

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION
ATOMIC SAFETY AND LICENSING BOARD

_____)	
In the Matter of)	
)	
Entergy Nuclear Operations, Inc.)	Docket Nos.
(Indian Point Nuclear Generating)	50-247-LR
Units 2 and 3))	and 50-286-LR
_____)	

JOINT MOTION FOR ALTERATION TO FILING SCHEDULE

In accordance with 10 C.F.R. § 2.323 and pursuant to the Atomic Safety and Licensing Board’s (“ASLB”) July 1, 2010 Order,¹ Riverkeeper, Inc. (“Riverkeeper”), Hudson Riverkeeper Sloop Clearwater, Inc. (“Clearwater”), the State of New York (“the State”), Entergy Nuclear Operations, Inc. (“Entergy”), and the Nuclear Regulatory Commission (“NRC”) Staff hereby move for certain alterations to current filing deadlines in the above-referenced proceeding. The parties seek changes to current dates and timeframes for filing initial and reply proposed findings of fact and conclusions of law, as well as responses to Entergy’s Motion for Declaratory Order concerning coastal consistency review.

Background

Adjudicatory hearings on “Track 1” contentions were conducted before the ASLB in October, November, and December of 2012. Thereafter, the parties to the proceeding conferred regarding a date by which to file proposed findings of fact and conclusions of law on Track 1 contentions. The ASLB subsequently adopted the parties’ suggested date for such filings of

¹ In the Matter of Entergy Nuclear Operations, Inc. (Indian Point Nuclear Generating Units 2 and 3), Docket Nos. 50-0247-LR and 50-286-LR, ASLBP No. 07-858-03-LR-BD01, Scheduling Order (July 1, 2010), ¶ G.4.

March 8, 2013.² The ASLB's July 1, 2010 scheduling order in this proceeding indicates that the parties may submit responses to initial findings of fact and conclusions of law within 30 days.³ Thus, the current deadline for replies to findings of fact and conclusions of law is April 8, 2013. In addition, the current deadline for answers to the Motion and Memorandum by Applicant Entergy Nuclear Operations, Inc. for Declaratory Order that It Has Already Obtained the Required New York State Coastal Management Program Consistency Review of Indian Point Units 2 and 3 for Renewal of Operating Licenses (July 30, 2012), is March 22, 2013.⁴

The parties seek alterations to these current filing dates as follows:

- Initial findings of fact and conclusions of law: 2 week extension, from March 8, 2013 to March 22, 2013;
- Answers to Entergy's Motion for Declaratory Order concerning compliance with the Coastal Zone Management Act, 2 week extension, from March 22, 2013 to April 5, 2013;
- Replies to findings of fact and conclusions of law, corresponding 2 week extension plus 11 days, from April 8, 2013 to May 3, 2013.

Argument

Appropriate cause supports the above requested changes. In relation to the filing date for initial findings of fact and conclusions of law, additional time is needed to accommodate scheduling matters that were not foreseen by Riverkeeper and Clearwater at the time the parties

² See In the Matter of Entergy Nuclear Operations, Inc. (Indian Point Nuclear Generating Units 2 and 3), Docket Nos. 50-0247-LR and 50-286-LR, ASLBP No. 07-858-03-LR-BD01, Order (Scheduling Post-Hearing Matters and Ruling on Motions to File Additional Exhibits) (Jan. 15, 2013), at ¶ II.

³ In the Matter of Entergy Nuclear Operations, Inc. (Indian Point Nuclear Generating Units 2 and 3), Docket Nos. 50-0247-LR and 50-286-LR, ASLBP No. 07-858-03-LR-BD01, Scheduling Order (July 1, 2010), ¶ N.

