

**UNITED STATES  
NUCLEAR REGULATORY COMMISSION**

**BEFORE COMMISSIONERS  
KRISTINE L. SVINICKI,  
WILLIAM C. OSTENDORFF,  
JEFF BARAN AND  
CHAIRMAN STEPHEN G. BURNS**

In the Matter of

ENTERGY NUCLEAR OPERATIONS, INC.

(Indian Point Nuclear Generating Station,  
Unit 2)

Docket No. 50-247-LA

ASLBP No. 15-042-06-LA-BD01

February 26, 2016

**DECLARATION OF ASSISTANT ATTORNEY GENERAL JOHN J. SIPOS IN  
SUPPORT OF STATE OF NEW YORK'S MOTION TO VACATE OR FOR STAY OF  
STAFF ACTION PENDING APPEAL OF ATOMIC SAFETY AND LICENSING BOARD  
DECISION LBP-15-26 REGARDING LICENSE AMENDMENT FOR ENTERGY  
INDIAN POINT UNIT 2 TO DELAY THE CONTAINMENT LEAK RATE TEST FOR  
FIVE YEARS**

JOHN J. SIPOS, an attorney admitted to practice in the State of New York, pursuant to 28 U.S.C. § 1746, hereby declares as follows::

1. I serve as an Assistant Attorney General employed by the New York State Department of Law. In that capacity, I represent the State of New York (State) in the above-captioned proceeding.
2. I make this declaration based on personal knowledge, my review of documents maintained in the ordinary course of business by the Office of the Attorney General, and my representation of the State in the various matters involving NRC operating licenses for Entergy Indian Point Unit 2 and Unit 3 in Buchanan, New York. For the Commission's convenience, I

have attached a true and accurate copy of record documents.

3. I submit this declaration in support of the State's motion to stay or vacate pending the Commission's resolution of the State's appeal pursuant to 10 C.F.R. § 2.311 of the Atomic Safety and Licensing Board's (Board) September 25, 2015 Decision LBP-15-26 denying New York's Petition to Intervene and Request for Hearing.

4. On December 9, 2014, Entergy submitted a request for license amendment to the NRC, seeking to reduce the frequency with which it must conduct ILRTs at IP2, delaying the test from once every 10 years to once every 15 years. Ex. 1, Letter from Lawrence Coyle, Site Vice President, Entergy Nuclear Northeast, to U.S. Nuclear Regulatory Commission, NL-14-128 (Dec. 9, 2014)(ML14353A015).

5. On March 17, 2015, the NRC Staff published in the Federal Register a notice of proposed finding of "no significant hazard consideration" pursuant to 10 C.F.R. § 50.92 in conjunction with its review of Entergy's IP2 license amendment request. Ex. 2, NRC Biweekly Notice: Applications and Amendments to Facility Operation Licenses Involving No Significant Hazard Considerations, NRC-2015-0055, 80 Fed. Reg. 13902, 13905-06 (March 17, 2015).

6. On May 18, 2015, the State filed a Petition to Intervene and Request for Hearing. Ex.3, State of New York Petition to Intervene and Request for Hearing (May 18, 2015) (ML15138A415).

7. On May 26, 2015, the Secretary referred the State's Petition to Intervene to the Atomic Safety Licensing Board. Ex. 4, Memorandum from Annette Vietto-Cook to E. Roy Hawkins, Chief Administrative Judge, Atomic Safety Licensing Board, Docket No. 50-247-LA (May 28, 2015)(ML15146A227).

8. On May 28, 2015, the ASLB issued an Order of Establishment, which Notice was

published in the Federal Register on June 3, 2015, Ex. 5, Establishment of Atomic Safety Licensing Board, ASLBP No. 15-942-06-LA BDO1, Docket No. 5-247-LA (ML15148A425); Ex. 6, NRC Notice of Establishment of Atomic Safety Licensing Board: Entergy Nuclear Operations Inc., 80 Fed.Reg. 3164 (June 3, 2015).

9. The NRC Staff and Entergy responded to the State's Petition, and the State filed a reply. Ex., 7, NRC Staff Answer to New York State Petition to Intervene and Request for Hearing (June 12, 2015)(ML15163A320); Ex. 8, Entergy Answer Opposing State's Petition to Intervene and Request for Hearing (June 12, 2015)(ML15163A302) and attachment 1 (excerpt of NL-15-068 (not on ADAMS)); Ex. 9, State of New York Reply in Support of Petition to Intervene and Request for Hearing (June 19, 2015)(ML15170A430).

10. Following oral argument before the ASLB on July 30, 2015, the Board issued a decision denying the State's Petition on September 25, 2015. Ex. 10, *Entergy Nuclear Operations, Inc.* (Indian Point Generating Unit No. 2), LBP-15-26, Memorandum and Order, Slip Op. (September 26, 2015)(ML15268A386).

11. The State timely appealed the ASLB Decision to the Commission on October 20, 2015. Ex. 11, State of New York Brief Supporting Appeal Pursuant to 10 C.F.R. § 2.311 of ASLB Decision LBP-15-26 Denying New York's Petition to Intervene and Request for Hearing (ML15293A585).

12. On February 22, 2016, Staff notified the Commission that it intended to take significant licensing action, and on February 23, 2016, issued the license amendment. Exs. 12, Commission Notice of Significant License Amendment, Docket No. 50-247-LA (February 22, 2016) (no public ADAMS accession number as of Feb. 25, 2016); Ex. 13, Letter from NRC Staff to Entergy Nuclear Operations (Unit 2): Issuance of Amendment (February 23,

2016)(ML15349A974). In the Staff's Safety Evaluation, Staff stated that it reviewed and accepted the applicant's analysis of the no significant hazard consideration. Ex. 13. On February 24, 2016, Staff notified the parties of the license amendment. Ex. 14, Notification of License Amendment, (February 24, 2016)(ML16055A209).

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

Executed on February 26, 2016

*Signed (electronically) by*

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