RAS 2104

August 14, 2000

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

Before the Commission

In the Matter of	)	
	)	
POWER AUTHORITY OF THE	)	
STATE OF NEW YORK	)	
and	)	
ENTERGY NUCLEAR INDIAN POINT 3 LLC,	)	Docket Nos. 50-286-LT
and ENTERGY NUCLEAR OPERATIONS, INC.	)	
	)	
(Indian Point Nuclear Generating Unit No. 3)	)	

APPLICANTS' ANSWER OPPOSING THE HEARING AND INTERVENTION REQUEST OF THE TOWN OF CORTLANDT AND HENDRICK HUDSON SCHOOL DISTRICT

Entergy Nuclear Indian Point 3 LLC ("ENIP"), Entergy Nuclear Operations, Inc. ("ENO"), and the Power Authority of the State of New York (the "Authority") (collectively the "Applicants") hereby answer the Supplemental Filing[1] dated July 31, 2000 by the Town of Cortlandt ("Cortlandt") and the Hendrick Hudson School District (the "School District") (collectively, "the Petitioners"). In this Supplemental Filing, the Petitioners request a hearing and leave to intervene in the proceedings relating to the Indian Point Unit 3 license transfer application. Applicants oppose this request, because

[1] Supplemental Filing to July 18, 2000 Petition for Extension of Time for Leave to Intervene and Request for Hearing in the Consideration of Approval of Proposed License Amendment and Transfer of Indian Point 3 Nuclear Power Plant Operating License to Entergy Nuclear Indian Point 3, LLC, and Entergy Nuclear Operations, Inc.("Supplemental Filing") (July 31, 2000).

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the Petitioners' request is untimely, and because the Petitioners have not submitted any admissible issues or established their standing.

I. BACKGROUND

This proceeding concerns the application filed on May 11, 2000 and May 12, 2000, by Applicants to transfer the facility operating license for the Indian Point Nuclear Generating Unit No. 3 ("IP3") from the Authority to ENIP and ENO. This transfer is being undertaken by the Applicants pursuant to a Purchase and Sale Agreement between the Authority and Entergy Nuclear FitzPatrick LLC and ENIP. No physical changes or operational changes to IP3 are being proposed in the applications. See 65 Fed. Reg. 39,953, 39,954 (2000) (FitzPatrick); 65 Fed. Reg. 39,954, 39,955 (2000) (IP3).

On June 28, 2000, the NRC published a "Notice of Consideration of Approval of Transfer of Facility Operating License and Conforming Amendment, and Opportunity for a Hearing" in the Federal Register concerning the IP3 license transfer applications. 65 Fed. Reg. at 39,954. On July 18, 2000, the Petitioners submitted a "Petition for Extension of Time for Leave to Intervene and Request for Hearing in the Consideration of Approval of Proposed License Amendment and Transfer of Indian Point 3 Nuclear Power Plant Operating License to Entergy Nuclear Indian Point 3, LLC, and Entergy Nuclear Operations, Inc." In an order dated July 20, the Commission extended until July 31 the time within which the Petitioners could file their petition to intervene and request for hearing.

NRC license transfer proceedings are governed by the requirements in Subpart M of 10 C.F.R. Part 2. 10 C.F.R. § 2.1300; see also 65 Fed. Reg. at 39,954-55. To intervene as of right in a Subpart M NRC license transfer proceeding, a petitioner must demonstrate "standing" and must set forth at least one admissible contention or issue ("issue"). Niagara Mohawk Power Corp. (Nine Mile Point, Units 1 and 2), CLI-99-30, 50 NRC 333, 340 (1999). Further, its hearing request must be timely. 10 C.F.R. §§ 2.1306(c), 2.1308(b). The Petitioners fail to satisfy any of these NRC requirements, and therefore their petition should be denied.

