UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE COMMISSION

In the Matter of:	)	Docket No. 50-247-LA
ENTERGY NUCLEAR OPERATIONS, INC.	)	ASLBP No. 15-942-06-LA-BD01
(Indian Point Nuclear Generating Station, Unit 2)	)	March 7, 2016

ENTERGY'S ANSWER OPPOSING NEW YORK STATE'S MOTION TO VACATE OR STAY THE EFFECTIVENESS OF THE FEBRUARY 23, 2016 LICENSE AMENDMENT REGARDING INDIAN POINT UNIT 2 INTEGRATED LEAK RATE TESTING

I. INTRODUCTION

Pursuant to 10 C.F.R. §§ 2.323(c) and 2.1213(c), Entergy Nuclear Operations, Inc. ("Entergy") hereby opposes New York State's ("New York" or "the State") Motion, filed on February 26, 2016 in the captioned proceeding.[1] In its Motion, New York requests that the Commission vacate, or stay the effectiveness of, a license amendment recently issued by the Nuclear Regulatory Commission ("NRC" or "Commission") Staff until the Commission rules on the State's pending Appeal of an Atomic Safety and Licensing Board ("Board") decision (LBP-15-26),[2] in which the Board denied its petition to intervene in this proceeding.[3] Specifically, on

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1 *See State of New York 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* (Feb. 26, 2016) ("Motion") (ADAMS Accession No. ML16057A532). New York also filed a declaration by Assistant Attorney General John Sipos (ML16057A533) that essentially recounts the procedural history of this matter, and copies of key background documents as Exhibits 1 through 14 to Mr. Sipos' declaration. Entergy does not repeat this case's procedural history, which also is discussed in the parties' appellate briefs cited in note 2 below.

2 *See Entergy Nuclear Operations, Inc.* (Indian Point Nuclear Generating Station, Unit 2), LBP-15-26, 82 NRC __ (Sept. 25, 2015) (slip op.) ("LBP-15-26"); *State of New York Brief Supporting Appeal Pursuant to 10 C.F.R. § 2.311 of Atomic Safety and Licensing Board Decision LBP-15-26 Denying New York's Petition to Intervene and Request for Hearing* (Oct. 20, 2015) ("Appeal") (ML15293A585). Entergy and the NRC Staff opposed New York's Appeal of LBP-15-26. *See Entergy's Answer Opposing New York State's Appeal of LBP-15-26* (Nov. 16, 2015) ("Entergy Answer") (ML15320A550); *NRC Staff's Answer to the State of New York's Appeal from the Atomic Safety and Licensing Board's Denial of Its Petition to Intervene and Request for Hearing (LBP-15-26)* (Nov. 16, 2015) ("NRC Staff Answer") (ML15320A503).

3 *State of New York Petition to Intervene and Request for Hearing* (May 18, 2015) ("Petition") (ML15138A415).

February 23, 2016, the Staff issued Amendment No. 283 to Facility Operating License No. DPR-26 for Indian Point Nuclear Generating Unit No. 2 ("IP2"), which, consistent with NRC regulations and guidance, revises IP2 Technical Specification 5.5.14, "Containment Leakage Rate Testing Program," to extend the frequency of the containment "Type A" or integrated leak rate test ("ILRT") from once every 10 years to once every 15 years on a permanent basis.[4]

For the reasons set forth below, the Commission should deny New York's Motion. In short, the Motion is procedurally improper; contravenes the Atomic Energy Act of 1954 ("AEA"), NRC regulations, and Commission precedent; and fails to justify the granting of a stay—an "an extraordinary equitable remedy"—under the Commission's well-established stay criteria.[5]

II. ARGUMENT

A. New York's Motion Is Procedurally Improper And Contravenes The AEA, NRC Regulations, And Commission Adjudicatory Precedent

New York filed its Motion pursuant to 10 C.F.R. §§ 2.323, 2.341, 2.342, and 2.1213.[6] None of those regulations, however, authorizes it to seek a vacature or stay of the effectiveness of the license amendment in this instance.[7] Although Section 2.1213(a) authorizes requests to stay the effectiveness of the NRC Staff's action on a matter involved in a hearing under 10 C.F.R. Part 2, Subpart L, it contains one critical exception.[8] Specifically, Section 2.1213(f) states that "[s]tays

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4 *See* Letter from D. Pickett, NRC, to Vice President – Operations, Entergy, Subject: Indian Point Nuclear Generating Unit No. 2 – Issuance of Amendment Re: Extension of the Containment Integrated Leak Rate Test to 15 Years (CAC No. MF5382) (Feb. 23, 2016) (enclosing Amendment No. 283 and Safety Evaluation by the Office of Nuclear Reactor Regulation Related to Amendment to Facility Operating License No. DPR-26, Entergy Nuclear Indian Point 2, LLC and Entergy Nuclear Operations, Inc., Docket No. 50-247, Indian Point Nuclear Generating Unit No. 2 (Feb. 23, 2016) ("Safety Evaluation")) (ML16057A552).