⁴ See In the Matter of Entergy Nuclear Operations, Inc. (Indian Point Nuclear Generating Units 2 and 3), Docket Nos. 50-0247-LR and 50-286-LR, ASLBP No. 07-858-03-LR-BD01, Order (Granting New York's Motion for an Extension of Time) (Jan. 7, 2013).

suggested and agreed to an original filing date. In particular, Riverkeeper's counsel requires limited additional time due to a previously unanticipated work-related trip, which limits counsel's availability during the week prior to and the week of the current filing deadline. Clearwater's counsel requires limited additional time because recent organizational and staffing changes have limited Clearwater's resources, and in addition, counsel for Clearwater will be out of town for several days due to plans that, again, were not anticipated at the time the parties agreed to the current filing deadline. The State supports the request for additional time, and NRC Staff and Entergy are amenable to a request for a limited extension of the filing date to March 22, 2013. In order to avoid overlapping and competing filings, the parties agree that shifting the current deadline for responses to Entergy's Motion for Declaratory Order from March 22, 2013 to April 5, 2013, is necessary and appropriate.

In relation to the filing date for replies to findings of fact and conclusions of law, the parties do not believe that 30 days is sufficient given the number and complexity of issues involved. The parties, thus, agree that some additional time is warranted, and suggest a filing date of May 3, 2013 for any reply findings of fact and conclusions of law. That is, a 2-week corresponding extension, plus 11 additional days.

The parties respectfully submit that the filing date alterations requested will not materially alter the timing of the proceeding, since the tribunal is currently awaiting several milestones before adjudicatory hearings can resume on "Track 2" contentions.

Conclusion

In light of the foregoing, appropriate cause supports the ASLB permitting the requested changes to filing deadlines in this proceeding.

Respectfully submitted,

Executed in accord with 10 C.F.R. § 2.304(d)

Deborah Brancato, Esq.
Phillip Musegaas, Esq.
Riverkeeper, Inc.
20 Secor Road
Ossining, NY 10562
(914) 478-4501
dbrancato@riverkeeper.org
phillip@riverkeeper.org

Karla Raimundi
Hudson River Sloop Clearwater, Inc.
724 Wolcott Ave
Beacon, New York 12508
karla@clearwater.org

Kathryn M. Sutton, Esq.
Paul M. Bessette, Esq.
MORGAN, LEWIS & BOCKIUS LLP
Counsel for Entergy Nuclear Operations, Inc.
1111 Pennsylvania Avenue, N.W.
Washington, D.C. 20004
Phone: (202) 739-5738
E-mail: ksutton@morganlewis.com
E-mail: pbessette@morganlewis.com

John J. Sipos, Esq.
Office of the New York State
Attorney General
State Capitol, NY 12224
Phone: (518) 402-2251
Fax: (518) 473-2534
E-mail: john.sipos@ag.ny.gov

Sherwin E. Turk
David E. Roth
Office of General Counsel
Mail Stop: 0-15D21
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555-0001
E-mail: Sherwin.Turk@nrc.gov
E-mail: David.Roth@nrc.gov

Dated: February 27, 2013

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Certification Pursuant to 10 C.F.R. § 2.323(b)

I certify that the parties made a sincere effort to discuss the factual and legal issues raised in this motion, and to resolve those issues, and I certify that those efforts have been successful.

Signed (electronically) by Deborah Brancato
Deborah Brancato, Esq.

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CERTIFICATE OF SERVICE

I certify that on February 27, 2013, copies of the parties' Joint Motion for Alteration to Filing Schedule were served on the following via NRC's Electronic Information Exchange:

Lawrence G. McDade, Chair Richard E. Wardwell, Administrative Judge Michael F. Kennedy, Administrative Judge Atomic Safety and Licensing Board Panel U.S. Nuclear Regulatory Commission Washington, D.C. 20555 Lawrence.McDade@nrc.gov Richard.Wardwell@nrc.gov Michael.Kennedy@nrc.gov	Shelbie Lewman Law Clerk Anne Siarnacki Law Clerk Atomic Safety and Licensing Board Panel U.S. Nuclear Regulatory Commission Washington, D.C. 20555 shelbie.lewman@nrc.gov anne.siarnacki@nrc.gov
John J. Sipos, Esq. Assistant Attorney General Office of the New York Attorney General for the State of New York The Capitol Albany, NY 12224 E-mail: John.Sipos@oag.state.ny.us	Bobby R. Burchfield, Esq. Matthew M. Leland, Esq. Clint A. Carpenter, Esq. McDermott Will & Emery LLC 600 13th Street, NW Washington, DC 20005-3096 bburchfield@mwe.com mleland@mwe.com ccarpenter@mwe.com
Richard A. Meserve, Esq. Covington & Burling LLP 1201 Pennsylvania Avenue, NW Washington, DC 20004-2401 Phone: (202) 662-6000 Fax: (202) 662-6291 E-mail: rmeserve@cov.com	Martin J. O'Neill, Esq. Morgan, Lewis & Bockius, LLP 1000 Louisiana Street, Suite 4000 Houston, TX 77002 E-mail: martin.oneill@morganlewis.com