II. THE PETITION OF CORTLANDT AND THE SCHOOL DISTRICT IS UNTIMELY

The Petitioners' July 31 hearing request and intervention petition is untimely because it was not served on Applicants by means ensuring its receipt on the due date of the filing. Instead, the Petitioners ignored the clear instructions in the NRC's regulations and the Federal Register notice and served their Supplemental Filing without ensuring that it would be received by the July 31 deadline. Rather than serving their pleading by delivery, facsimile or e-mail, the Petitioners served their Supplemental Filing by first class mail postmarked July 31, which was then received by Applicants several days later. An extension request followed by an improperly served and untimely hearing request is an inauspicious start to these proceedings.

The NRC's regulations in 10 C.F.R. Part 2 Subpart M require that hearing requests and intervention petitions be served by delivery, facsimile transmission, e-mail or other means that will ensure receipt by the close of business on the due date for filing.

10 C.F.R. § 2.1313(b). The NRC's Federal Register notice providing an opportunity for hearing directed that requests for hearings and petitions to intervene should be filed in accordance with the rules of practice in Subpart M. The NRC's rules of practice and Federal Register notice in this proceeding also advise that untimely hearing requests and petitions may be denied if good cause is not shown, and that untimely requests must address the factors set forth in 10 C.F.R. § 2.1308(b)(1)-(2). These requirements are designed to create a fair but efficient hearing process which recognizes the time sensitivity involved in license transfer cases. See 63 Fed. Reg. 66,721, 66723 (1998).

The Petitioners have not met the timely filing requirements and have not shown good cause for their lateness. Further, the Petitioners have made no attempt to address the factors specified in 10 C.F.R. § 2.1308(b)(1)-(2) for acceptance of a late filed-hearing request. Under these circumstances, their hearing request must be denied. Baltimore Gas & Electric Co. (Calvert Cliffs Nuclear Power Plant, Units 1 and 2), CLI-98-25, 48 NRC 325, 347 (1998) (failure to address late-filing criteria alone warrants rejection of later filed contentions).

III. CORTLANDT AND THE SCHOOL DISTRICT FAIL TO IDENTIFY ANY ADMISSIBLE ISSUES

Cortlandt and the School District fail to set forth at least one admissible issue as required by the Commission's rules for license transfer proceedings. See 10 C.F.R. § 2.1306. The failure to identify any admissible issue is also grounds, by itself, to deny their hearing request.

A. Standards for Admission of Issues

To demonstrate that issues are admissible under Subpart M, a petitioner must:

(1) set forth the issues (factual and/or legal) that petitioner seeks to raise,

(2) demonstrate that those issues fall within the scope of the proceeding,

(3) demonstrate that those issues are relevant and material to the findings necessary to a grant of the license transfer application,

(4) show that a genuine dispute exists with the applicant regarding the issues, and

(5) provide a concise statement of the alleged facts or expert opinions supporting petitioner's position on such issues, together with references to the sources and documents on which petitioner intends to rely.

GPU Nuclear, Inc. (Oyster Creek Nuclear Generating Station), CLI-00-06, 51 NRC 193, 203 (2000); 10 C.F.R. § 2.1306.[2] Failure of an issue to comply with any one of these requirements is grounds for dismissing the issue.[3]

As indicated above, an issue is not admissible unless it falls within the scope of the proceeding. This reflects NRC's longstanding practice that issues in a hearing must be confined to the subjects delineated by the hearing notice, and issues concerning matters that are not within that defined scope cannot be admitted. Portland General

[2] The pleading standards in Subpart M are essentially the same as the Subpart G requirements for the admission of contentions, and the Commission refers to precedent decided under Subpart G on the admissibility of contentions when reviewing the admissibility of issues under Subpart M. See, e.g., North Atlantic Energy Service Corp. (Seabrook Station, Unit 1), CLI-99-27, 50 NRC 257, 263 n.5 (1999) (citing Metropolitan Edison Co. (Three Mile Island Nuclear Generating Station, Unit 1), CLI-83-25, 18 NRC 327 (1983)).