5 *U.S. Dep't of Energy* (High-Level Waste Repository), CLI-05-27, 62 NRC 715, 718 (2005) (quoting *Pub. Serv. Co. of N.H.* (Seabrook Station, Units 1 and 2), CLI-77-27, 6 NRC 715, 716 (1977)).

6 Motion at 1.

7 Section 2.323(a)(1) authorizes the filing of motions generally and contains no provisions specific to stay requests. Section 2.341(a)(1) pertains to requests for Commission review of decisions and actions of a presiding officer. Section 2.342(a) authorizes parties to request a stay of the effectiveness of the decision or action of a presiding officer (not the NRC Staff) pending filing of, and a Commission decision on, a petition for review.

8 10 C.F.R. § 2.1213(a).

are *not* available on matters limited to whether a no significant hazards consideration [("NSHC")] determination was proper in proceedings on power reactor license amendments."[9]

New York's Motion falls within the exception contained in Section 2.1213(f) because, at its core, the Motion takes issue with the Staff's authority to issue a license amendment—after making a final NSHC finding—"while the administrative review process is ongoing."[10] Indeed, New York's stay request is not unlike the one rejected by the Commission in the *Vermont Yankee* power uprate proceeding.[11] In that case, the Commission explained that "[NRC] regulations expressly instruct the Staff not to let pending hearings delay licensing decisions: the Staff is 'to issue its approval or denial of the application promptly' once it completes its own review of the application, notwithstanding the 'pendency of any hearing'" (or, in this case, the pendency of an appeal of a rejected hearing request).[12] It further noted that Staff action on a licensing application is effective upon issuance, except in the case of reactor license amendments where there are "significant hazards considerations."[13] Here, as in *Vermont Yankee*, the Staff made a final NSHC determination and appropriately issued the license amendment.[14]

AEA Section 189a(2)(A) authorizes the NRC to grant license amendments, and to make them "*immediately effective* in advance of the holding and completion of any required hearing," so long as the NRC determines that the amendment involves "no significant hazards consideration."[15] Therefore, New York may not seek "indirect review" of the Staff's NSHC determination "through

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9 *Id.* § 2.1213(f) (emphasis added); *see also* Final Rule, Amendments to Adjudicatory Process Rules and Related Requirements, 77 Fed. Reg. 46,562, 46,580, 46,585 (Aug. 3, 2012).

10 Motion at 8 n.4 ("NRC Staff seeks to rely on its finding of no significant hazards consideration under 10 C.F.R. §§ 50.91 and 50.92(c) to justify its issuance of the amendment while the administrative review process is ongoing.").

11 *See Entergy Nuclear Vt. Yankee, LLC* (Vt. Yankee Nuclear Power Station), CLI-06-8, 63 NRC 235, 236-38 (2006) (rejecting intervenor's request to stay a license amendment until the licensing board held a hearing on its contentions).

12 *Id.* at 237 (quoting 10 C.F.R. § 2.1202(a)).

13 *Id.*

14 *See id.*

15 AEA § 189a(2)(A), 42 U.S.C. § 2239a(2)(A) (emphasis added).

the guise of an application for a stay of the Staff's finding,"[16] including one that asks the Commission to exercise "its inherent supervisory authority."[17] New York's request is contrary to the express language in 10 C.F.R. § 50.58(b)(6), which states that the Staff's NSHC determination "is final, subject only to the Commission's discretion, ***on its own initiative***, to review the determination."[18] The Commission thus should reject New York's Motion on this ground alone.

