

**United States Court of Appeals**  
FOR THE DISTRICT OF COLUMBIA CIRCUIT

**No. 11-1168**

**September Term 2010**

**NRC-76FR17162  
NRC-CLI-50-271**

**Filed On: August 31, 2011**

Vermont Department of Public Service,

Petitioner

v.

United States of America and Nuclear  
Regulatory Commission,

Respondents

-----  
Entergy Nuclear Operations Inc. and Entergy  
Nuclear Vermont Yankee, LLC,  
Intervenors  
-----

Consolidated with 11-1177

**BEFORE:** Henderson, Tatel, and Griffith, Circuit Judges

**ORDER**

Upon consideration of the joint motion for summary reversal and the oppositions thereto, respondents' motion to dismiss, intervenors' motion to dismiss or for summary affirmance, and the motion for leave to file a joint response and reply, it is

**ORDERED** that the motions for summary reversal and summary affirmance be denied. The merits of the parties' positions are not so clear as to warrant summary action. Cascade Broadcasting Group, Ltd. v. FCC, 822 F.2d 1172, 1174 (D.C. Cir. 1987) (per curiam). It is

**FURTHER ORDERED** that the motions to dismiss be referred to the merits panel to which these petitions for review are assigned. The parties are directed to address in

**United States Court of Appeals**  
FOR THE DISTRICT OF COLUMBIA CIRCUIT

**No. 11-1168**

**September Term 2010**

their briefs the issues presented in the motions to dismiss rather than incorporate those arguments by reference. It is

**FURTHER ORDERED** that the motion for leave to file a joint response and reply be dismissed as moot.

Because the court has determined that summary disposition is not in order, the Clerk is instructed to calendar this case for presentation to a merits panel.

**Per Curiam**

**FOR THE COURT:**  
Mark J. Langer, Clerk

BY: /s/  
Laura Chipley  
Deputy Clerk/LD