

**UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION**

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matter of) ENTERGY NUCLEAR OPERATIONS, INC.) (Indian Point Nuclear Generating Units 2 and 3))) Docket Nos. 50-247-LR and) 50-286-LR)) March 30, 2016)
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JOINT MOTION FOR TRACK 2 HEARING SCHEDULE DEFERRAL

In accordance with 10 C.F.R. § 2.323(a), Entergy Nuclear Operations, Inc. (“Entergy”), the State of New York (“New York”), Riverkeeper, Inc., and the Nuclear Regulatory Commission (“NRC”) Staff (collectively, “the Parties”) jointly request that the Atomic Safety and Licensing Board (“Board”) temporarily defer further evidentiary submissions and post-hearing findings (including the scheduling thereof) on the pending Track 2 contentions.¹ As explained below, the requested deferral is warranted in light of certain recent reactor vessel internals (“RVI”) inspection findings at Indian Point Unit 2 that are potentially relevant to the Parties’ testimony on the Track 2 Contentions. In support of this Joint Motion, the Parties state as follows:

1. The Board held evidentiary hearings on the three Track 2 safety contentions related to the License Renewal Application (“LRA”) for Indian Point Units 2 and 3 from November 16-19, 2015. By Order dated December 7, 2015, the Board established a post-hearing briefing schedule for the submittal of the Parties’ proposed findings of fact and conclusions of law and replies thereto.²

¹ The three Track 2 contentions include: (1) NYS-25 (aging management of reactor pressure vessels and internals); (2) NYS-26B/RK-TC-1B (aging management of components subject to environmentally-assisted metal fatigue); and (3) NYS-38/RK-TC-5 (adequacy of certain license renewal safety commitments).

² See Licensing Board Order (Setting Post-Hearing Briefing Schedule) (Dec. 7, 2015) (unpublished).

2. On February 5, 2016, New York filed a motion seeking the admission of six documents as exhibits related to the Track 2 contentions, to which Entergy and the NRC Staff responded on February 16, 2016.³ On February 19, 2016, the Board granted New York's motion, conditioned upon New York's filing of supplemental testimony demonstrating the relevance, materiality, and reliability of the proposed exhibits by March 4, 2016.⁴ It further directed that Entergy and the NRC Staff file responsive testimony by March 18, 2016, and that New York file its reply testimony by March 25, 2016.⁵ The Board also suspended the schedule for filing proposed findings of fact and conclusions of law, and stated that the evidentiary record will be closed 10 days after its receipt of the above filings unless the Board requires additional testimony regarding the six proposed exhibits.⁶

3. In accordance with the Board's February 19, 2016 Order, on March 4, 2016, New York submitted its supplemental testimony in connection with the six exhibits. Subsequently, on March 18, 2016, Entergy and NRC Staff each filed their responsive testimony and other exhibits.

4. The Board subsequently granted New York's unopposed motion for an extension of time to file its reply testimony until April 1, 2016.⁷

5. On March 7, 2016, Entergy commenced a planned refueling and maintenance outage at IP2, during which it conducted visual and volumetric examinations of baffle-former assembly bolts, among other RVI components. Those examinations included visual and, where

³ See State of New York Motion for Leave to File Six Documents as Additional Exhibits (Feb. 5, 2016); NRC Staff Answer to "State of New York Motion for Leave to File Six Documents as Additional Exhibits" (Feb. 16, 2016); Entergy's Answer to State of New York Motion for Leave to File Six Documents as Additional Exhibits (Feb. 16, 2016).

⁴ See Licensing Board Order (Requesting Expert Testimony on New York's Proposed Exhibits and Suspending Deadline for Filing Proposed Findings of Fact and Law) at 2 (Feb. 19, 2016) (unpublished).

⁵ See *id.*

⁶ See *id.*

⁷ See Licensing Board Order (Granting New York's Motion for Extension of Time) at 2 (Mar. 15, 2016) (unpublished).

feasible, ultrasonic testing (“UT”) examinations of approximately 2000 baffle-former assembly bolts (which include baffle-former and baffle-edge bolts) as part of the RVI aging management program.

