

**UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE COMMISSION**

_____)	
In the Matter of:)	Docket No. 50-255-LA-2
)	
ENTERGY NUCLEAR OPERATIONS, INC.)	ASLBP No. 15-939-04-LA-BD01
)	
(Palisades Nuclear Plant))	August 20, 2015
)	
_____)	

ENTERGY’S ANSWER OPPOSING THE SIERRA CLUB’S UNAUTHORIZED REPLY

Pursuant to 10 C.F.R. § 2.323(c), Entergy Nuclear Operations, Inc. (“Entergy”) responds in opposition to the Sierra Club’s Reply to Entergy’s Answer to Motion to File Amicus Brief (“Proffered Reply”), filed on August 20, 2015. The Sierra Club seeks to reply to Entergy’s Answer Opposing the Sierra Club’s Motion for Permission to File Amicus Curiae Brief (“Entergy’s Answer”), filed on August 17, 2015. As explained below, the Commission should reject the Proffered Reply as procedurally unauthorized.

First, the NRC regulation governing general motions, 10 C.F.R. § 2.323, states unambiguously that “[t]he moving party has no right to reply, *except as permitted by* the Secretary, the Assistant Secretary, or the presiding officer.” 10 C.F.R. § 2.323(c) (emphasis added). In this instance, the Sierra Club filed the Proffered Reply without first seeking leave from the Commission to file a reply. Thus, the Proffered Reply violates the explicit requirement in Section 2.323(c) that the moving party first obtain permission before filing a reply.¹ The

¹ On this point, Entergy also notes that if the Sierra Club had adhered to the requirements of 10 C.F.R. § 2.323(c) and first moved for leave to file a reply to Entergy’s Answer, then it would have been required to consult with Entergy counsel pursuant to Section 10 C.F.R. § 2.323(b). Counsel for the Sierra Club did not make any attempt to contact counsel for Entergy before filing the Proffered Reply, in further contravention of Section 2.323’s requirements.

Commission should not countenance such disregard for its clear procedural requirements.²

Second, Section 2.323(c) further states that permission to file a reply “may be granted only in compelling circumstances, such as where the moving party demonstrates that it could not reasonably have anticipated the arguments to which it seeks leave to reply.” In its Proffered Reply, the Sierra Club makes no reference to this legal standard (or even to Section 2.323 more generally), much less a demonstration of compelling circumstances that would warrant the filing of a reply. Accordingly, the Proffered Reply is procedurally deficient in this additional respect.

For the foregoing reasons, the Commission should reject the Proffered Reply as a procedurally unauthorized filing under 10 C.F.R. § 2.323(c).

Respectfully submitted,

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

Jeanne Cho, Esq.
Entergy Nuclear Operations, Inc.
440 Hamilton Ave.
White Plains, NY 10601
Phone: (914) 272-3323
Fax: (914) 272-3242
E-mail: jcho1@entergy.com

Paul M. Bessette, Esq.
Morgan, Lewis & Bockius, LLP
1111 Pennsylvania Avenue, N.W.
Washington, D.C. 20004
Phone: (202) 739-5796
Fax: (202) 739-3001
E-mail: pbessette@morganlewis.com

Counsel for Entergy Nuclear Operations, Inc.

Dated in Washington, D.C.
this 20th day of August 2015

² Entergy further notes that the Sierra Club is represented by counsel on this matter.

**UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION**

BEFORE THE COMMISSION

_____)	
In the Matter of:)	Docket No. 50-255-LA-2
)	
ENTERGY NUCLEAR OPERATIONS, INC.)	ASLBP No. 5-939-04-LA-BD01
)	
(Palisades Nuclear Plant))	August 20, 2015
)	
_____)	

CERTIFICATE OF SERVICE

Pursuant to 10 C.F.R. § 2.305, I certify that, on this date, copies of “Entergy’s Answer Opposing the Sierra Club’s Unauthorized Reply” were served upon the Electronic Information Exchange (the NRC’s E-Filing System) in the above-captioned proceeding.

Signed (electronically) by Martin J. O’Neill

Martin J. O’Neill, Esq.
Morgan, Lewis & Bockius LLP
1000 Louisiana Street, Suite 4000
Houston, TX 77002
Phone: (713) 890-5710
Fax: (713) 890-5001
E-mail: martin.o’neill@morganlewis.com