B. New York, In Any Case, Has Not Met The Commission's Stay Criteria

Even assuming *arguendo* that NRC regulations and precedent do not bar New York's stay request, New York still must demonstrate that it meets the "four familiar standards [for a stay]: likelihood of success on the merits, irreparable harm, absence of harm to others, and the public interest."[19] "Irreparable harm is the most important of the four standards—the *sine qua non* of obtaining a stay."[20] Absent a showing of irreparable injury, a movant must make "an overwhelming showing" that it is likely to prevail on the merits.[21] A movant's failure to make the requisite showing on the first two factors renders consideration of the other two factors unnecessary.[22] To obtain a stay, a movant must provide more than general or conclusory

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16 *Pac. Gas & Elec. Co.* (Diablo Canyon Nuclear Power Plant, Units 1 and 2), CLI-86-12, 24 NRC 1, 4 (1986), *rev'd and remanded on other grounds*, *San Luis Obispo Mothers for Peace v. NRC*, 799 F.2d 1268 (9th Cir. 1986).

17 Motion at 1 (citing "the Commissioners' inherent supervisory authority over NRC Staff").

18 10 C.F.R. § 50.58(b)(6) (emphasis added). Notably, in this proceeding, the Commission has emphatically rejected similar requests by the parties in the context of petitions for interlocutory review, noting that "[t]he parties should limit their requests for our review to those set forth in our rules." *Entergy Nuclear Operations, Inc.* (Indian Point Nuclear Generating Units 2 and 3), CLI-11-14, 74 NRC 801, 813 n.67 (2011).

19 *Vt. Yankee*, CLI-06-8, 63 NRC at 237. As the Commission explained in CLI-06-8, "[w]hile technically not applicable to a request for a stay of NRC Staff action, the section 2.342(e) standards [for a stay of a presiding officer's decision] simply restate commonplace principles of equity universally followed when judicial (or quasi-judicial) bodies consider stays or other forms of temporary injunctive relief." *Id.* n.4 (citation omitted). *See also* 10 C.F.R. § 2.1213(d)(1)-(4) (listing the same four criteria or standards for a stay).

20 *Id.* at 237 (citing *USA Recycling, Inc. v. Town of Babylon*, 66 F.3d 1272, 1295 (2d Cir. 1995); *U.S. Dep't of Energy*, CLI-05-27, 62 NRC at 718).

21 *S. Nuclear Operating Co.* (Vogtle Elec. Generating Plant, Units 3 and 4), CLI-12-11, 75 NRC 523, 529 (2012) (citations omitted).

22 *See id.* ("And if a movant makes neither of these first two showings, then we need not consider the remaining factors."); *see also Shieldalloy Metallurgical Corp.* (Decommissioning of the Newfield, N.J. Site), CLI- 10-8, 71 NRC 142, 163 (2010) (same).

assertions to demonstrate that it is entitled to relief.[23] As explained below, New York has not done so here and, in fact, has failed to meet any of the four stay criteria.

1. New York Has Not Shown Irreparable Harm

For a potential injury to be irreparable, it must be shown to be "imminent" or "certain and great."[24] New York's Motion fails to show any harm related to the issuance of the ILRT license amendment for IP2, much less imminent, irreparable harm. New York asserts that the Staff's issuance of the license amendment prior to the Commission's resolution of the State's appeal: (1) prejudices the State by truncating the Commission's consideration of the State's legitimate regulatory and public safety concerns; (2) forecloses real and meaningful consideration of the State's issues on appeal; and (3) subjects the State's citizens and environment to an increased risk of exposure to the accidental release of radiation.[25] None of those conclusory assertions has legal or factual merit, much less suffices to support a finding of certain and irreparable harm.

First, the NRC Staff's issuance of the license amendment does not curtail Commission consideration of the State's regulatory and public safety concerns. The Staff performed a detailed technical and safety review of Entergy's December 9, 2015 license amendment request ("LAR"), as supplemented, that included the issuance of multiple requests for additional information, review of Entergy's responses thereto, and the preparation of its Safety Evaluation. Based on its detailed evaluation, the Staff concluded that there is reasonable assurance that the activities authorized by the amendment can be conducted without endangering the health and safety of the public.[26]

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23 *Babcock & Wilcox* (Apollo, Pa. Fuel Fabrication Facility), LBP-92-31, 36 NRC 255, 263 (1992) (citing *U.S. Dep't of Energy* (Clinch River Breeder Reactor Plant), ALAB-721, 17 NRC 539, 544 (1983)).

24 *Vogtle*, CLI-12-11, 75 NRC at 529 (quoting *Vt. Yankee*, CLI-06-8, 63 NRC at 237).