[3] See 65 Fed. Reg. at 39,955 ("requests [for a hearing] must comply with the requirements set forth in 10 CFR 2.1306"); 10 C.F.R. § 2.1306(b) (requirements are mandatory).

Electric Co. (Trojan Nuclear Plant), ALAB-534, 9 NRC 287, 289 n.6 (1979); Northeast Nuclear Energy Co. (Millstone Nuclear Power Station, Unit 3), LBP-98-28, 48 NRC 279 (1998). It is also well-established that an issue that "advocate[s] stricter requirements than those imposed by the regulations" will be rejected as "an impermissible collateral attack on the Commission's rules." See, e.g., Public Service Co. of New Hampshire (Seabrook Station, Units 1 and 2), LBP-82-106, 16 NRC 1649, 1656 (1982); accord Private Fuel Storage, L.L.C. (Independent Spent Fuel Storage Installation), LBP-98-7, 47 NRC 142, 179 (1998). See also Arizona Public Service Co. (Palo Verde Nuclear Generating Station, Units 1, 2 and 3), LBP-91-19, 33 NRC 397, 410, aff'd in part and rev'd in part on other grounds, CLI-91-12, 34 NRC 149 (1991).

The standards in 10 C.F.R. Part 2 Subpart M for admitting issues also reflect NRC's longstanding practice that contentions must be specific and supported by an adequate basis demonstrating the existence of a genuine dispute on a material issue. As observed by the Commission, such a requirement is consistent with judicial decisions, such as Connecticut Bankers Ass'n v. Board of Governors, 627 F.2d 245, 251 (D.C. Cir. 1980) which held that:

> [A] protestant does not become entitled to an evidentiary hearing merely on request, or on a bald or conclusory allegation that ... a dispute exists. The protestant must make a minimal showing that material facts are in dispute, thereby demonstrating that an "inquiry in depth" is appropriate.

54 Fed. Reg. 33,168, 33,171 (1989).

Under these standards, a statement "that simply alleges that some matter ought to be considered" does not provide a sufficient basis for an admissible contention.

Sacramento Municipal Utility District (Rancho Seco Nuclear Generating Station), LBP-93-23, 38 NRC 200, 246 (1993), review declined, CLI-99-02, 39 NRC 91 (1994).[4] Likewise, an allegation that some aspect of a license application is "inadequate" or "unacceptable" does not give rise to a genuine dispute unless it is supported by facts and a reasoned statement of why the application is unacceptable. Florida Power and Light Co. (Turkey Point Nuclear Generating Plant, Units 3 and 4), LBP-90-16, 31 NRC 509, 512 (1990).[5] Nor is the mere citation of an alleged factual basis for a contention sufficient. Rather, a petitioner is obligated "to provide the [technical] analyses and expert opinion" or other information "showing why its bases support its contention." Georgia Tech, LBP-95-6, 41 NRC at 305.

B. Cortlandt's and the School District's Issues are Unduly Vague and Unsupported

At the outset, it is very difficult to determine what issues the Petitioners seek to raise in this proceeding. Nowhere in the July 31 filing is there any specific list of issues accompanied by discussion of the information required by 10 C.F.R. § 2.1306. Instead, there are some very general matters mentioned in the July 31 Supplemental Filing, and then some equally vague matters mentioned in an accompanying affidavit. None of these matters is discussed with the requisite specificity or basis. Nowhere are there any

[4] An issue will be found to lack sufficient basis if it amounts to, without more, a petitioner's differing opinion with the NRC as to what applicable regulations should require. Georgia Institute of Technology (Georgia Tech Research Reactor, Atlanta, Georgia), LBP-95-6, 41 NRC 281, 303, vacated in part and remanded on other grounds, CLI-95-10, 42 NRC 1, aff'd in part, CLI-95-12, 42 NRC 111 (1995).

