

**UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION**

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

_____)	
In the Matter of)	Docket Nos. 50-247-LR and
ENERGY NUCLEAR OPERATIONS, INC.)	50-286-LR
(Indian Point Nuclear Generating Units 2 and 3))	
_____)	June 28, 2016

THIRD JOINT STATUS REPORT REGARDING PROPOSED TRACK 2 SCHEDULE

In accordance with the Atomic Safety and Licensing Board’s (“Board”) June 8, 2016 Order,¹ Entergy Nuclear Operations, Inc. (“Entergy”), the State of New York (“New York”), Riverkeeper, Inc. (“Riverkeeper”), and the U.S. Nuclear Regulatory Commission Staff (“NRC Staff”) (collectively, “the Parties”) jointly provide this Third Joint Status Report regarding the pending Track 2 safety contentions.² Based on their discussions to date, the Parties provide below two proposed schedules for the conduct of further proceedings on the Track 2 contentions. The first proposed schedule is submitted jointly by Entergy, New York, and the NRC Staff; the second proposed schedule reflects a separate proposal by Riverkeeper. The Parties submit these proposals for the Board’s consideration and, if necessary, further discussion during the Board’s planned July 2016 conference call with the Parties.

¹ Licensing Board Order (Adopting Schedule Deferral at Request of the Parties and Requesting Conference Call Availability) at 2 (June 8, 2016) (ADAMS Accession No. ML16160A170).

² Counsel for the Parties have reviewed this filing, have consented to it, and have authorized the undersigned to submit the filing on behalf of the Parties. The three Track 2 contentions that are the subject of this report 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).

I. STATUS REPORT

Several important developments have occurred since the Parties submitted their Second Joint Status Report.³ On June 1, 2016, Entergy completed its replacement of 278 baffle-former bolts at Indian Point Unit 2 (“IP2”). IP2 then returned to service on June 18, 2016. Additionally, Entergy has made plans to send approximately 32 of the bolts that were removed from IP2 to an offsite “hot lab” facility for testing and examination to verify the bolt cracking mechanism.

As noted in the Second Joint Status Report, the Parties continue to supplement their disclosures (and the hearing file in the case of the NRC Staff) in accordance with NRC regulations. In particular, Entergy has disclosed and produced to the parties numerous key technical reports, including, for example, the IP2 root cause evaluation, IP2 repair plan, and numerous supporting technical reports and references. Any additional relevant documents will be disclosed consistent with the Parties’ ongoing mandatory disclosure obligations.

As also previously reported, the NRC Staff conducted an amplified onsite inspection at Indian Point beginning on May 23, 2016, focusing on issues related to the baffle-former bolts. The NRC Staff presently expects that the results of its inspections “will be provided in an upcoming publicly available inspection report by August 15, 2016.”⁴

II. PROPOSED SCHEDULE FOR FURTHER TRACK 2 PROCEEDINGS

During a June 24, 2016 consultation, and via subsequent email correspondence, counsel for the Parties conferred in an effort to develop a jointly-proposed schedule for further Track 2 proceedings. The Parties unanimously agreed that the record will benefit from the opportunity for the parties to file supplemental testimony and exhibits, and thereby update or revise

³ Second Joint Status Report Regarding Track 2 Schedule Deferral (June 7, 2016) (ADAMS Accession No. ML16159A261).

⁴ See email from G. Dentel, NRC to W. Corcoran, UCS, “UCS bolt assessment of operability” at 1 (June 16, 2016 4:32 PM) (ADAMS Accession No. ML16172A069).

previously-filed testimony and exhibits on the pending Track 2 contentions, principally with respect to the following: (1) aging management issues related to the results of Entergy's Spring 2016 inspections at IP2, (2) new information in documents disclosed since the conduct of the Track 2 hearing, and (3) as to New York only, reply testimony related to its February 5, 2016 motion for admission of six exhibits (the submission of which has been stayed by the board).

Turning to schedule, the Parties believe that it is in the best interests of the Parties, the Board, and the public to resume proceedings on the pending Track 2 contentions as expeditiously as possible. During the June 24 consultation, New York suggested that the Track 2 evidentiary filings resume on or about September 15, 2016, to allow adequate time for review of the NRC Staff's next quarterly inspection report, which the Staff expects to issue on or about August 15, 2016. Riverkeeper stated its view that evidentiary submissions should not resume until all of the "hot lab" testing and examination results are available, and the Parties have had adequate time to review those results.

As a result of their initial discussions on June 24, the Parties engaged in further communications regarding a proposed schedule. In the course of these communications, counsel for Entergy conveyed that Entergy has made plans to send approximately 32 of the bolts that were removed from IP2 to an offsite "hot lab" facility for testing and examination to verify the bolt cracking mechanism. According to counsel, Entergy is sponsoring the testing and examination of three of those bolts, and the results of that activity are expected to be available in October 2016. Counsel further conveyed that Entergy understands that the industry is considering sponsoring the testing/examination of all or some portion of the additional 29 bolts, but that Entergy is not responsible for the number, scope, or scheduling of those evaluations, and

understands that while some of the evaluation results are due at the end of 2016, the balance of the evaluation results may not be available until well into calendar year 2017.

On the basis of this information, Riverkeeper stated its position that the proposed scheduling of any supplemental written expert testimony should follow the receipt of all off-site “hot lab” analyses that are to be separately sponsored and conducted by Entergy and industry, respectively. Following Entergy’s objection to Riverkeeper’s proposal as delaying the proceeding for an unreasonable duration, New York suggested, as an alternative approach, that the trigger for further evidentiary filings be the date on which the Entergy-sponsored off-site “hot lab” bolt testing results become available for three of the bolts. As noted above, Entergy currently projects that date to be sometime in October 2016. Based on these discussions, the parties present the following two proposed schedules to the Board for consideration.

