

RAS M-185

**Official Transcript of Proceedings****NUCLEAR REGULATORY COMMISSION**

Title: Entergy Nuclear Vermont Yankee

Docket Number: 50-271-LR; ASLBP No. 06-849-03-LR

Location: Newfane, Vermont

Date: Wednesday, July 23, 2008

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UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

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ATOMIC SAFETY AND LICENSING BOARD

HEARING

In the Matter of:

ENTERGY NUCLEAR VERMONT

YANKEE, LLC

and

ENTERGY NUCLEAR OPERATIONS,

INC. (Vermont Yankee Nuclear

Power Station)

Docket No. 50-271-LR

ASLB No. 06-849-03-LR

Wednesday, July 23, 2008

Windham County Superior Court

7 Court Street

Newfane, Vermont

BEFORE:

ALEX S. KARLIN, Chair, Administrative Judge

RICHARD E. WARDWELL, Administrative Judge

WILLIAM REED, Administrative Judge

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1 JUDGE KARLIN: Okay. And this frequency  
2 would consist of -- is not consistent -- is it  
3 consistent with what was said in the refueling outage?

4 MR. LUKENS: I haven't heard anything  
5 inconsistent, Your Honor.

6 JUDGE KARLIN: Okay.

7 MR. LUKENS: The commitment is --

8 JUDGE KARLIN: Where is that commitment?  
9 Where is the commitment in the FSER, in the license  
10 condition, in the commitment 37 that says that this  
11 will be followed? Can I find it? And maybe the staff  
12 can help me.

13 MR. ROWLEY: Commitment 37, it doesn't say  
14 anything more specific than that. They will continue  
15 to use the SIL 644, the directive on page 3-56 of the  
16 SER. That's --

17 JUDGE KARLIN: Well, having said something  
18 in the SER doesn't make it legally binding, does it?  
19 It's not a commitment.

20 MR. ROWLEY: Well, a commitment --

21 JUDGE KARLIN: It's not a license  
22 condition.

23 MR. ROWLEY: There's a license condition  
24 in Section 1.7 that says that the commitments are  
25 going to be put into the FSER and FSER updated for

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1 that renewal period.

2 JUDGE KARLIN: Well, isn't the license  
3 condition of 1.7 of the FSER talking about the BWER  
4 VIP 139?

5 MR. ROWLEY: Right --

6 JUDGE KARLIN: That's not what this is.

7 MR. ROWLEY: No. The other commitment, I  
8 think the first and second one on that page talks  
9 about them having to update the UFSAR.

10 JUDGE KARLIN: Yes.

11 MR. ROWLEY: That's where these  
12 commitments will be -- have to put into the UFSAR.

13 JUDGE KARLIN: Wait a second. So let's go  
14 to that. "The first license condition requires the  
15 applicant to include UFSAR supplement required by 10  
16 CFR 54.21D and the next UFSAR update as required by  
17 Sections such and such."

18 Is that what you mean?

19 MR. ROWLEY: Right. These commitments --

20 JUDGE KARLIN: No, no. That's what we're  
21 supposed to find that there's a commitment that they  
22 will do visual monitoring on this basis?

23 MR. ROWLEY: No, the commitment is there  
24 in Appendix A which lists all 51 commitments of --

25 JUDGE KARLIN: But Appendix A doesn't

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1 refer to SIL 644. Does it?

2 MR. ROWLEY: Well, it's tied in commitment  
3 37, says they're going to continue to do monitoring  
4 plan, and we know that the monitoring plan  
5 incorporates GE SIL 644.

6 JUDGE KARLIN: Who knows? Who knows?  
7 Does NEC know? Does the Board know?

8 MR. ROWLEY: You have to look at the  
9 Commitment 37 as written and go to the aging  
10 management program, Section 3 page 3-56 to get the  
11 complete story. My oversight, when we put that  
12 commitment together to include those words that said  
13 they would continue, but it is there in SER.

14 JUDGE KARLIN: The fact that there is  
15 something state in the SER does not make it legally  
16 binding. It is not a legal commitment. It's not a  
17 commitment. It's not a licensed condition. It's a  
18 statement. In fact, Judge Ferrar, just recently had  
19 a case where the staff specifically took the position  
20 because it's in the FSER does not make it binding at  
21 all. So anyway, I'll move on.

22 Let us go back to Mr. Lukens and Mr.  
23 Hoffman, and look to your testimony about the BWR VIP-  
24 139. Now as I understand the idea is that for the  
25 time being, the steam dryer monitoring program, Rev 3,

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