

**UNITED STATES  
NUCLEAR REGULATORY COMMISSION  
ATOMIC SAFETY AND LICENSING BOARD**

-----x  
In re: Docket Nos. 50-247-LR; 50-286-LR  
License Renewal Application Submitted by ASLBP No. 07-858-03-LR-BD01  
Entergy Nuclear Indian Point 2, LLC, DPR-26, DPR-64  
Entergy Nuclear Indian Point 3, LLC, and  
Entergy Nuclear Operations, Inc. February 5, 2016  
-----x

**DECLARATION OF LISA S. KWONG**

Pursuant to 28 U.S.C. § 1746, Lisa S. Kwong hereby declares as follows:

1. I serve as an Assistant Attorney General for the State of New York, counsel for petitioner-intervenor State of New York in this proceeding. I submit this declaration and accompanying attachments in support of the State of New York’s motion to submit additional exhibits to supplement the evidentiary record in this proceeding.
2. The proposed exhibits include six newly identified documents containing highly relevant and material information which were not available to the State until after the close of the November 2015 hearings before the Atomic Safety and Licensing Board.
3. The documents which the State seeks to add to the evidentiary record include four Westinghouse reports prepared in support of Entergy’s MRP-227-A-based reactor vessel internals aging management program for Indian Point Units 2 and 3 (IP2 and IP3), a recent technical paper that identifies non-conservatism in the current irradiation-assisted stress corrosion crack growth curves relied upon in MRP-227-A, and NRC Staff’s most recent inspection report for IP3. A table of the State’s proposed exhibits is attached hereto as Attachment 1.
4. The State first became aware of the existence of four of the six proposed exhibits

– the Westinghouse reports – as a result of Entergy’s recent disclosures. These WCAP reports were identified in Entergy’s January 13, 2016 proprietary disclosure log. The State requested that Entergy produce the documents on its disclosure logs the following day. On January 20, 2016 the State received from Entergy copies of the four reports in response to State’s January 14 request.

§ 2.323 Consultations

5. On January 20, 2016, the State advised counsel for Entergy and NRC that it was contemplating a motion to the Board seeking permission to submit as additional hearing exhibits certain documents disclosed by Entergy on January 13, 2015 and/or recently posted on ADAMS. The email identified nine documents and indicated that the list of documents could be revised or supplemented pending the State’s review of additional proprietary documents which Entergy’s counsel produced copies of earlier that day. *See* Email thread between J. Sipos, et al. and R. Kuyler, S. Turk, et al. dated January 20 to February 6, 2015, attached hereto as Attachment 2.

6. Entergy and NRC counsel responded with a request for clarification as to the dates the document were either disclosed or became publicly available, and the basis for the State’s motion. NRC counsel also indicated its preliminary objection to the documents, with the exception of Staff’s IP3 license renewal inspection report.

7. Following additional e-mail exchanges, on January 27, 2016 the State emailed the parties a revised list of proposed exhibits which included 18 documents.

8. On January 29, the parties engaged in a lengthy and detailed consultation conference regarding the documents and the State’s proposed motion. At the conclusion of the conference, NRC Staff counsel noted Staff’s opposition to the proposed motion and suggested that the standard for motions to reopen pursuant to 10 C.F.R. § 2.326 should apply to the State’s

motion. On Monday, February 1, Entergy counsel reported Entergy's objection to the motion.

9. During the January 29 conference, the State inquired as to the availability of two recent EPRI reports regarding irradiation assisted stress corrosion cracking.

10. On February 3, 2015, Entergy and NRC counsel advised that neither party had copies of the EPRI reports.

11. On February 4, 2015, in an effort to resolve the dispute and as part of the consultation process, the State advised the parties that it would narrow the list of proposed exhibits and that it would move with respect to only a small set of the documents which were the subject of the parties' earlier consultations. The State indicated that it intended to move with respect to four recently disclosed Indian Point-specific Westinghouse reports, and two other documents that the State learned of only after the close of the hearing in November. The State also inquired about the availability of numerous, as-yet undisclosed Westinghouse calculation notes and/or reports prepared on behalf of Entergy for Indian Point relating to its acceptable baffle bolt pattern analysis.

