

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

ATOMIC SAFETY AND LICENSING BOARD

Before Administrative Judges:

Lawrence G. McDade, Chairman
Dr. Michael F. Kennedy
Dr. Richard E. Wardwell

In the Matter of

ENTERGY NUCLEAR OPERATIONS, INC.

(Indian Point Nuclear Generating Units 2 and 3)

Docket Nos. 50-247-LR and 50-286-LR

ASLBP No. 07-858-03-LR-BD01

August 21, 2012

ORDER

(Granting the State of Connecticut's Motion for Leave to File Reply)

On August 10, 2012, the State of Connecticut (Connecticut) filed a motion for leave to file a reply to the responses of the NRC Staff and Entergy Nuclear Operations, Inc. (Entergy) to its statement of position.¹ The motion indicated that Entergy and the NRC Staff opposed the motion and reserved the right to file an answer.² Pursuant to 10 C.F.R. § 2.323(c), replies were due on or before August 20, 2012.³ On August 20, 2012, the NRC Staff submitted a letter to the Board, stating that it did not intend to file an answer to the motion.⁴ Entergy has not filed an answer.

¹ State of Connecticut's [sic] Motion for Leave to File Reply to Responses of NRC Staff and Entergy to Connecticut's Statement of Position (Aug. 10, 2012).

² Id. at 2.

³ 10 C.F.R. § 2.323(c) (2012).

⁴ Letter from Sherwin E. Turk, Counsel for the NRC Staff, to the ASLB Licensing Board (Aug. 20, 2012).

Connecticut's motion is GRANTED. As the Board noted in its previous orders, Statements of Position are not evidence, but rather constitute attorney arguments. Accordingly, any motion to strike "testimony" in this document is inappropriate.⁵ The Board will give Connecticut's Statement of Position and Supplementary Filing the appropriate weight as a non-evidentiary filing.

It is so ORDERED.

FOR THE ATOMIC SAFETY
AND LICENSING BOARD

/RA/

Lawrence G. McDade, Chairman
ADMINISTRATIVE JUDGE

Rockville, Maryland
August 21, 2012

⁵ Licensing Board Order (Granting in Part and Denying in Part Applicant's Motions in Limine) (Mar. 6, 2012) at 14, 19 (unpublished).

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

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing **ORDER (Granting the State of Connecticut's Motion for Leave to File Reply)** have been served upon the following persons by Electronic Information Exchange.

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ORDER (Granting the State of Connecticut's Motion for Leave to File Reply)

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ORDER (Granting the State of Connecticut's Motion for Leave to File Reply)

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[Original signed by Christine M. Pierpoint]
Office of the Secretary of the Commission

Dated at Rockville, Maryland
this 21st day of August 2012