[5] If the petitioner does not believe that the application addresses a relevant issue, the petitioner is required to explain why the application is deficient. Arizona Public Service Co. (Palo Verde Nuclear Generating Station, Units 1, 2 and 3), CLI-91-12, 34 NRC 149, 155-56 (1991).

references to documents or expert opinion to establish the existence of a genuine dispute on a material issue.

The Commission has long held that a petitioner must plead its issues with specificity.

> The applicant is entitled to a fair chance to defend. It is therefore entitled to be told at the outset, with clarity and precision, what arguments are being advanced and what relief is being asked .... It should not be necessary to speculate about what a pleading is supposed to mean.

Kansas Gas & Electric Co. (Wolf Creek Generating Station, Unit No. 1), ALAB-279, 1 NRC 559, 576 (1975).

> These standards do not allow mere "notice pleading"; the Commission will not accept "the filing of a vague, unparticularized" issue, unsupported by alleged fact or expert opinion and documentary support.

Oyster Creek, CLI-00-06, 51 NRC at 203 (citing North Atlantic Energy Service Corp. (Seabrook Station, Unit 1), CLI-99-6, 49 NRC 201, 219 (1999)) (citation and internal quotation marks omitted). This specificity requirement has been upheld by the Courts.

> [I]t is still incumbent upon intervenors who wish to participate to structure their participation so that it is meaningful, so that it alerts the agency to the intervenors' position and contentions.... Indeed, administrative proceedings should not be a game or a forum to engage in unjustified obstructionism by making cryptic and obscure reference to matters that "ought to be" considered.

Vermont Yankee Nuclear Power Corp. v. Natural Resources Defense Council, 435 U.S. 519, 553-54 (1978).

While it is very difficult to identify exactly what it is that the Petitioners wish to litigate, Applicants have parsed the July 31 submittal and endeavored to address each

apparent issue below. Because of the vagueness of their filing, the Petitioners should bear any consequences of its issues having been misunderstood.

1. Decommissioning Plans and Funding

At page 2 of the Supplemental Filing, the Petitioners assert that the impact of the transfer proceeding upon decommissioning plans, and the adequacy of Applicants' ability to finance them, needs to be taken into account. While this general assertion is unduly vague, the affidavit accompanying the Supplemental Filing suggests that the Petitioners have three principal concerns: (1) that ENIP will be less committed than the Authority to restoring the site to greenfield conditions (see Affidavit of Peter Henner ("Aff.") ¶¶ 30-35); (2) that ENIP will eventually apply for renewal of the Indian Point 3 license, delaying the decommissioning of that unit (see Aff. ¶¶ 25(b), 36-38); and (3) that delays in Unit 3 decommissioning could perhaps delay the decommissioning of Units 1 and 2 as well (see Aff. ¶¶ 43, 45-46).

Before addressing these issues, it should be noted that none of the statements in the affidavit elaborate upon the vague reference in the Supplemental Filing to Applicants' ability to finance decommissioning. Neither the Supplemental Filing nor the affidavit provides any basis to question ENIP's ability to fund decommissioning. Applicants' ability to fund decommissioning is already taken into account in the Application, which demonstrates that when IP3 is sold the decommissioning funds for IP3 will contain more than is required to meet the NRC regulations at 10 C.F.R. § 50.75. See Application at 2-16. The Petitioners provide no information showing that this prefunded amount is

inadequate. They do not identify any documents, expert opinion or any other references that would indicate any genuine dispute concerning the adequacy of the decommissioning funding. A passing reference to decommissioning funding unsupported by facts or analysis does not raise an admissible issue, particularly where the prefunded amount exceeds NRC requirements. Oyster Creek, CLI-00-06, 51 NRC at 204 n.6; Seabrook, CLI-99-06, 49 NRC at 219 (the NRC formula amount, utilizing NUREG-1307, Rev. 8, is sufficient to provide decommissioning funding assurance in license transfer cases).