12. On February 5, 2015 Entergy counsel and NRC Staff counsel both confirmed their opposition to the motion.

13. Riverkeeper and Clearwater are in support of the State's proposed motion.

#### The Proposed Exhibits

14. Attached to this declaration as Attachment 3 is a true and correct copy of Entergy's WCAP-17941-P, Rev. 1, Indian Point Units 2 and 3 Inspection Response Plan for Aging Management of MRP-227-A Primary and Expansion Components dated January 12, 2016, disclosed by Entergy on January 13, 2016 (IPECPROP00085900), and delivered via courier to the State on January 20, 2016.

15. Attached to this declaration as Attachment 4 is a true and correct copy of

Entergy's WCAP-17949-P, Rev. 0, Background and Technical Basis Supporting Engineering Flaw Acceptance Criteria for Indian Point Unit 2 Reactor Vessels Internals MRP-227-A Primary and Expansion Components dated January 12, 2016, disclosed by Entergy on January 13, 2016 (IPECPROP00085359), and delivered via courier to the State on January 20, 2016.

16. Attached to this declaration as Attachment 5 is a true and correct copy of Entergy's WCAP-17951-P, Rev. 0, Background and Technical Basis Supporting Engineering Flaw Acceptance Criteria for Indian Point Unit 3 Reactor Vessels Internals MRP-227-A Primary and Expansion Components dated January 12, 2016, disclosed by Entergy on January 13, 2016 (IPECPROP000856629), and delivered via courier to the State on January 20, 2016.

17. Attached to this declaration as Attachment 6 is a true and correct copy of Entergy's WCAP-18048-P, Rev. 0, Determination of Acceptable Baffle-Former Bolting for Indian Point Units 2 and 3 dated January 12, 2016, disclosed by Entergy on January 13, 2016 (IPECPROP00086434), and delivered via courier to the State on January 20, 2016.

18. Westinghouse and Entergy have designated the four WCAP documents as containing confidential business information in their entirety.

19. Attached to this declaration as Attachment 7 is a true and correct copy of a paper authored by Ernest D. Eason and Raj Pathania, titled "Disposition Curves for Irradiation-Assisted Stress Corrosion Cracking of Austenitic Stainless Steels in Light Water Reactor Environments," (ASME PVP2015-45223) concerning a presentation at the July 2015 American Society of Mechanical Engineers, Pressure Vessels and Piping Conference, Boston, Massachusetts. To my knowledge, this paper was not made available to the public via the ASME digital library collection prior to November 2015. I did not become aware of the existence of this paper until after my review of documents disclosed by Entergy on January 13, 2016, which included a slide presentation created by the Electric Power Research Institute

(EPRI) and presented to NRC. See EPRI/NRC-Industry Materials Management Meetings Slides, August 14, 2015 (ML15230A163). That presentation included a single slide (Frame 8) regarding new disposition curves for irradiation-assisted stress corrosion cracking. The slide references a recent EPRI report, which has not been disclosed by any party in this proceeding, and which counsel for Entergy and NRC Staff have represented is not in the possession of their clients. The slide also suggests that new disposition curves are available, and references a 2015 meeting of the ASME Reactor Vessels and Piping Conference. Upon discovering this information, the State ordered and obtained a copy of the Eason paper, reviewed its contents, and consulted its expert to confirm its relevance to the proceedings. The State is not aware of any other reference in the record to new disposition curves for PWR primary water conditions, and the EPRI slide presentation was the State's first and only indication that these new disposition curves were under development, much less that they existed at all.

20. On January 27, 2016, the State identified this document to Entergy and Staff as a document the State wished to submit as an exhibit. The State also disclosed a copy of the paper on January 29, 2015.

21. Attached to this declaration as Attachment 8 is a true and correct copy of NRC Staff's Letter, Indian Point Nuclear Generating Unit 3 License Renewal Inspection Report (05000286/2015011), dated November 19, 2015, posted to ADAMS on November 30, 2015 (ML15323A026), disclosed by the State of New York on December 31, 2015.

22. The State has provisionally marked the six documents as exhibits NYS000583 to NYS000588 for identification.

23. Attached to this declaration as Attachment 9 is a copy of the State's proposed revised track 2 exhibits list, provisionally marked as exhibit NYS000589.

24. I declare under penalty of perjury that the foregoing is true and correct.

Executed on February 5, 2016

***Signed (electronically) by***

---

Lisa S. Kwong  
Assistant Attorney General  
Office of the Attorney General  
of the State of New York  
The Capitol  
Albany, New York 12224  
518-776-2422  
Lisa.Kwong@ag.ny.gov