceeding would entail initial briefs, rebuttal briefs, an oral argument, a partial initial decision, motions for summary disposition, and a ruling on the summary disposition motions. *See generally* Initial Scheduling Order (Sept. 21, 2015). Depending on the outcome of those many procedural actions, it could further require submission of direct testimony, statements of position, and exhibits; motions to strike direct testimony; rebuttal testimony, statements of position, and exhibits; motions to strike rebuttal testimony; rulings on motions to strike; proposed questions; an evidentiary hearing; proposed findings of fact and conclusions of law, and a second initial decision from the Board. *See generally id*.; 10 C.F.R. Part 2, Subpart L. Thus, contrary to the State, the Board's contention admissibility decision is not equivalent to a decision on the merits.

34 *See generally* Initial Scheduling Order (Sept. 21, 2015).

Furthermore, contrary to the State's assertion, this proceeding was not "close to being resolved" as to Contention V. The State attempts to support its assertion by noting that the Board found that Vermont "has adequately supported its statement that the LAR is legally deficient."[35] However, the State failed to quote the full context of this finding, where the Board noted that it merely found the State's claim "adequate *for the purposes of contention admissibility*."[36] LBP-15-24 renders no findings of fact, and no conclusions of law, and cannot be misconstrued as a proxy for a decision on the merits.

Moreover, the State's proffered legal injury in support of its demand for dismissal with prejudice is that "if Entergy is able to withdraw without prejudice, the parties and the Board will be starting from scratch" in a speculative future proceeding.[37] Yet, the prospect of a second proceeding alone is not a legally cognizable harm,[38] even if a future application could result in litigation,[39] and even if contentions have already been admitted.[40] Therefore, as a matter of law, the State has not identified a legitimate legal injury, and has not carried its burden; therefore, the Board should reject its request for withdrawal with prejudice.

The State also requests that the Board impose a condition that "the decision [LBP-15-24] shall not be vacated."[41] The only basis for the State's request is that, if vacatur is requested and granted, "the parties and the Board would be back to square one."[42] However, Entergy's Motion to Withdraw did not request vacatur, the topic of vacatur has not been briefed by the parties, and

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35 State Answer at 5 (citing *Vermont Yankee*, LBP-15-24, 82 NRC __, __ (slip op. at 42)).

36 *Vermont Yankee*, LBP-15-24, 82 NRC __, __ (slip op. at 42) (emphasis added).

37 State Answer at 4.

38 *See Duke Power Co.* (Perkins Nuclear Station, Units 1, 2, and 3), LBP-82-81, 16 NRC 1128, 1135 (1982).

39 *See Fulton*, ALAB-657, 14 NRC at 979; *N. Coast*, ALAB-662, 14 NRC at 1135.

40 *See Yankee Atomic Elec. Co.* (Yankee Nuclear Power Station), LBP-99-27, 50 NRC 45, 56 (1999).

41 State Answer at 3.

42 *Id.* at 4.

therefore, vacatur is not before the Board to decide.[43] Accordingly, the Board should reject the State's request to impose a prospective ban or issue a prospective ruling on vacating LBP-15-24.

2. State's Proposed Condition 2 – Disclosures and Additional Information in Disbursement Notices

The State also proposed the following condition:

> (2) Entergy shall provide the State all supporting documentation for the specific expenses for which Entergy has filed 30-day notices from the Vermont Yankee Nuclear Decommissioning Trust Fund, and shall continue to provide that information for future withdrawals.[44]

The State notes that, due to the withdrawal of the LAR, Entergy will no longer be required to disclose documents pursuant to the adjudicatory discovery provisions of 10 C.F.R. § 2.336(a).[45] But the mere fact that the State will not have access to documents that may have been disclosed (had the proceeding continued) is not a "legal injury."[46] In this regard, the discovery obligations are tied to admitted contentions in an active proceeding, and the withdrawal leaves the State in precisely the same position as if the LAR had never been filed. Thus, as a matter of law, the State has not identified a legal injury.

