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March 15, 2013

Lawrence G. McDade, Chairman
Dr. Michael F. Kennedy
Dr. Richard E. Wardwell
Atomic Safety and Licensing Board
U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001

Docket: *Entergy Nuclear Operations, Inc. (Indian Point Nuclear Generating Units 2 and 3), Docket Nos. 50-247-LR and 50-286-LR*

Re: Notification of Entergy's Verified Petition-Compliant Filed With the New York State Supreme Court for Albany County, New York

Dear Administrative Judges:

On July 30, 2012, Entergy Nuclear Operations, Inc. ("Entergy") filed with the Atomic Safety and Licensing Board ("Board") a Motion for Declaratory Order requesting the Board's determination on whether Indian Point Nuclear Generating Units 2 and 3 ("IP2" and "IP3," respectively) were previously reviewed for consistency with the enforceable policies of the New York Coastal Management Program ("NYCMP") and whether the facilities will cause substantially different coastal effects during the license renewal period. The Board has granted the parties three extensions of time to respond to Entergy's Motion. Responses are due on April 5, 2013.

In November 2012, Entergy notified the Board that it filed a Petition for a Declaratory Ruling from the New York State Department of State ("NYSDOS") requesting a ruling that IP2 and IP3 are exempt from review under the NYCMP's grandfathering provisions.¹ As Entergy previously

¹ See Letter from K. Sutton, Counsel for Entergy Nuclear Operations, Inc., to Administrative Judges, Regarding Notification of Entergy's Petition for a Declaratory Order Filed With the New York State Department of State (Nov. 9, 2012), *available at* ADAMS Accession No. ML12314A045.

noted, filings related to grandfathering under the NYCMP are independent of the Motion for Declaratory Order filed in this proceeding.² Nonetheless, Entergy is providing this notice to the Board and the parties that NYSDOS denied Entergy's Petition on January 9, 2013, and, on March 13, 2013, Entergy filed a Verified Petition-Complaint in the New York State Supreme Court for Albany County against NYSDOS challenging its denial of the Petition as arbitrary and capricious and contrary to law. Copies of the Verified Petition-Complaint, a Memorandum of Law in Support of that Verified Petition-Complaint,³ and the cover letter transmitting these documents to the Court are attached for your reference.

Entergy reiterates that the Verified Petition-Complaint is independent of the Motion for Declaratory Order filed in this proceeding because, unlike the July 30, 2012 Motion pending before this Board, the Verified Petition seeks an interpretation of the NYCMP and raises questions of state law. Nevertheless, Entergy is alerting the Board to the Verified Petition-Complaint because it relates to a matter previously brought to the Board's attention.

² See *id.* at 2; Letter from K. Sutton, Counsel for Entergy Nuclear Operations, Inc., to Administrative Judges, Regarding Coastal Zone Management Act Declaratory Order Briefing Schedule at 2 (Dec. 21, 2012), *available at* ADAMS Accession No. ML12356A315

³ The attached Verified Petition-Complaint and Memorandum of Law do not include referenced exhibits or appendices due to their volume. Entergy, however, would separately provide copies of the exhibits and appendices upon request of the Board or any party.

Administrative Judges
March 15, 2013
Page 3

Respectfully submitted,

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

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Counsel for Entergy Nuclear Operations, Inc.

Attachment

**UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION**

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matter of)	Docket Nos. 50-247-LR and
)	50-286-LR
ENTERGY NUCLEAR OPERATIONS, INC.)	
)	
(Indian Point Nuclear Generating Units 2 and 3))	
)	March 15, 2012

CERTIFICATE OF SERVICE

Pursuant to 10 C.F.R. § 2.305 (as revised), I hereby certify that, on this date, a copy of Entergy's letter to the Administrative Judges was served upon the Electronic Information Exchange (the NRC's E-Filing System), in the above-captioned proceeding.

Signed (electronically) by Lance A. Escher

Lance A. Escher, Esq.

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