a. Greenfield Decommissioning

The affidavit accompanying the Supplemental Filing questions whether ENIP will have the same intention as the Authority to decommission IP3 to greenfield conditions. Aff. ¶ 25(a), 30-36. This question is clearly beyond the scope of this proceeding. The license transfer application is not applying for NRC approval to perform decommissioning, and NRC regulations do not require any licensee or applicant to make decisions concerning decommissioning criteria in advance of decommissioning. See generally, 10 C.F.R. § 50.82. Moreover, the NRC's decommissioning requirements are limited to the removal of radioactive material and do not extend to nonradiological matters.[6] The Petitioners' vague questions are also unsupported. No basis is provided to doubt ENIP's commitment to full compliance with all applicable regulatory

[6] The NRC's definition of decommissioning is limited to the removal of radioactive materials to levels allowing termination of the license. 10 C.F.R. § 50.2. See also 53 Fed. Reg. 24,018, 24,019 (1988) (General Requirements for Decommissioning Nuclear Facilities, Supplemental Information to Final Rule, stating "[d]ecommissioning activities do not include ... the removal and disposal of nonradioactive structures and materials beyond that necessary to terminate the NRC license.").

requirements. In sum, this issue is nothing more than speculation concerning nonradiological issues beyond the scope of this proceeding and the NRC's purview.

b. License Renewal

The Supplemental Filing states that license extensions and renewals must be taken into account because continued operations will result in increased radiological exposure and waste storage. Supp. Filing at 2. The accompanying affidavit at ¶ 25(b) asserts that the likelihood of license renewal is increased by the transfer, because of Entergy's active involvement in license renewal at other plants. The affidavit further suggests that ENIP as a for-profit entity is likely to keep IP3 operating as long as possible so that it can continue to generate revenue, and that Cortlandt will lose the opportunity to be heard with respect to whether the facility should be decommissioned when its license expires in 2015 or should be subject to license renewal. Aff. ¶¶ 36-37.

The Petitioners do not explain why the Authority would be any less likely than ENIP to continue to operate IP3 after 2015 if its operation remains profitable, or why the Petitioners would not be able to participate in license renewal proceedings irrespective of who owns the plant. They claim to have an "environmental interest" in whether a renewal application will be made by a public or private entity (Aff. ¶¶ 38-39), but they provide absolutely no information indicating how this interest has any relevance to compliance with NRC requirements.

The Petitioners' assertions are also beyond the scope of this license transfer proceeding. Applicants have not requested approval to extend the IP3 license. Any

future request to renew the IP3 license would be subject to a separate application and proceeding, in which the Petitioners could participate. Further, none of the information in the Application, such as the showing of financial qualifications or decommissioning funding assurance, assumes or depends on license renewal. Nor is there any showing by the Petitioners of the existence of a genuine dispute on a material issue. At best, they appear to be complaining of some diminishment in political accountability, but this complaint simply has no relationship to matters within the NRC's purview and jurisdiction.

c. Indian Point Units 1 and 2 Decommissioning

The Petitioners allege that decommissioning of the entire Indian Point complex, including Units 1 and 2, needs to be considered as part of this license transfer proceeding. Supp. Filing at 3. The affidavit accompanying the Supplemental Filing asserts that the decommissioning of all three sites is inextricably intertwined, and that the approval of the Unit 3 license transfer might delay the decommissioning of Units 1 and 2. Aff. ¶¶ 43, 45-46.

Again, the Petitioners seek to raise issues that are both unsupported and beyond the scope of this proceeding. The Petitioners provide no basis – no references to documents or expert opinion – for their assertion that Units 1 and 2 cannot be decommissioned until Unit 3 ceases operation. They provide no support, other than their own speculation, that transfer of the Unit 3 license will delay decommissioning of Units 1 and 2. More importantly, they provide no explanation how their speculation has any relevance to the scope of this proceeding. Their speculation has no bearing on the

financial and technical qualifications of ENIP, the adequacy of its decommissioning funds, or any other findings that the NRC must make before consenting to the transfer. The Petitioners identify no discrepancy or inadequacy in the Application or any noncompliance with NRC requirements. Instead, they seek to litigate future business decisions – decisions that not only have not been made but also have no bearing on ENIP's qualifications and therefore entitlement to the transferred license.

