

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

September 17, 2014

ORDER

(Requesting Briefs on NYS-39/RK-EC-9/CW-EC-10 and CW-SC-4)

On July 8 and July 9, 2012, Hudson River Sloop Clearwater, New York State and Riverkeeper, Inc. moved for leave to file two new contentions based on the on-site storage of nuclear waste at Indian Point.<sup>1</sup> In accordance with the Commission's direction in CLI-12-16,<sup>2</sup> the Board, on August 9, 2012, ordered the motions held in abeyance.<sup>3</sup>

On August 26, 2014, in view of its adoption of a revised rule codifying the NRC's generic determinations regarding the pertinent environmental impacts associated with continued storage of spent nuclear fuel, the Commission issued a memorandum and order (CLI-14-08) directing the Atomic Safety and Licensing Boards to reject the contentions pending before them,

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<sup>1</sup> See State Of New York, Riverkeeper, Inc., And Hudson River Sloop Clearwater's Joint Contention NYS-39/RK-EC-9/CW-EC-10 Concerning The On-Site Storage Of Nuclear Waste At Indian Point (July 8, 2012) and Hudson River Sloop Clearwater, Inc.'s Motion For Leave To Add A New Contention Based Upon New Information And Petition To Add New Contention (July 9, 2012).

<sup>2</sup> CLI-12-16, 76 NRC 63, 68-69 (2012).

<sup>3</sup> See Licensing Board Order (Holding Waste Confidence Contention in Abeyance) (Aug. 9, 2012) (unpublished).

consistent with this decision, with the exception of the two contentions pending in the Indian Point matter.<sup>4</sup> The Commission stated that, to the extent that Contentions CW-SC-4 and NYS-39/RK-EC-9/CW-EC-10 raise issues resolved by the Continued Storage Rule, the Indian Point Board is directed to dismiss them and, if issues raised in those contentions remain unresolved by the Commission's actions, to rule on admissibility of those challenges to license renewal.<sup>5</sup>

In regard to the latter, we direct that on or before October 1, 2014, Intervenors provide the Board with their views regarding the extent to which Contentions CW-SC-4 and NYS-39/RK-EC-9/CW-EC-10 raise issues that have not been resolved by the Continued Storage Rule.<sup>6</sup> The NRC Staff and Entergy shall respond to Intervenors' explanation on or before October 15, 2014. It is so ORDERED.

THE ATOMIC SAFETY  
AND LICENSING BOARD

*/RA/*

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Lawrence G. McDade, Chairman  
ADMINISTRATIVE JUDGE

Rockville, Maryland  
September 17, 2014

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<sup>4</sup> CLI-14-08, 80 NRC \_\_, \_\_, (slip op. at 10) (Aug. 26, 2014).

<sup>5</sup> Id.

<sup>6</sup> See "Generic Environmental Impact Statement for Continued Storage of Spent Nuclear Fuel," NUREG-2157 (Aug. 2014) (ADAMS Accession No. ML14188B749).

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(Indian Point Nuclear Generating,	)	
Units 2 and 3)	)	

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing **ORDER (Requesting Briefs on NYS-39/RK-EC-9/CW-EC-10 and CW-SC-4)** have been served upon the following persons by Electronic Information Exchange.

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**ORDER (Requesting Briefs on NYS-39/RK-EC-9/CW-EC-10 and CW-SC-4)**

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[Original signed by Brian Newell ]

Office of the Secretary of the Commission

Dated at Rockville, Maryland  
this 17<sup>th</sup> day of September, 2014