

July 3, 2006

**UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION**

DOCKETED
USNRC

Before the Atomic Safety and Licensing Board

July 3, 2006 (11:09am)

In the Matter of)
)
Entergy Nuclear Vermont Yankee, LLC)
and Entergy Nuclear Operations, Inc.)
)
(Vermont Yankee Nuclear Power Station))

Docket No. 50-271-LR
ASLBP No. 06-849-03-LR

OFFICE OF SECRETARY
RULEMAKINGS AND
ADJUDICATIONS STAFF

**ENTERGY'S ANSWER TO NEC'S
MOTION FOR LEAVE TO FILE A REPLY**

Entergy Nuclear Vermont Yankee, LLC and Entergy Nuclear Operations, Inc.
(hereinafter collectively referred to as "Entergy") hereby answer and oppose "NEC's Motion for Leave to File a Reply to NRC Staff Answer to New England Coalition's Notice and Motion to Adopt Contentions; To Entergy's Answer to New England Coalition's Notice and Motion to Adopt Contentions; and To Entergy's Answer to Vermont Department of Public Service's Notice and Motion to Adopt Contentions," dated June 22, 2006 ("NEC Motion"). A reply to Entergy's answers is neither authorized nor justified.¹


NEC's request for leave to file a reply to Entergy's Answer to the Vermont Department of Public Service's Notice and Motion to Adopt Contentions is barred. 10 C.F.R. § 2.323(c) only allows the "moving party" to request leave to file a reply. Thus, the NRC rules do not allow NEC to file a reply to an answer to another party's motion.

¹ Entergy also believes that NEC's request to reply to the NRC Staff's answer is unjustified, but limits this answer to the requests pertaining to Entergy's pleadings.

NEC's request for leave to file a reply to Entergy's Answer to New England Coalition's Notice and Motion to Adopt Contentions should be denied because NEC has not demonstrated compelling circumstances for this request. 10 C.F.R. § 2.323(c) states that permission to file a reply may only be granted where the moving party demonstrates compelling circumstances, such as where the moving party demonstrates that it could not reasonably have anticipated the arguments to which it seeks leave to reply. NEC claims that it could not reasonably have anticipated Entergy's argument concerning the need to demonstrate compliance with the late-filing criteria. However, in opposing a motion by NEC to adopt contentions in the uprate proceeding, Entergy also argued that NEC was obligated to address the late-filing criteria. See Entergy's Response to New England Coalition's Motion to Recognize Incorporation by Reference of the DPS Contentions and NEC's Right to Receive Discovery on DPS Contentions, Docket No. 50-271, ASLBP No. 04-832-02-OLA (Feb. 4, 2005). Further, the provisions in 10 C.F.R. § 2.309(c) and (f)(2) governing a party's request to add contentions after the initial filing are clear on their face. Thus, NEC's claim is without merit.

For all of the foregoing reasons, NEC's Motion should be denied.

Respectfully Submitted,



David R. Lewis
Matias F. Travieso-Diaz
PILLSBURY WINTHROP SHAW PITTMAN LLP
2300 N Street, N.W.
Washington, DC 20037-1128
Tel. (202) 663-8474
David.Lewis@Pillsburylaw.com

Counsel for Entergy

Dated: July 3, 2006

**UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION**

Before the Atomic Safety and Licensing Board

In the Matter of)	
)	
Entergy Nuclear Vermont Yankee, LLC)	Docket No. 50-271-LR
and Entergy Nuclear Operations, Inc.)	ASLBP No. 06-849-03-LR
)	
(Vermont Yankee Nuclear Power Station))	

CERTIFICATE OF SERVICE

I hereby certify that copies of "Entergy's Answer to NEC's Motion to File a Reply" dated July 3, 2006, were served on the persons listed below by deposit in the U.S. Mail, first class, postage prepaid, and where indicated by an asterisk by electronic mail, this 3rd day of July, 2006.

*Administrative Judge
Alex S. Karlin, Esq., Chairman
Atomic Safety and Licensing Board
Mail Stop T-3 F23
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555-0001
ask2@nrc.gov

*Administrative Judge
Dr. Thomas S. Elleman
Atomic Safety and Licensing Board
5207 Creedmoor Road, #101,
Raleigh, NC 27612.
tse@nrc.gov; elleman@eos.ncsu.edu;

Office of Commission Appellate Adjudication
Mail Stop O-16 C1
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555-0001

*Administrative Judge
Dr. Richard E. Wardwell
Atomic Safety and Licensing Board
Mail Stop T-3 F23
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555-0001
rew@nrc.gov

*Secretary
Att'n: Rulemakings and Adjudications Staff
Mail Stop O-16 C1
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555-0001
secy@nrc.gov; hearingdocket@nrc.gov

Atomic Safety and Licensing Board
Mail Stop T-3 F23
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555-0001

*Mitzi A. Young, Esq.
*Steven C. Hamrick, Esq.
Office of the General Counsel
Mail Stop O-15 D21
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555-0001
may@nrc.gov; schl@nrc.gov

*Anthony Z. Roisman, Esq.
National Legal Scholars Law Firm
84 East Thetford Road
Lyme, NH 03768
aroisman@nationallegalscholars.com

*Diane Curran, Esq.
Harmon, Curran, Spielberg & Eisenberg, LLP
1726 M Street, N.W., Suite 600
Washington, D.C. 20036
dcurran@harmoncurran.com

*Mr. Dan MacArthur
Director, Emergency Management
P.O. Box 30
Marlboro, VY 50344
dmacarthur@igc.org

*Sarah Hofmann, Esq.
Director of Public Advocacy
Department of Public Service
112 State Street – Drawer 20
Montpelier, VT 05620-2601
Sarah.hofmann@state.vt.us

*Ronald A. Shems, Esq
*Kareb Tyler, Esq.
Shems, Dunkiel, Kassel & Saunders, PLLC
9 College Street
Burlington, VT 05401
rshems@sdkslaw.com
ktyler@sdkslaw.com

*Matthew Brock, Esq.
Assistant Attorney General
Environmental Protection Division
Office of the Attorney General
One Ashburton Place
Boston, MA 02108
Matthew.brock@ago.state.ma.us

*Callie B. Newton, Chair
Gail MacArthur
Lucy Gratwick
Town of Marlboro
Selectboard
P.O. Box 518
Marlboro, VT 05344
marcialynn@evl.net; cbnewton@sover.net


David R. Lewis