6. No failures of the baffle-edge bolts were identified during the inspections.

However, the visual and preliminary UT examination results show indications (*e.g.*, missing bolts, and bars meant to hold them in place, and other degradation requiring replacement of the bolts) on approximately 227 of 832 baffle-former bolts. On March 29, 2016, Entergy reported the preliminary baffle-former bolt UT examination results to the NRC pursuant to 10 C.F.R. § 50.72.⁸

7. Additionally, on the same date, and in satisfaction of its adjudicatory obligations, Entergy notified the Board and other parties of the preliminary baffle-former bolt UT examination results given their potential relevance to issues raised in Contentions NYS-25 and NYS-38/RK-TC-5 and the Parties’ testimony on those contentions.⁹ Entergy also disclosed to the other parties the initial condition report (“CR”) associated with its inspection findings.

8. In the aforementioned Board notification, Entergy stated its intention to initiate consultations with New York, Riverkeeper, and the NRC Staff under 10 C.F.R. § 2.323(b) to discuss the implications of the inspection findings for the pending adjudication on Contentions NYS-25 and NYS-38/RK-TC-5. The Parties engaged in those consultations on March 30, 2016 and, as a result of those consultations, agreed to file this Joint Motion with the Board.¹⁰

⁸ See Event Notification, Event Number 51829, “Baffle Bolt Indications Identified During Inservice Inspection” (Mar. 29, 2016) (<http://www.nrc.gov/reading-rm/doc-collections/event-status/event/>).

⁹ See Letter from Kathryn Sutton and Paul Bessette, Morgan Lewis, to Administrative Judges, “Licensing Board Notification of Preliminary Indian Point Unit 2 Baffle-Former Assembly Bolt Inspection Findings” (Mar. 29, 2016).

¹⁰ Although during this consultation the Parties did not specifically discuss the relevance of the inspection findings to each contention, the State contends that the results of the inspection findings may also be relevant to Contention NYS-26B/RK-TC-1B.

9. As a result of those consultations, the Parties jointly request that the Board temporarily postpone the current April 1, 2016 filing date for New York's supplemental reply testimony. They also jointly request that the Board defer scheduling any further evidentiary submissions and post-hearing filings by the Parties for 35 days (*i.e.*, until May 6, 2016) pending the availability of further information regarding this matter, and a status update from the Parties to be filed no later than May 6, 2016. In that status report, the parties will provide further scheduling recommendations to the extent practicable.

10. The Parties recognize the already-extended duration of this contested adjudication. Under the circumstances, however, they believe that the requested temporary schedule deferral is appropriate, supported by good cause, and in the best interests of the Parties, the Board, and the public. In this regard, they respectfully assert that the requested deferral will facilitate the Parties' and Board's prudent expenditure of legal and adjudicatory resources, and will ensure that the Board's decision resolving the Parties' Track 2 contentions addresses all relevant issues and evidence.

11. Under 10 C.F.R. § 2.319, this Board has significant discretion with respect to the procedural aspects and conduct of this adjudicatory proceeding.¹¹ The Parties respectfully request that the Board exercise that discretion in view of the specific circumstances and considerations discussed herein, and grant the requested schedule deferral pending the availability of additional information regarding Entergy's evaluation of its preliminary inspection findings and proposed corrective actions.

¹¹ See 10 C.F.R. §§ 2.319, 2.321(c); *DTE Elec. Co.* (Fermi Nuclear Power Plant, Unit 3), CLI-14-10, 80 NRC 157, 164 n.38 (Dec. 16, 2014) (citing *Entergy Nuclear Operations, Inc.* (Indian Point Units 2 and 3), CLI-07-28, 66 NRC 275, 275 (2007)) (“[W]e give broad discretion to our licensing boards in the conduct of NRC adjudicatory proceedings, and we generally defer to board case-management decisions.”).

12. Counsel for New York, Riverkeeper, and the NRC Staff have reviewed this Joint Motion, have consented to it, and have authorized the undersigned to submit it as a Joint Motion on behalf of the Parties.

WHEREFORE, the Parties respectfully request that the Board defer for 35 days the scheduling of further evidentiary submissions and post-hearing findings on the three pending Track 2 contentions pending the availability of further information regarding Entergy's baffle-former bolt examination findings and a status update from the Parties to be filed no later than May 6, 2016.

Respectfully submitted,

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

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Dated at Washington, DC
this 30th day of March 2016

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(Indian Point Nuclear Generating Units 2 and 3))	
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CERTIFICATE OF SERVICE

Pursuant to 10 C.F.R. § 2.305 (as revised), I certify that, on this date, copies of “Joint Motion for Track 2 Hearing Schedule Deferral” 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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