



**UNITED STATES  
NUCLEAR REGULATORY COMMISSION  
ATOMIC SAFETY AND LICENSING BOARD PANEL  
WASHINGTON, D.C. 20555-0001**

August 21, 2015

The Honorable Nita M. Lowey  
United States House of Representatives  
Washington, DC 20515

Dear Congresswoman Lowey:

I am writing to you on behalf of the Atomic Safety and Licensing Board Panel (ASLBP) in response to your August 6, 2015 letter regarding license amendment requests involving the Indian Point nuclear power plant. The ASLBP understands your significant interest in Indian Point given its location in your Congressional District.

Before I discuss the ASLBP's approach to making pre-hearings and hearings accessible to the public, I first want to clarify some important information. Your letter states that there are currently three Indian Point license amendment requests under consideration by the ASLBP. The requests cited are a deferral of reactor vessel head inspections, a postponement of control rod "problems," and a delay in the frequency of steam generator tube inspections.

The NRC Staff has already issued decisions on those three requests. Specifically, the license amendments for the reactor vessel head inspections issue were issued for Unit 2 on January 14, 2014, and for Unit 3 on March 4, 2015; for the control rod change on April 2, 2015; and for the Units 2 and 3 steam generator tube inspections on May 26, 2015. Because no requests for hearings on those license amendments were submitted during the appropriate windows of time, no ASLBP proceedings concerning those amendments are pending.

The ASLBP currently is adjudicating two proceedings regarding the Indian Point facility. The first is a proceeding related to the renewal of the licenses for Units 1 and 2, which has been ongoing since 2008. The second is a hearing request regarding a proposed license amendment to change the frequency of a leak test for Unit 2's containment building integrity. For the latter proceeding, a three-judge licensing board heard oral arguments on July 30, 2015 to consider the hearing request filed by the New York State Attorney General's Office. A transcript of the oral argument may be accessed at <http://ehd1.nrc.gov.ehd>. The licensing board anticipates issuing a decision in September that resolves whether New York's request satisfies the regulatory requirements for an evidentiary hearing during which expert witnesses would testify on the matter.

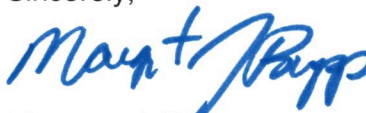
This brings me to your concerns about public accessibility when it comes to ASLBP proceedings. The ASLBP's policy is, when practicable, to hold evidentiary hearings near the facility in question. Consistent with that policy, the licensing board conducting the Indian Point license renewal proceeding (which is a different board from the one considering New York's challenge to the proposed containment testing license amendment) conducted an evidentiary hearing in Tarrytown, New York, in the fall of 2012. That licensing board is planning to hold

another evidentiary hearing on different contentions in Tarrytown during the week of November 16, 2015.

All other hearing-related matters prior to the evidentiary hearing are characterized as "pre-hearings." This would include oral arguments, scheduling conferences, teleconferences, and other matters. Such sessions are conducted in a manner that promotes convenience and efficiency for the parties and the licensing board and, as such, are often held by telephone or in the ASLBP's Rockville Hearing Room. That said, I would stress that all pre-hearings are open to the public and are recorded by a court reporter, with the transcript available to the public not long after the session. Also, the ASLBP routinely makes it possible for members of the public to hear a pre-hearing session via a listen-only teleconference line. Licensing board orders issued prior to pre-hearing sessions provide the information for interested members of the public to access those lines. Such listening capabilities were made available for the July 30th oral argument session pertaining to the Indian Point 2 containment testing hearing request.

The NRC and the ASLBP understand the need for transparency and accessibility and seek to achieve both to the greatest degree possible consistent with the important goal of adjudicatory efficiency. The ASLBP believes the current approach works to achieve those ends.

Sincerely,



Margaret J. Bupp  
Chief Counsel

cc: NRC/OPA  
NRC/OCA



COMMITTEE ON APPROPRIATIONS,  
RANKING MEMBER

SUBCOMMITTEE ON STATE, FOREIGN  
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RANKING MEMBER



**Nita M. Lowey**  
**Congress of the United States**  
**17th District, New York**

August 6, 2015

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Chief Administrative Judge E. Roy Hawken  
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Dear Chief Administrative Judge Hawken:


Entergy, the owner and operator of two nuclear power plants in Buchanan, NY, which is in my Congressional District, has requested amendments for Indian Point 2's license, which expired in September 2013. I understand hearings on proposed license amendments for nuclear power plants are typically held in Rockville, MD. However, I am requesting that all hearings on proposed license amendments for Indian Point 2 and Indian Point 3, which expires December 31, 2015, be held in White Plains, NY, the site of Entergy Nuclear Northeast's regional headquarters, to provide greater accessibility for those who live near the plants who wish to testify on the amendments.

The Atomic Safety and Licensing Board (ASLB) Panel is currently considering three proposed license amendments for Indian Point 2: defer inspections of the reactor vessel head for 10 years; ignore problems with control rods until March 2016; and defer frequency of inspections of steam generator tubes.

These proposed license amendments significantly change the already-expired operating license for Indian Point 2, reduce safety margins, and endanger public health and safety. Indian Point 3 experienced four unplanned reactor shutdowns over a two-month period this year, including a transformer failure and fire that spilled more than 3,000 gallons of oil into the Hudson River. Additionally, under the Administrative Procedures Act (APA), agencies are required to solicit and accept public comments on proposed license amendments. Nearly 20 million people live within the 50-mile radius of Indian Point. Hearings regarding Indian Point licensing should be held in close proximity to permit those with concerns to attend and speak.

Therefore, based on the scope of the proposed license amendments and APA requirements for public comments, I am requesting that all hearings on proposed license amendments to Indian Point 2 and Indian Point 3 licenses be held in White Plains, or somewhere else in Westchester County, where the plants are located.

Sincerely,

  
Nita M. Lowey  
Member of Congress

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UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

In the Matter of	)	
	)	
ENTERGY NUCLEAR OPERATIONS, INC.	)	Docket Nos. 50-247-LA
	)	
(Indian Point Nuclear Generating	)	
Station, Unit 2)	)	

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing **Response letter from Margaret J. Bupp, Chief Counsel, ASLBP, to Congresswoman Nita M. Lowey's letter of August 6, 2015**, have been served upon the following persons by Electronic Information Exchange.

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**Response letter from Margaret J. Bupp, Chief Counsel, ASLBP, to Congresswoman Nita M. Lowey's letter of August 6, 2015**

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[Original signed by Brian Newell ]  
Office of the Secretary of the Commission

Dated at Rockville, Maryland  
this 24<sup>th</sup> day of August, 2015