25 Motion at 8.

26 In this regard, the NRC Staff concluded that: (1) Entergy has adequately implemented its Containment Inservice Inspection Program to periodically examine, monitor, and manage the condition of its containment structure; (2) the results of past containment concrete and liner visual inspections demonstrate acceptable performance and adequate structural integrity of the containment; (3) there is reasonable assurance that the containment structural integrity will continue to be maintained, without undue risk to public health and safety, if the current Type A interval is extended to 15 years; and (4) it is acceptable to extend the interval, as proposed by Entergy, in accordance with NRC-approved topical report NEI 94-01, Revision 2-A, "Industry Guideline for Implementing

Second, the Staff's issuance of the license amendment does not foreclose "real and meaningful consideration" of the State's issues on appeal.[27] The parties have fully briefed those issues. There is no reason—and New York offers none—to conclude that the Commission will not fully and fairly consider the parties' respective arguments and the soundness of the Board's decision in light of those arguments and the underlying record. Moreover, the NRC Staff's decision to grant the license amendment does not leave New York without potential recourse. If the Commission were to determine that the Board committed clear error or abused its discretion in denying admission of New York's proposed contentions, then it could take appropriate action, such as directing the Staff to revoke or modify the amendment and/or remanding the matter to the Board for further proceedings consistent with the Commission's ruling.[28]

Finally, New York's claim that issuance of the license amendment subjects the State's citizens and environment to an increased risk of radiation exposure is factually unfounded.[29] New York provides no factual or technical support for its claim, a fatal defect in its Petition (and now Motion) that was readily apparent to the Board.[30] New York's speculative claims are further

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Performance-Based Option of 10 CFR Part 50, Appendix J" (Nov. 19, 2008) (ML100620847). *See* Safety Evaluation at 23. The Staff also discussed the specific concerns raised by New York in its May 18, 2015 Petition and November 20, 2015 comments on the LAR and, after careful consideration of those concerns, did not identify any deficiency in Entergy's LAR based on the concerns and information provided by the State. *See id.* at 23-25.

27 Motion at 8.

28 *See Vt. Yankee*, CLI-06-8, 63 NRC at 238; *see also Crow Butte Res., Inc.* (License Renewal for the *In Situ* Leach Facility, Crawford, Neb.), CLI-15-17, 82 NRC __, __ n.47 (slip op. at 10 n.47) (Aug. 6, 2015) (citing *Vt. Yankee*, CLI-06-8, 63 NRC at 236-38 and noting that license amendment issuance does not deprive an intervenor of hearing rights because the amendment may be revoked or conditioned after a hearing).

29 Significantly, the NRC has approved numerous one-time and permanent extensions of the ILRT interval from 10 to 15 years based on the performance-based NRC regulations and NRC-approved industry guidelines—including a permanent extension of Indian Point Unit 3 ILRT frequency from 10 to 15 years in March 2015. *See Entergy's Answer Opposing State of New York's Petition to Intervene and Request for Hearing* at 4 n.12 (June 12, 2015) (ML15163A302); Letter from D. Pickett, NRC, to Vice President, Operations, Entergy, "Indian Point Nuclear Generating Unit No. 3 – Issuance of License Amendment Re: Extension of the Type A Containment Integrated Leak Rate Test Frequency From 10 to 15 Years" (Mar. 13, 2015) (ML15028A308). New York has presented no information to suggest, from a technical or regulatory standpoint, that a different result is warranted here.

30 *See*, *e.g.*, *Indian Point*, LBP-15-26, slip op. at 16 n.32 (citing New York's failure to controvert Entergy's risk impact assessment (in Attachment 3 to the LAR), which "accounts for the very dangers that New York asserts render Unit 2 ineligible for the LAR, including 'the likelihood and risk implications of corrosion-induced leakage of the steel liners occurring and going undetected during the extended test interval,'" as well as "[t]he impact of aging, concealed corrosion, and the effectiveness of visual inspections").

undermined by the NRC Staff's thorough safety evaluation of the LAR, including its final NSHC determination in accordance with the standards of 10 C.F.R. § 50.92(c).[31] Again, a party seeking a stay must show that it faces imminent, irreparable harm that is both "certain and great."[32] New York has not done so, and its "unproved speculation does not equate to irreparable harm."[33]

2. New York Has Not Shown That It Is Likely To Prevail On The Merits

Given its clear failure to establish that it will be irreparably injured unless a stay is granted, New York bears a heavier burden to show that it is likely to prevail on the merits: it must demonstrate that the reversal of the Board's decision is a "virtual certainty."[34] New York falls far short of meeting that substantial burden. It states only that the Board's decision "suffers from a number of legal deficiencies and factual inaccuracies," and that "given the extent of the State's evidence," the State is likely to prevail on the merits of its appeal.[35] The only additional information provided by New York as putative support for those conclusory assertions is a one-sentence summary of its "evidence"—the same evidence that the Board carefully reviewed but rejected as insufficient to support its proposed contentions.[36]

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31 The Staff's evaluation included review of Entergy's IP2-specific confirmatory risk impact assessment, and led it to conclude that the license amendment does not involve a significant increase in the probability or consequences of an accident previously evaluated, create the possibility of a new or different kind of accident from any previously evaluated, or involve a significant reduction in a margin of safety. *See* Safety Evaluation at 21, 25-27.

