

UNITED STATES COURT OF APPEALS  
FOR THE  
DISTRICT OF COLUMBIA CIRCUIT

THE STATE OF VERMONT,	)	
VERMONT YANKEE NUCLEAR	)	
POWER CORPORATION; and	)	
GREEN MOUNTAIN POWER	)	
	)	
Petitioners	)	No. <u>15-1279</u>
	)	
v.	)	
	)	
UNITED STATES NUCLEAR	)	
REGULATORY COMMISSION, and	)	
UNITED STATES OF AMERICA,	)	
	)	
Respondents	)	

**PETITIONERS’ NON-BINDING STATEMENT OF ISSUES**

Pursuant to the Clerk’s August 17, 2015 order in the above-captioned matter, the State of Vermont, the Vermont Yankee Nuclear Power Corporation, and Green Mountain Power (“Petitioners”) hereby submit the following non-binding statement of the issues presented for review: In violation of the Atomic Energy Act, the National Environmental Policy Act, and the Administrative Procedure Act,

1. The United States Nuclear Regulatory Commission (“NRC”) acted arbitrarily and capriciously in determining that the exemptions are authorized by law, *see* 10 C.F.R. § 50. 12(a)(1);

2. NRC acted arbitrarily and capriciously in determining that the exemptions present no undue risk to the public health and safety, *see id.*;
3. NRC acted arbitrarily and capriciously in determining that the exemptions are consistent with the common defense and security, *see id.*;
4. NRC acted arbitrarily and capriciously in determining that application of the relevant regulations in these particular circumstances is not necessary to achieve the underlying purpose of the regulations, *see id.* § 50.12(a)(2)(ii);
5. NRC acted arbitrarily and capriciously in determining that compliance would result in undue hardship or other costs that are significantly in excess of those contemplated when the regulation was adopted, or that are significantly in excess of those incurred by others similarly situated, *see id.* § 50.12(a)(2)(iii);
6. NRC acted arbitrarily and capriciously in determining that no environmental impact statement or environmental assessment need be prepared;
7. NRC acted arbitrarily and capriciously in failing to afford opportunities for public participation, included but not limited to

providing for a hearing, in granting the exemptions; and

8. NRC acted arbitrarily and capriciously in granting the exemption in a fragmented process that did not include requests made to the NRC by Entergy Nuclear Operations, Inc. that are directly related to the exemption.

This is a preliminary listing of issues that Petitioners may raise. Petitioners reserve the right to modify the list of issues addressed in their brief, as well as to address these and other issues in more detail in future pleadings.

Respectfully submitted,

THE STATE OF VERMONT

By its attorneys,

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Dated: September 16, 2015

**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

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