

July 6, 2012

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matter of	)	
	)	
ENTERGY NUCLEAR OPERATIONS, INC.	)	Docket Nos. 50-247-LR/286-LR
	)	
(Indian Point Nuclear Generating	)	
Units 2 and 3)	)	

NRC STAFF'S UNOPPOSED MOTION FOR EXTENSION OF TIME  
FOR THE FILING OF TESTIMONY, EXHIBITS AND STATEMENTS OF  
POSITION ON CONTENTION NYS-38/RK-TC-5

Pursuant to 10 C.F.R. § 2.323(c), the NRC Staff ("Staff") hereby requests an extension of time until August 20, 2012, for the filing of testimony, exhibits and statements of position on Contention NYS-38/RK-TC-5 in this proceeding by the Staff. As discussed below, the Staff has discussed this motion with Entergy Nuclear Operations, Inc. ("Entergy" or "Applicant"), the State of New York ("New York") and Riverkeeper, Inc. ("Riverkeeper") (collectively, "Intervenors"); none of those parties oppose the Staff's motion. In support of this Motion, the Staff states as follows:

1. In accordance with the Atomic Safety and Licensing Board's ("Board") previous Scheduling Orders in this proceeding, New York and Riverkeeper filed their direct testimony, exhibits and statements of position for Contention NYS-38/RK-TC-5 on June 19 and 20, 2012.

2. As stated in the Board's "Order (Denying NRC Staff's Motion for Partial Reconsideration and State of New York/Riverkeeper's Cross-Motion to NRC Staff's Motion for Reconsideration)" ("Scheduling Order") of April 23, 2012, the Staff and Entergy are required to file their testimony, exhibits, and statements of position in filings that set out both their direct and rebuttal cases. *Id.* at 7. Under the current schedule, the Staff's and Applicant's testimony, exhibits and statements of position on NYS-38/RK-TC-5 are now due to be filed on or before July 19, 2012. See Order of May 16, 2012, at 1. Based on the current schedule, New York's

and Riverkeeper's rebuttal testimony, statements of position, and exhibits are due ten days later, on July 30, 2012. Scheduling Order at 7.

3. The Intervenors' testimony, exhibits, and statements of position on NYS-38/RK-TC-5, filed on June 19 and 20, 2012, address a multitude of issues related to the 3 parts of their contention including: the steam generator divider plate, metal fatigue, and WESTEMS<sup>TM</sup>. Specifically, the Intervenors' filings consist of 872 pages including the statement of position, pre-filed testimony, and exhibits. The breadth and volume of the Intervenors' testimony, exhibits and statements of position have caused the Staff to conclude that it will require an extension of time to enable it to complete its review of the Intervenor's filings and file its direct and rebuttal testimony, exhibits, and statements of position on this contention.

4. In addition, the Staff is engaged in an intensive and time-consuming review of the numerous and extensive evidentiary submissions that the Intervenors filed in the past ten days. Specifically, on June 28, 2012, the Intervenors filed rebuttal testimony on Contentions NYS-5 (buried piping and tanks), NYS-6/7 (low and medium voltage cables), and Clearwater-EC3A (environmental justice). On June 29, 2012, the Intervenors completed their rebuttal filings on NYS-8 (transformers), NYS-17B (property values), NYS-37 (no action alternative), and Riverkeeper-TC2 (flow accelerated corrosion). On July 2, 2012, the Intervenors completed additional rebuttal filings on NYS-12C (SAMA decontamination and cleanup costs), NYS-16B (SAMA population estimates), and NYS-26B/ Riverkeeper-TC1B (metal fatigue). The Staff's witnesses for NYS-38/RK-TC-5, NYS-26B/ Riverkeeper-TC1B, and Riverkeeper-TC2 substantially overlap. The Staff's witnesses' ability to prepare testimony responsive to the Intervenors' initial filings on Contention NYS-38/RK-TC-5, while simultaneously reviewing their rebuttal testimony on Contentions NYS-26B/ Riverkeeper-TC1B, NYS-26B/ Riverkeeper-TC1B, and Riverkeeper-TC2 for motions *in limine*, is limited, and precludes them from being able to address all of these matters simultaneously.

5. In addition, some of the Staff's witnesses assigned to this contention were severely impacted by the recent thunderstorm that resulted in substantial power outages throughout the Washington, D.C., metro region. One witness lost both power and water to his home for five days, limiting his ability to work on this matter.

6. In view of the breadth and volume of the Intervenor's filings, which the Staff is required to address in its rebuttal testimony – as well as the need to review Intervenor's rebuttal testimony and prepare any necessary motions *in limine*, and the severe disruptions to power and water from the recent storm, the Staff has determined that it requires a 30-day extension of time, until August 20, 2012, for the filing of its testimony, exhibits, and statements of position on Contention NYS-38/RK-TC-5.

7. In accordance with 10 C.F.R. § 2.323(b), Staff Counsel has contacted Counsel for New York, Riverkeeper, Clearwater, and Entergy. Counsel for Entergy stated that Entergy does not object to the Staff's requested extension and requests that, for the sake of efficiency and uniformity, a single date be established for the filing of both the Staff's and Entergy's testimony, exhibits, and statements of position on NYS-38/RK-TC-5; the Staff does not oppose that request. Counsel for New York and Riverkeeper stated that they do not oppose the Staff's request and are amenable to a common date being established for both the Staff's and Applicant's filings. Counsel for Clearwater did not participate in the consultation.

8. The Staff is aware that this proceeding commenced more than four years ago, and that the Board has expressed interest in progressing to hearing without unnecessary delay (e.g., Tr. 1096-97). The Staff respectfully submits, however, that the instant request for an extension of time is not unreasonable under the circumstances, and will not cause hardship for any party or substantial delay in the proceeding. This extension of time would not affect the hearing on Track 1 contentions (scheduled to commence on October 15, 2012), which do not include NYS-38/RK-TC-5.

WHEREFORE, the Staff respectfully requests that the Staff and Applicant be afforded an extension of time, until August 20, 2012, in which to file their written testimony, exhibits, and statements of position in this proceeding.

**Signed Electronically by**

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Dated at Rockville, Maryland  
this 6th day of July 2012

CERTIFICATION OF COUNSEL

Pursuant to 10 C.F.R. § 2.323(b), the undersigned attorney hereby certifies that he has made a sincere effort to contact the other parties to this proceeding (Entergy, New York, Clearwater, and Riverkeeper), to resolve the issues raised in this Motion, and that his efforts to resolve this issue have been successful. Clearwater took no part in these discussions.

Respectfully submitted,

**Signed Electronically by**

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CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing "NRC STAFF'S UNOPPOSED MOTION FOR EXTENSION OF TIME FOR THE FILING OF TESTIMONY, EXHIBITS AND STATEMENTS OF POSITION ON CONTENTION NYS-38/RK-TC-5," dated July 6, 2012, in the above-captioned proceeding have been served on the following by Electronic Information Exchange this 6<sup>th</sup> day of July, 2012.

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