2. Emergency Plans

The Petitioners state that the need for changes to the Emergency Plans must be taken into account. Supp. Filing at 2. Applicants are proposing no changes to the Plans. The Petitioners provide no information indicating why the existing Plans might be inadequate. The affidavit accompanying the Supplemental Filing asserts that programs previously run by the Authority pertaining to emergency warning, preparedness training, and health and safety will be discontinued. Aff. ¶ 25(d). No support whatsoever is provided for this assertion. The Petitioners do not identify any specific program that will be discontinued or provide any reference to any source supporting the assertion. The Petitioners provide no references, expert opinion or other support showing the existence of any genuine dispute on a material issue.

3. Proprietary Information

The Petitioners assert "[t]hat the redacted agreements preclude a full assessment of the impacts upon [their] interests." Supp. Filing at 3. They do not, however, identify any specific redactions or provide any explanation how any area of redaction relates to

any of its issues. Whereas here a petitioner has neither established the materiality of an applicant's request that confidentiality of proprietary information be maintained, there is no basis for an issue. Oyster Creek, CLI-00-06, 51 NRC at 211.

4. Joint and Several Liability

The Petitioners vaguely assert "[t]hat the non-apportioned costs in several of the agreements, especially those imposing joint and several liability, preclude any assessment of the financial ability of ENIP to hold the license for IP3." Supp. Filing at 3. The section of the affidavit filed by the Petitioners contains no discussion of this topic, other than the allegations that ENIP might not be able to meet certain joint and several liability for the purchase price of the IP3 and FitzPatrick units. Aff. ¶¶ 14-17. Thus, the Petitioners only assert an issue exists, without providing any bases for their assertion.

5. SEQRA

The affidavit accompanying the Supplemental Filing states that New York law, and in particular the New York State Environmental Quality Review Act ("SEQRA"), requires consideration of consequential impacts of actions. Aff. ¶¶ 48-52. This NRC license transfer proceeding, however, is not governed by SEQRA, so the Petitioners' claims are irrelevant. The NRC proceeding is governed by NEPA and is subject to a categorical exclusion in 10 C.F.R § 51.22(c)(21), because the impacts of license transfer have been determined generically to be insignificant. As the Commission has explained:

> [T]he Commission has made a generic determination that license transfers will not have a significant effect on the environment (see 10 C.F.R. § 51.22(c)(21)) and petitioners have given us no reason to determine

> otherwise in this proceeding. Consequently, NEPA issues are not germane to the proceeding.

Northern States Power Co. (Monticello Nuclear Generating Plant; Prairie Island Nuclear Generating Plant, Units 1 and 2; and Prairie Island Independent Spent Fuel Storage Installation), CLI-00-14, slip op. at 24 (Aug. 1, 2000).

6. Spent Fuel Storage

The affidavit accompanying the Supplemental Filing asserts that there is a danger that the IP3 facility will be utilized as a temporary repository for spent fuel from other facilities. Aff. ¶ 25(c). The Petitioners offer no support or basis whatsoever for this mere speculation. Further, such speculation has no nexus to the license transfer proceeding. The license transfer application does not seek any authority or include any proposal to accept spent fuel from other facilities. Nor could IP3 accept spent fuel from other facilities without specific transshipment license authority. In sum, the Petitioners' unfounded speculation is both without any basis and beyond the scope of this proceeding.