32 *Vt. Yankee*, CLI-06-8, 63 NRC at 237 (citing *Cuomo v. NRC*, 772 F.2d 972, 976 (D.C. Cir. 1985), quoting *Wisconsin Gas Co. v. FERC*, 758 F.2d 669, 674 (D.C. Cir. 1985)).

33 *Id.*; *see also id.* at 237-38 (quoting *Mass. Coal. of Citizens with Disabilities v. Civil Def. Agency*, 649 F.2d 71, 75 (1st Cir. 1981) ("'Merely raising the specter of a nuclear accident' does not demonstrate irreparable harm.").

34 *Shieldalloy,* CLI-10-8, 71 NRC at 154 (citations omitted).

35 Motion at 7-8.

36 *See id.* Specifically, New York claims, without basis, that its evidence showed that: (1) the IP2 containment liner has been subjected to a number of degradation events that have directly impacted the integrity of the containment liner; (2) recent inspections discovered signs of liner degradation, some of which was attributable to the historic degradation events; (3) the Atomic Energy Commission Staff recommended that the IP2 containment liner be subject to more frequent inspections; (4) previous ILRT results showed that the IP2 containment's leak rate was increasing, and was on pace to exceed a leakage rate which, if discovered, would prevent IP2 from operating; (5) Entergy failed to consider increased seismic risk hazards that Entergy and Staff have recently discovered at IP2; and (6) Entergy relied on a deficient probabilistic risk assessment. *Id.*

The Commission's "customary practice is to affirm Board rulings on contention admissibility absent an abuse of discretion or error of law."[37] As Entergy and the NRC Staff amply demonstrated in their oppositions to New York's Appeal, the State has not demonstrated that the Board erred or abused its discretion in rejecting its proposed contentions.[38] Contrary to New York's claims, the Board's decision rests soundly on a carefully rendered analysis of each of New York's proffered bases under the well-established and deliberately "strict" contention admissibility criteria of 10 C.F.R. § 2.309(f)(1).[39] The Board did not, as New York claims in its Appeal and Motion, impose an unduly stringent standard for contention admissibility or improperly evaluate the merits of its contentions.

3. New York Has Not Shown The Absence Of Harm To Other Parties

New York suggests that staying the effectiveness of the ILRT license amendment would not prejudice the other parties.[40] Yet, in the same paragraph, it recognizes that without the benefit of the recently-issued amendment, "Entergy would be required to conduct an ILRT during IP2's March 2016 refueling outage."[41] New York overlooks the obvious and significant implications of its own statement by claiming that because the ILRT is a requirement of IP2's current operating license, it does not involve a "new or additional burden."[42] In particular, vacating or staying the

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37 *Nuclear Mgmt. Co., LLC* (Palisades Nuclear Plant), CLI-06-17, 63 NRC 727, 729 (2006) (citing *USEC Inc.* (Am. Centrifuge Plant), CLI-06-9, 63 NRC 433, 439-40 (2006)).

38 *See generally* Entergy Answer at 15-30; NRC Staff Answer at 11-29.

39 *Indian Point,* LBP-15-26, slip op. at 9. Among other things, the Board aptly concluded that New York's allegations about an unusual "history of structural and corrosive damage" to the IP2 containment structure and liner constitute an improper attempt to graft a "historical event" criterion onto the "performance criteria" specified in 10 C.F.R. Part 50, Appendix J, Option B, in contravention of 10 C.F.R. § 2.335(a). *Id.* at 11. As it explained, the Commission was fully aware of containment degradation issues when it promulgated its performance-based testing and visual inspection requirements in 10 C.F.R. Part 50, but nevertheless placed no "historical event" restriction on licensees electing to comply with Appendix J through performance-based testing. *Id.* The Board also correctly noted that arguments reflecting only New York counsel's "belief" rather than alleged facts or expert opinion are insufficient to support the admission of a contention. *Id.* at 13 n.28 (citing 10 C.F.R. § 2.309(f)(1)(v)).