A. Joint Entergy, New York, and NRC Staff Proposed Schedule

At the outset, Entergy and the NRC Staff note that they are willing to resume evidentiary proceedings on the Track 2 safety contentions as soon as practicable, and at least as early as one month following the NRC Staff’s planned issuance of its quarterly inspection report on or about August 15, 2016 (as initially proposed by New York). Entergy does not believe it is necessary to further delay this already-extended adjudication to await the results of the hot lab testing and examination results, particularly given the focus of the admitted contentions on the adequacy of Entergy’s aging management program, as judged relative to NRC regulations and guidance. Furthermore, operating experience feedback is a continuous and ongoing function of all aging management and corrective action programs. Conversely, Riverkeeper believes that—because the parties cannot anticipate the results of the hot lab testing and analysis—the results likely will provide important additional information concerning the cause of the baffle bolt degradation.

That said, in recognition of the Parties' differing views regarding the appropriate trigger event or date for further filings, and in an effort to facilitate the Board's adoption of a reasonable schedule, Entergy and the NRC Staff are willing to support the schedule proposed by New York,⁵ as follows:

- New York and Riverkeeper Supplemental Testimony, and as to New York only, reply testimony related to its February 5, 2016 motion for admission of six exhibits⁶: Approx. mid to late-November 2016.
 - This date would be 30 days after the Parties' receipt of the Entergy-sponsored "hot lab" testing/examination results for three of the 32 baffle-former bolts removed from IP2.
- Entergy and NRC Staff Supplemental Testimony: Approx. mid to late-January 2016.
 - This date would be 60 days after the NYS and Riverkeeper testimony.
- NYS and Riverkeeper Supplemental Reply Testimony: Approx. late-February to early-March 2016.
 - This date would be 45 days after the Entergy and NRC Staff testimony.

⁵ New York counsel further noted that, in light of certain personal commitments already scheduled, this alternative proposal also is more convenient for New York's expert, Dr. Richard Lahey. It also likely would reduce the potential for scheduling conflicts during the holiday season—a concern raised by NRC Staff counsel during the Parties' June 24, 2016 conference call and shared by New York.

⁶ See State of New York Motion for Leave to File Six Documents as Additional Exhibits (Feb. 5, 2016). On February 19, 2016, the Board directed the Parties to provide written expert testimony explaining the materiality of the proposed exhibits to the admitted contentions. Licensing Board Order (Requesting Expert Testimony on New York's Proposed Exhibits and Suspending Deadline for Filing Proposed Findings of Fact and Law) (Feb. 19, 2016) at 2. NYS filed its testimony on March 4, 2016. Supplemental Written Testimony of Dr. Richard T. Lahey, Jr. Regarding Contentions NYS-25, NYS-26B/RK-TC-1B, and NYS-38/RK-TC-5 (Mar. 4, 2016). Entergy and the NRC Staff filed testimony on March 18, 2016. Testimony of Entergy Witnesses Nelson F. Azevedo, Alan B. Cox, Robert J. Dolansky, Barry M. Gordon, Timothy J. Griesbach, Randy G. Lott, and Jack R. Strosnider Regarding Additional New York State Exhibits on Contentions NYS-25 (Reactor Vessel Internals), NYS-26B/RK-TC-1B (Metal Fatigue), and NYS-38/RK-TC-5 (Safety Commitments) (Mar. 18, 2016); NRC Staff Testimony of Dr. Allen Hiser, Jeffrey Poehler, Dr. Ching Ng, and On Yee Regarding NYS-25, NYS-26B, AND NYS-38/RK-TC-5 (Mar. 18, 2016). NYS' reply testimony was due on April 1, 2016. Licensing Board Order (Granting New York's Motion for Extension of Time) at 2 (Mar. 15, 2016). However, the Board suspended further Track 2 evidentiary submissions on April 1, 2016, before NYS submitted its reply testimony. See Licensing Board Order (Adopting Joint Motion for Track 2 Hearing Schedule Deferral) at 2 (Apr. 1, 2016).

B. Riverkeeper Proposed Schedule

As stated above, Riverkeeper respectfully submits that any further evidentiary filings should await the availability and Parties' review of all planned baffle-former bolt examination results, as sponsored by both Entergy and the industry. Accordingly, it proposes the following alternative schedule for the Board's consideration:

- NYS and Riverkeeper Supplemental Testimony: Approx. mid-2017.
 - This date would be 60 days after the Parties' receipt of all "hot lab" testing and examination results, including those potentially sponsored by the industry.⁷
- Entergy and NRC Staff Supplemental Testimony: Approx. mid to-late 2017.
 - This date would be 60 days after the NYS and Riverkeeper testimony.
- NYS and Riverkeeper Supplemental Reply Testimony: Approx. late 2017.
 - This date would be 45 days after the Entergy and NRC Staff testimony.

III. CONCLUSION

The Parties respectfully request that the Board consider the proposed schedules set forth above, discuss those schedules during the forthcoming conference call to the extent necessary, and establish, by order, a schedule for further proceedings on the Track 2 contentions.

⁷ As previously noted, industry testing is not under the control of Entergy, and Entergy is not aware of any published industry schedule for testing of these additional bolts. As such, these dates are estimates only.

Respectfully submitted,

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

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

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Dated at Washington, DC
this 28th day of June 2016

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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 “Third Joint Status Report Regarding Proposed Track 2 Schedule” 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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