7. Limited Liability Corporation

The affidavit accompanying the Supplemental Filing asserts that ENIP as a Limited Liability Corporation ("LLC") may not have the resources to adequately protect the environment and meet its legal, contractual and regulatory obligations. Aff. ¶ 25(d). The affidavit states that the LLC should be treated as a newly-formed entity subject to the NRC requirements at 10 C.F.R. § 50.33(f)(3)(4). Aff. ¶ 53. However, the information required by the NRC for newly-formed entities is provided at page 6 of the Application, and the Petitioners identify no deficiencies in this information.

The Petitioners provide no basis to dispute ENIP's compliance with the NRC's financial qualifications requirements. Further, if they are suggesting that the NRC financial qualifications requirements are insufficient, their issue amounts to an impermissible collateral challenge to the NRC regulations. As the Commission stated in rejecting a similar issue in the Oyster Creek license transfer proceeding, "[t]he Commission has issued reactor licenses to limited liability organizations for decades and [petitioner] has given us no reason to depart from that practice." Oyster Creek, CLI-00-06, 51 NRC at 208; accord Northern States Power Co., CLI-00-14, slip op. at 24 (Aug. 1, 2000).

The Petitioners attempt to distinguish the holding in the Oyster Creek case on the grounds that here the transferor is a public entity. This distinction has no bearing on the qualifications of the transferee and is clearly specious. Indeed, the Petitioners admit that they are really challenging the validity of the Commission's precedents (see Aff. ¶ 62), but they offer no good reason to overturn that precedent.

IV. THE PETITIONERS HAVE NOT ESTABLISHED STANDING

The Supplemental Filing fails to demonstrate that it has standing under the Atomic Energy Act ("AEA"). To intervene as of right in an NRC license transfer proceeding, a petitioner must first demonstrate that it has standing. See AEA § 189a. 42 U.S.C. § 2239(a). For a petitioner to demonstrate standing in a Subpart M license transfer proceeding, the petitioner must:

(1) identify an interest in the proceeding by

(a) alleging a concrete and particularized injury (actual or threatened) that

(b) is fairly traceable to, and may be affected by, the challenged action (the grant of an application), and

(c) is likely to be redressed by a favorable decision, and

(d) lies arguably within the "zone of interests" protected by the governing statute(s).

(2) specify the facts pertaining to that interest.

Oyster Creek, CLI-00-06, 51 NRC at 202; see also 10 C.F.R. §§ 2.1306 and 2.1308. An alleged injury that is "conjectural or hypothetical" cannot form the basis for standing under NRC regulations. International Uranium (USA) Corp. (White Mesa Uranium Mill), CLI-98-6, 47 NRC 116, 117 (1998).

The preceding discussion of the issues that the Petitioners seek to raise shows that none of the issues are traceable to the license transfer, but rather relate to matters such as license renewal, decommissioning, spent fuel storage, and continued operation. Because the issues do not stem from the license transfer or are directly contrary to the Commission's regulations, the Petitioners' concerns cannot be redressed by this proceeding. Therefore they fail the traceability and redressability prongs of NRC's standing test and do not establish their standing to intervene in this proceeding. See Oyster Creek, CLI-00-06, 51 NRC at 202.

V. CONCLUSION

For the reasons set forth above, the Commission should deny the hearing and intervention request of the Town of Cortlandt and the Hendrick Hudson School District,

Respectfully submitted,

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Dated: August 14, 2000

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UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

Before the Commission

In the Matter of	)	
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POWER AUTHORITY OF THE	)	
STATE OF NEW YORK	)	
and	)	
ENTERGY NUCLEAR INDIAN POINT 3 LLC,	)	Docket Nos. 50-286-LT
and ENTERGY NUCLEAR OPERATIONS, INC.	)	
	)	
(Indian Point Nuclear Generating Unit No. 3)	)	

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing "APPLICANTS' ANSWER OPPOSING THE HEARING AND INTERVENTION REQUEST OF THE TOWN OF CORTLANDT AND HENDRICK HUDSON SCHOOL DISTRICT" were served on the persons listed below by electronic mail, this 14th day of August, 2000.

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