

May 7, 2013

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/ 50-286-LR
)	
(Indian Point Nuclear Generating)	
Units 2 and 3))	

ERRATA TO
NRC STAFF'S PROPOSED AND REPLY FINDINGS
OF FACT AND CONCLUSIONS OF LAW ON
CONTENTION NYS-5 (BURIED PIPING AND TANKS)

The NRC Staff ("Staff") has identified certain errors in its proposed and reply findings of fact and conclusions of law regarding Contention NYS-5.¹ Accordingly, the following corrections should be made to those filings:

1. In the Staff's Proposed Findings, Paragraph 2.122 should be revised as follows:

2.122. Finally, based on its recent (August 2012) determination that certain underground piping has "restricted" access as defined by the Staff, Entergy committed to visually inspect, under the BPTIP, approximately 270 feet of in-scope IPEC underground service water, fuel oil, and city water piping before and during the PEO. LRA Commitment 48 specifies the inspection frequency and methods of inspection for this in-scope underground piping, as well as Entergy's plan to enter any indications of significant loss of material into the plants' corrective action program, consistent with GALL Report ~~Rev. 1~~ [Rev. 2](#) Section XI.M41. *Id.* at 61, *citing* Ex. ENT000597. LRA Appendices A and B have been revised to expressly include this commitment. *Id.*, *citing* Ex. ~~NYS000203~~ [ENT000597](#).

¹ See (1) "NRC Staff's Revised Proposed Findings of Fact and Conclusions of Law / Part 2: Contention NYS-5 (Buried Piping and Tanks)" (Mar. 23, 2013, as revised 04/23/13) ("Proposed Findings"), and (2) "NRC Staff's Reply Proposed Findings of Fact and Conclusions of Law on Contention NYS-5 (Buried Piping And Tanks)" (May 3, 2013) ("Reply Findings").

NRC Staff's Proposed Findings at 61, ¶ 2.122 (footnote omitted).

2. In the Staff's Proposed Findings, Paragraph 2.169 should be revised as follows:

2.169. The Applicant has adopted GALL Report AMP XI.M41 M34, without exceptions. Tr. at 3732-33. Consistent with AMP XI.M41, as revised in Final LR-ISG-2011-03, which provides that an applicant may provide means other than cathodic protection, to demonstrate reasonable assurance that buried piping will meet its intended function during the period of extended operation, its BPTIP satisfies the requirements in 10 C.F.R. Part 54. Tr. at 3730-33.

NRC Staff's Proposed Findings at 90, ¶ 2.169 (footnote omitted).² This matter was correctly stated elsewhere in the Staff's Proposed and Reply Findings; for example, in the Staff's Reply Findings, the Staff stated as follows:

2.232. . . . Appendix B of the LRA, § B.1.6 . . . describes the BPTIP and states that the BPTIP "will be consistent with program attributes described in NUREG-1901, Section XI.M34," without exception. The ten elements of the AMP to which the Applicant committed to conform are explicitly set out in GALL Report Rev. 1, AMP XI.M34 ("Buried Piping and Tanks Inspection"). See Ex. NYS000146-C at XI M-111 – M-112.

NRC Staff's Reply Findings at 7, ¶ 2.232 (emphasis in original). Similarly, in its Reply Findings, the Staff stated that it did not evaluate the BPTIP against GALL Report Rev. 2, and that

² New York pointed out this error in "State of New York's Reply to Entergy and NRC Staff's Proposed Findings of Fact and Conclusions of Law for Contention NYS-5" (May 3, 2013), at 1 and 2-3. As New York noted (*id.* at 2), the testimony which the Staff had cited in support of this proposed finding had in fact referred to GALL Report Rev. 1 AMP XI M.34, not GALL Report Rev. 2 XI M.41. See *id.* at 2-3; Tr. at 3732-33 (Holston) ("Entergy . . . said we'll be consistent with AMP XIM34. That in effect meant that all of AMP XIM34 became a set of requirements, because they didn't take any exceptions to it."). The Staff correctly stated these facts elsewhere in its Proposed Findings. See, e.g., NRC Staff's Proposed Findings, ¶¶ 2.56, 2.185 and 2.199.

because Indian Point did not have cathodic protection, its BPTIP “wouldn't have been consistent with GALL, Rev 2 AMP XI.M41.” Reply Findings at 11 ¶ 2.240, citing Tr. at 3394 (Holston).³

3. In the Staff's Reply Findings, Paragraph 2.264 should be revised as follows:

2.264. . . . New York fails to note, however, that the BPTIP is only one of numerous AMPs that are set out in the LRA. See, e.g., LRA (Ex. ENT00015B), Appendix B, at B-1 – B-139. However, while New York may have a particular interest in the BPTIP's implementing procedures, there are 40 other AMPs described in Appendix B of the AMP LRA – each of which has its own implementing procedures, totaling “thousands of pages.” Tr. at 3967 (Azevedo). . . .

NRC Staff's Reply Findings at 23-24 ¶ 2.264.

4. The errata identified above resulted from inadvertent errors that occurred during the Staff's preparation of its Proposed and Reply Findings. The undersigned Staff Counsel regrets any confusion that may have resulted from these errors.⁴

³ Similarly, in its Proposed Findings, the Staff stated, “Inasmuch as GALL Report Rev. 2, AMP XI.M41, was issued after Entergy submitted its LRA, the Staff did not apply this AMP to the IP2/IP3 LRA; nonetheless, the Staff evaluated the Applicant's AMP against the ‘key elements’ of AMP XI.M41. Staff Testimony on Contention NYS-5 (Ex. NRCR20016) at 12 n.3; Tr. at 3923-24. . . .” NRC Staff's Proposed Findings at 12 n.21 (noting, in addition, that the Staff also considered Final LR-ISG-2011-03 in its testimony “addressing, for example, the number of inspections, soil sampling, and use of plant specific operating experience. [citations omitted]. In effect, the Staff's review consisted of a ‘hybrid’ evaluation, under GALL Report Rev. 1, GALL Report Rev. 2, and LR-ISG-2011-03. Tr. at 3938. . . .”

⁴ While all errors are to be regretted, it should be noted that the Staff's Proposed Findings on Contention NYS-5 contain approximately 42,642 words (232,767 characters), and the Staff's Reply Findings contain approximately 10,676 words (56,318 characters). In contrast, these Errata correct four words (20 characters) of those filings.

CONCLUSION

For the reasons stated above, the NRC Staff's Proposed and Reply Findings of Fact should be corrected in the manner set forth herein.

Respectfully submitted,

/Signed (electronically) by/

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Dated at Rockville, Maryland
this 7th day of May 2013

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CERTIFICATE OF SERVICE

Pursuant to 10 C.F.R § 2.305 (as revised), I hereby certify that copies of the foregoing "ERRATA TO NRC STAFF'S PROPOSED AND REPLY FINDINGS OF FACT AND CONCLUSIONS OF LAW ON CONTENTION NYS-5 (BURIED PIPING AND TANKS)," dated May 7, 2013, have been served upon the Electronic Information Exchange (the NRC's E-Filing System), in the above- captioned proceeding, this 7th day of May, 2013.

/Signed (electronically) by/

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