

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

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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. March 9, 2016
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**STATE OF NEW YORK
UNOPPOSED MOTION FOR EXTENTION OF TIME
TO FILE REPLY EXPERT TESTIMONY**

Pursuant to 10 C.F.R. § 2.323(a), the State of New York (“State”) respectfully requests a one week extension of time until April 1, 2016, to file reply expert testimony. The Atomic Safety Licensing Board (“Board”)’s Order of February 19, 2016,¹ permitted the State to file written reply expert testimony by Friday, March 25, 2016. Due to scheduling issues that limit the availability of the State’s expert, Dr. Richard Lahey, in the week leading up to the March 25 deadline, and because a one week extension of time would not cause prejudice or undue delay in this proceeding, the State respectfully submits that good cause exists for this proposed extension of time. The State’s motion is unopposed by the other parties to this proceeding, Entergy Nuclear Operations, Inc. (“Entergy”), the United States Nuclear Regulatory Commission Staff (“NRC Staff”), Riverkeeper, Inc. (“Riverkeeper”), and Hudson River Sloop Clearwater, Inc. (“Clearwater”).

¹ *Entergy Nuclear Operations, Inc.* (Indian Point Nuclear Generating Units 2 and 3), Order (Requesting Expert Testimony on New York’s Proposed Exhibits and Suspending Deadline for Filing Proposed Findings of Fact and Law), February 19, 2016 (ML16050A315) (hereinafter “Order”).

APPROPRIATE CAUSE SUPPORTS THE REQUEST

On February 5, 2016, the State filed a motion seeking leave to file six additional documents as exhibits in this Indian Point Track 2 proceeding.² The documents include four reports generated by Westinghouse Electric Co. (“Westinghouse”) in support of Entergy’s license renewal application for the Indian Point facilities, one technical paper, and one NRC Staff inspection report. On February 19, following the filing of answering papers by Entergy³ and NRC Staff,⁴ the Board granted the State’s motion concerning the six documents on the condition that the State, Entergy, and NRC Staff file expert testimony about the relevance, materiality, and reliability of the six proposed exhibits. Order at 2.

On March 4, the State filed the Supplemental Written Testimony of Dr. Richard T. Lahey Regarding Contentions NYS-25, NYS-26B/RK-TC-1B, and NYS-38/RK-TC-5 (NYS000590),⁵ which describes the relationship of the six proposed exhibits to the State’s Track 2 contentions. The State anticipates that Entergy and NRC Staff will file their respective expert testimony on or before Friday, March 18, pursuant to the Board’s Order. *See* Order at 2. The State may then file reply expert testimony within one week, *i.e.*, by Friday, March 25. *Id.*

For the following reasons, the State respectfully submits that appropriate cause supports the request to file its reply expert testimony on April 1, 2016:

² *See* State of New York Motion for Leave to File Six Documents as Additional Exhibits, February 5, 2016 (ML16036A353) (public version).

³ *See* Entergy’s Answer to State of New York’s Motion for Leave to File Six Documents as Additional Exhibits, February 16, 2016 (not publicly available).

⁴ *See* NRC Staff’s Answer to “State of New York Motion for Leave to File Six Documents as Additional Exhibits,” February 16, 2016 (ML16047A425).

⁵ As of the filing of this motion, the March 4, 2016, Supplemental Written Testimony of Dr. Richard T. Lahey Regarding Contentions NYS-25, NYS-26B/RK-TC-1B, and NYS-38/RK-TC-5 is not available on the NRC’s public Agencywide Documents Access and Management System (“ADAMS”).

1. Expert Availability. During the course of consulting with Dr. Lahey on his Supplemental Written Testimony, the State learned that Dr. Lahey, due to a pre-scheduled personal obligation, would have limited availability during the week of March 21 to prepare testimony in reply to the expert testimony presented by Entergy and NRC Staff on March 18. The State also received an update from Dr. Lahey about the hearing schedule in an unrelated matter in which he is providing expert services and in which he (and other witnesses) may be called to testify on short notice. This other hearing is scheduled to begin on March 19 and is expected to run through the end of April.

The State seeks a one week extension of time to accommodate Dr. Lahey's schedule. Based on its conversations with Dr. Lahey, the State anticipates that Dr. Lahey will be able to review and submit reply testimony by Friday, April 1.

2. No prejudice or undue delay. The State submits that the requested seven day extension of time would not cause prejudice to any party, the Board, or this proceeding, and would not otherwise cause undue delay.

CONCLUSION

For the above-stated reasons, the State respectfully requests that the Board grant this unopposed request for a one week extension of time until April 1, 2016, to file its reply expert testimony.

Executed on March 9, 2016

Respectfully submitted,

Signed (electronically) by

John J. Sipos
Lisa S. Kwong
Mihir A. Desai
Assistant Attorneys General
Office of the Attorney General
for the State of New York
The Capitol
Albany, New York 12224
(518) 776-2380
John.Sipos@ag.ny.gov
Lisa.Kwong@ag.ny.gov
Mihir.Desai@ag.ny.gov

10 C.F.R. § 2.323 Certification

Pursuant to 10 C.F.R. § 2.323(b) and the Board's July 1, 2010 Scheduling Order (at 8-9), I certify that I have made a sincere effort to contact counsel in this proceeding, to explain to them the factual and legal issues raised in this motion, and to resolve those issues. No party opposes this request.

Executed on March 9, 2016

Signed (electronically) by

Mihir A. Desai
Assistant Attorney General
Office of the Attorney General
for the State of New York
The Capitol
Albany, New York 12224
(518) 776-2398
mihir.desai@ag.ny.gov