The State also argues that the withdrawal causes legal harm due to the "potential loss or destruction of documents" which "may" be of use in a "potential" future proceeding.[47] However,

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[43] *See generally* Motion to Withdraw. Even if a party sought to vacate the Board's decision in the future, any such request would be subject to separate consultation and legal briefing. Further, if the issue of vacatur were before the Board, the State has not demonstrated why vacatur would be inappropriate here. The Commission explained in 2013 that "as a prudential matter, we will vacate such decisions when appellate review is cut short by mootness. The Commission has long done so as a routine matter. Denying vacatur here would thus represent a marked departure from established Commission precedent." *S. Cal. Edison Co.* (San Onofre Nuclear Generating Station, Units 2 & 3), CLI-13-09, 78 NRC 551, 558-59 (2013). Appellate review has certainly been cut short here by the mootness that results from withdrawal of the LAR.

[44] State Answer at 3, 13.

[45] *Id.* at 7.

[46] *See, e.g.*, *Yankee*, LBP-99-27, 50 NRC at 53-55.

[47] State Answer at 9-10; *see also id.* at 7 ("Should Entergy seek a similar LAR in the future, the State will be prejudiced by not having the benefit of those disclosures to buttress any future contentions it may wish to file

Commission precedent is clear that the mere prospect of a second proceeding,[48] and even the prospect of additional litigation in that second proceeding, does not constitute a legal injury.[49] Further, unlike *Stanislaus*, there is nothing in the record to suggest Entergy is *likely* to refile the *same* application in a future proceeding.[50] Quite the opposite—Entergy has indicated that it does not have plans to refile this LAR.[51] Nor is there any indication that the proposed condition would have the effect of creating judicial economy, much less on the scale of the *Stanislaus* proceeding where over a million and a half documents had already been produced.[52] Indeed, discovery under 10 C.F.R. § 2.336 has not even started in this proceeding, and all of the parties have access to the pleadings and other documents that already have been the subject of this proceeding. Accordingly, the State's claimed legal injury (that Entergy "could refile" a license application at some point in the future) identifies nothing more than the mere prospect of a second proceeding, which is not unique to this proceeding, and does not constitute legal injury under well-settled Commission precedent.

The State further argues that its proposed condition would remedy alleged legal injuries related to Entergy's compliance with its current license conditions. But the State's purported compliance arguments are well beyond the legal bounds of this LAR proceeding, which is

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of the type it has filed in this proceeding regarding whether Entergy is in compliance with 10 C.F.R. § 50.82(a)(8)").

48 *See Perkins*, LBP-82-81, 16 NRC at 1135.

49 *See Fulton*, ALAB-657, 14 NRC at 979; *N. Coast*, ALAB-662, 14 NRC at 1135.

50 *Cf. Yankee*, LBP-99-27, 50 NRC at 53-55 (citing *Pac. Gas & Elec. Co.* (Stanislaus Nuclear Project, Unit 1), LBP-83-2, 17 NRC 45, 53 (1983)).

51 Motion to Withdraw at 5.

52 *Yankee*, LBP-99-27, 50 NRC at 55 (citing *Stanislaus*, LBP-83-2, 17 NRC at 53).

"limited to the *necessity* of a 30-day notice requirement."[53] For example, the State alleges the following:

- "Should Entergy seek a similar LAR in the future, the State will be prejudiced by not having the benefit of those disclosures to buttress any future contentions . . . regarding whether Entergy is in *compliance* with 10 C.F.R. § 50.82(a)(8);"[54]
- the proposed condition "is nothing more than what Entergy should have been doing all along [under its current license conditions];"[55]
- the proposed condition is warranted because Entergy "has recently changed" its manner of *compliance* with current license conditions;[56] and
- two recent disbursement notices (submitted pursuant to Entergy's current license conditions) "do not *comply* with Entergy's [current] license requirements."[57]

Enforcement matters and compliance with existing requirements, including license conditions, are outside the scope of this proceeding.[58] As the Staff correctly noted in its Answer: "To the extent that Vermont is concerned with *how* Entergy will comply with these requirements rather than with the fact that Entergy will continue to be required to comply with these requirements, Vermont raises an issue outside the scope of this licensing proceeding and outside the Board's jurisdiction."[59] Notably, this Board has confirmed that "Commission precedent is

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53 *Vermont Yankee*, LBP-15-24, 82 NRC __, __ (slip op. at 28) (emphasis added).

54 State Answer at 7 (emphasis added). In addition to challenging compliance with regulatory requirements that are unrelated to the LAR, this argument is entirely speculative as it attempts to address future harm that may never come to pass.