40 *See* Motion at 8-9.

41 *See id.* at 9.

42 *Id.*

immediate effectiveness of the Staff's action would have the immediate and unavoidable effect of denying Entergy the benefits of its duly authorized license amendment.

Such a result would be particularly burdensome. Entergy entered the Spring 2016 IP2 refueling outage on March 7, 2016. Consequently, the conduct of an ILRT as part of the *ongoing* outage would be impracticable given the significant logistical and technical considerations involved in performing the test.[43] At the very least, it would require an extension of the outage (or perhaps a separate, stand-alone outage) to accommodate set-up of the necessary equipment and performance of the actual test, which requires pressurization of the containment to approximately 50 psig and, consequently, the cessation of all other work activities inside the containment structure.[44] Thus, New York's bare assertion of no harm to others, particularly Entergy, does not tip the balance in the State's favor and justify staying the effectiveness of the license amendment pending the Commission's resolution of New York's appeal.

4. New York Has Not Shown That the Stay Is In The Public Interest

With respect to the fourth stay factor, New York cites "the State's interest in protecting its citizens and vindicating its procedural and substantive due process rights" and maintaining public confidence in the integrity of the NRC regulatory process.[45] Despite New York's contrary suggestions, the NRC fully recognizes the public's interest in the proper and safe regulation of nuclear activities and provides ample opportunities for all stakeholders, including members of the public, to be heard. Those opportunities are provided through 10 C.F.R. § 2.206 petitions for enforcement, opportunities to submit comments on the docket prior to Staff action on licensing

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[43] *See generally* Entergy Procedure 2-PT-10Y001, Revision 2, Integrated Leak Rate Test (Aug. 2006) (contained in Enclosure to Letter from Lawrence Coyle, Entergy, to NRC Document Control Desk, NL-15-068, Response to Request for Additional Information Regarding License Amendment to Permanently Extend the Frequency of the Containment Integrated Leak Rate Test (TAC No. MF3369) (June 8, 2015) (ML15163A166).

[44] *See id.* The IP2 and IP3 ILRTs normally are performed during the first two days of the refueling outage; *i.e.*, *before* onload of equipment into the containment building and changing of systems from their normal power operation lineups. Since Entergy entered the Spring 2016 IP2 refueling outage on March 7, 2016, performing an ILRT as part of the current outage would require additional outage time.

[45] Motion at 9-10.

requests, and hearing opportunities on license amendments, such as the one offered in 2015 for the IP2 ILRT license amendment application. New York's own extensive participation in this proceeding is testament to this fact and undermines its claims of "due process" violations.

Additionally, for the reasons discussed in Section II.A, *supra*, the regulatory process has been implemented and functioned as intended in this case. Both the AEA and NRC regulations direct the NRC Staff to promptly issue a license amendment upon completing its safety evaluation and making its final NSHC determination, "notwithstanding the pendency before it of a request for a hearing from any person."[46] NRC regulations further exclude NSHC determinations from the stay provisions.[47] Any argument that they "usurp" the Commission's authority, "corrupt" the regulatory process, or violate due process is thus specious. Indeed, allowing New York to circumvent the Commission's longstanding and carefully-crafted regulatory scheme would subvert the NRC's regulatory objectives and thus run counter to the public interest.

III. CONCLUSION

For the reasons set forth above, Entergy opposes the Motion and requests that the Commission deny and dismiss the Motion in its entirety.

Respectfully submitted,

Executed in accord with 10 C.F.R. § 2.304(d)
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Dated in Washington, D.C.
this 7th day of March 2016

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46 10 C.F.R. § 50.58(b)(5).

47 *Id.* § 2.1213(f).

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ENTERGY NUCLEAR OPERATIONS, INC.	)	ASLBP No. 15-942-06-LA-BD01
(Indian Point Nuclear Generating Station, Unit 2)	)	March 7, 2016

CERTIFICATE OF SERVICE

Pursuant to 10 C.F.R. § 2.305, I certify that, on this date, copies of "Entergy's Answer Opposing New York State's Motion to Vacate or Stay the Effectiveness of the February 23, 2016 License Amendment Regarding Indian Point Unit 2 Integrated Leaks Rate Testing" were served upon the Electronic Information Exchange (the NRC's E-Filing System) in the above-captioned proceeding.

Signed (electronically) by Martin J. O'Neill

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