

# UNITED STATES COURT OF APPEALS DISTRICT OF COLUMBIA CIRCUIT

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## AGENCY DOCKETING STATEMENT

*Administrative Agency Review Proceedings (To be completed by appellant/petitioner)*

1. CASE NO. 15-1279 2. DATE DOCKETED: 08-13-2015
3. CASE NAME (lead parties only) The State of Vermont v. United States Nuclear Regulatory Comm
4. TYPE OF CASE: ☒ Review ☐ Appeal ☐ Enforcement ☐ Complaint ☐ Tax Court
5. IS THIS CASE REQUIRED BY STATUTE TO BE EXPEDITED? ☐ Yes ☒ No  
If YES, cite statute \_\_\_\_\_
6. CASE INFORMATION:
  - a. Identify agency whose order is to be reviewed: U.S. Nuclear Regulatory Commission
  - b. Give agency docket or order number(s): 50-271
  - c. Give date(s) of order(s): June 17, 2015
  - d. Has a request for rehearing or reconsideration been filed at the agency? ☐ Yes ☒ No  
If so, when was it filled? \_\_\_\_\_ By whom? \_\_\_\_\_  
Has the agency acted? ☐ Yes ☐ No If so, when? \_\_\_\_\_
  - e. Identify the basis of appellant's/petitioner's claim of standing. See D.C. Cir. Rule 15(c)(2):  
See Attache
  - f. Are any other cases involving the same underlying agency order pending in this Court or any other?  
☐ Yes ☒ No If YES, identify case name(s), docket number(s), and court(s) \_\_\_\_\_
  - g. Are any other cases, to counsel's knowledge, pending before the agency, this Court, another Circuit Court, or the Supreme Court which involve *substantially the same issues* as the instant case presents?  
☐ Yes ☒ No If YES, give case name(s) and number(s) of these cases and identify court/agency: \_\_\_\_\_
  - h. Have the parties attempted to resolve the issues in this case through arbitration, mediation, or any other alternative for dispute resolution? ☐ Yes ☒ No If YES, provide program name and participation dates. \_\_\_\_\_

Signature s/ Felicia H. Ellsworth Date 9/16/15

Name of Counsel for Appellant/Petitioner Felicia H. Ellsworth

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### ATTACH A CERTIFICATE OF SERVICE

**Note:** If counsel for any other party believes that the information submitted is inaccurate or incomplete, counsel may so advise the Clerk within 7 calendar days by letter, with copies to all other parties, specifically referring to the challenged statement.

**CERTIFICATE OF SERVICE**

I certify that a copy of the foregoing has been served via the Court's Electronic Filing system upon all registered counsel this 16th day of September, 2015.

/s/ Felicia H. Ellsworth

Felicia H. Ellsworth

UNITED STATES COURT OF APPEALS  
FOR THE  
DISTRICT OF COLUMBIA CIRCUIT

**ATTACHMENT TO DOCKETING STATEMENT**

***Number 6.e. Identify the basis of appellant's/petitioner's claim of standing***

Petitioners have standing pursuant to 28 U.S.C. § 2344 and 5 U.S.C. § 702 to bring this Petition. The State of Vermont, its citizens, and its ratepayers are aggrieved by the Commission's decision, which affects: (1) the license for a nuclear power plant located in the State; and (2) the Nuclear Decommissioning Trust Fund ("Decommissioning Fund") for Vermont Yankee, which was primarily funded by monies collected from Vermont ratepayers, and in which Vermont ratepayers have an interest in excess funds remaining after decommissioning. By allowing withdrawals from the Decommissioning Fund for non-decommissioning expenses, the Commission's decision also adversely impacts the State of Vermont and its citizens by creating a significant risk that the owner of a nuclear power plant within the State will have insufficient funds to fully decontaminate and decommission the nuclear power plant.

The Vermont Yankee Nuclear Power Corporation and its current sole owner, Green Mountain Power Corporation, are utilities that also have a direct interest in proper use of the Decommissioning Fund. Vermont Yankee Nuclear Power Corporation, now owned by Green Mountain Power Corporation, collected the

principal funds that (with interest) constitute the entirety of the Decommissioning Fund. Further, Green Mountain Power Corporation, and through it their Vermont ratepayers, have a 55% interest in all monies that remain in that fund following completion of decommissioning. Thus, every time the Commission allows an improper withdrawal from the Decommissioning Fund, it harms Vermont Yankee Nuclear Power Corporation, Green Mountain Power Corporation, and their Vermont ratepayers. Finally, Petitioners jointly submitted a letter (dated June 5, 2015) to the Commission requesting the opportunity for public participation on Entergy's exemption request and requesting to participate in the matter before the Commission issued its decision. No such opportunity was granted.

**CERTIFICATE OF SERVICE**

I certify that a copy of the foregoing “Agency Docketing Statement,” with attachment, has been served via the Court’s Electronic Filing system upon all registered counsel this 16th day of September, 2015.

/s/ Felicia H. Ellsworth

Felicia H. Ellsworth