55 *Id*.

56 *Id*. at 7-8. While outside the scope of this proceeding, the difference highlighted by the State is not substantive. Both the older notification letter and the newer notification letter comply with Vermont Yankee's current license conditions. Neither Entergy nor the trustee has received any written notice of objection from the NRC in response to any of the withdrawal notification letters submitted to date.

57 *Id*. at 8.

58 *See* Motion to Withdraw at 6.

59 Staff Answer at 15 (citing *Omaha Pub. Power Dist.* (Fort Calhoun Station, Unit 1), CLI-15-5, 81 NRC __, __ (slip op. at 7, 13) (Mar. 9, 2015)) (emphasis in original).

clear that the NRC Staff's ongoing enforcement of . . . license conditions" is outside the scope of this proceeding.[60]

In this regard, the admitted contentions in this proceeding do not challenge the substantive content of past or future disbursement notifications. To warrant imposing conditions on withdrawal of the LAR, "the record must reveal that the *proceeding* demonstrates some legal injury," and the conditions must be "designed to eliminate" that specific injury.[61] Nothing related to this proceeding, whether the admitted contentions or otherwise, has impacted the content of any disbursement notifications. Ultimately, because the State's alleged injuries flow from circumstances external to the scope of this proceeding, the proffered condition is not curative, and would be arbitrary if imposed on Entergy's withdrawal.

In summary, the State has not satisfied its affirmative duty to demonstrate legal injury. Nor has it demonstrated that its proposed condition would remedy any alleged legal injury caused by the LAR proceeding. Instead, the proposed condition would create legal injury to Entergy, which would be required to incur the burden and expense of disclosing documents and preparing information that the NRC regulations otherwise do not require and are not part of this proceeding.[62] Accordingly, such a condition would be arbitrary and should be rejected.

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60 *Vermont Yankee*, LBP-15-24, 82 NRC __, __ (slip op. at 16).

61 *Sequoyah*, LBP-93-25, 38 NRC at 315 (emphasis added).

62 In this regard, the State's proposed condition would require Entergy to provide the State with "all supporting documentation for the specific expenses Entergy has withdrawn from the NDT for which Entergy has filed 30-day notices from the Vermont Yankee Nuclear Decommissioning Trust Fund." This condition goes far beyond the scope of either of the admitted contentions. If imposed, this condition would require Entergy to provide supporting documentation for *all* expenses for which it has sought reimbursement. As the Board made clear in LBP-15-24, however, any hearing on Contention I was intended to focus on the specific cost items identified in the State's Petition–i.e., "the six line items from the PSDAR that Vermont alleges to be non-decommissioning costs" and "legal costs associated with Entergy's reduction in emergency planning"—not to be a wide-ranging inquiry into all of Entergy's NDT expenditures. *Vermont Yankee*, LBP-15-24, 82 NRC __, __ (slip op. at 28-29).

V. CONCLUSION

For the foregoing reasons, the Board should deny the State's request for oral argument, reject the proposed conditions, grant Entergy's request to withdraw the LAR without conditions, and dismiss the proceeding without prejudice.

Respectfully submitted,

Executed in Accord with 10 C.F.R. § 2.304(d)

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Dated in Washington, DC
this 13th day of October 2015

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

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	)	Docket No. 50-271-LA-3
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	)	October 13, 2015
(Vermont Yankee Nuclear Power Station)	)	

CONSULTATION

Counsel for Entergy certifies under 10 C.F.R. § 2.323(b) that the movant has made a sincere effort to contact the other parties in this proceeding and resolve the issues raised in this Motion. The Nuclear Regulatory Commission Staff does not oppose the Motion; the State of Vermont opposes the Motion and intends to file an opposition to the Motion.

Respectfully submitted,

Executed in Accord with 10 C.F.R. § 2.304(d)

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CERTIFICATE OF SERVICE

Pursuant to 10 C.F.R. § 2.305, I certify that, on this date, the foregoing "Entergy's Motion for Leave to File Reply and Reply in Support of Motion to Withdraw License Amendment Request" was served upon the Electronic Information Exchange (the NRC's E-Filing System) in the above-captioned proceeding.

Signed (electronically) by Ryan K. Lighty

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