Janice A. Dean, Esq. Assistant Attorney General Office of the Attorney General 120 Broadway, 26 th Floor New York, NY 10271 E-mail: Janice.dean@oag.state.ny.us	William C. Dennis, Esq. Entergy Nuclear Operations, Inc. 440 Hamilton Avenue White Plains, NY 10601 E-mail: wdennis@entergy.com
Office of the Secretary Rulemakings and Adjudications Staff U.S. Nuclear Regulatory Commission Washington, D.C. 20555 E-mail: HEARINGDOCKET@nrc.gov	Office of Commission Appellate Adjudication U.S. Nuclear Regulatory Commission Washington, D.C. 20555 E-mail: OCAAMAIL@nrc.gov
Manna Jo Greene Karla Raimundi Stephen C. Filler, Board Member Hudson River Sloop Clearwater, Inc. 724 Wolcott Ave Beacon, New York 12508 E-mail: Mannajo@clearwater.org karla@clearwater.org stephenfiller@gmail.com	Thomas F. Wood, Esq. Daniel Riesel, Esq. Victoria S. Treanor Sive, Paget and Riesel, P.C. 460 Park Avenue New York, NY 10022 E-mail: driesel@sprlaw.com vtreanor@sprlaw.com
Melissa-Jean Rotini, of counsel Assistant County Attorney Office of Robert F. Meehan, Westchester County Attorney 148 Martine Avenue, 6 th Floor White Plains, NY 10601 E-mail: MJR1@westchestergov.com	Sean Murray, Mayor Village of Buchanan Municipal Building 236 Tate Avenue Buchanan, NY 10511-1298 E-mail: yob@bestweb.net , SMurray@villageofbuchanan.com , Administrator@villageofbuchanan.com
Elise N. Zoli, Esq. Goodwin Procter, LLP 53 State Street Boston, MA 02109 E-mail: ezoli@goodwinprocter.com	Richard Webster, Esq. Public Justice, P.C. Suite 200 1825 K Street, NW Washington, DC 20006 rwebster@publicjustice.net
Robert D. Snook, Esq. Assistant Attorney General 55 Elm Street, P.O. Box 120 Hartford, CT 06141-0120 E-mail: Robert.Snook@po.state.ct.us	Michael J. Delaney Department of Environmental Protection 59-17 Junction Boulevard Flushing NY 11373 E-mail: mdelaney@dep.nyc.gov

<p> Sherwin E. Turk Beth N. Mizuno Brian G. Harris David E. Roth Joseph A. Lindell Anita Ghosh, Esq. Office of General Counsel Mail Stop: 0-15D21 U.S. Nuclear Regulatory Commission Washington, D.C. 20555-0001 E-mail: Sherwin.Turk@nrc.gov Beth.Mizuno@nrc.gov brian.harris@nrc.gov David.Roth@nrc.gov Joseph.Lindell@nrc.gov anita.ghosh@nrc.gov </p>	<p> Kathryn M. Sutton, Esq. Paul M. Bessette, Esq. Jonathan M. Rund, Esq. Raphael Kuyler, Esq. Morgan, Lewis & Bockius, LLP 1111 Pennsylvania Ave. N.W. Washington, D.C. 20004 E-mail: pbessette@morganlewis.com ksutton@morganlewis.com jrund@morganlewis.com rkuyler@morganlewis.com </p>
<p> Edward F. McTiernan Deputy Counsel Office of General Counsel New York State Department of Environmental Conservation 625 Broadway, 14th floor Albany, NY 12233-150024 (518) 402-9185 phone (518) 402-9018 fax efmctier@gw.dec.state.ny.us </p>	

Signed (electronically) by Deborah Brancato
 Deborah Brancato

February 27, 2013