

July 1, 2016

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matter of	)	
	)	
ENTERGY NUCLEAR OPERATIONS, INC.	)	Docket Nos. 50-247-LR/286-LR
	)	
(Indian Point Nuclear Generating	)	
Units 2 and 3)	)	

NRC STAFF'S 53<sup>rd</sup> STATUS REPORT  
IN RESPONSE TO THE ATOMIC SAFETY AND  
LICENSING BOARD'S ORDER OF FEBRUARY 16, 2012

In accordance with the Atomic Safety and Licensing Board's ("Board") "Order (Granting NRC Staff's Unopposed Time Extension Motion and Directing Filing of Status Updates)" ("Order"), issued on February 16, 2012, the NRC Staff ("Staff") herewith provides its 53<sup>rd</sup> monthly status report to the Board.

*Safety Issues*

1. Track 2 Safety Issues. Hearings on the three "Track 2" safety contentions related to the License Renewal Application ("LRA") for Indian Point Units 2 and 3 ("IP2" and "IP3") were held on November 16-19, 2015. On February 5, 2016, the State of New York ("New York") filed a motion seeking the late admission of six documents as exhibits related to the Track 2 contentions; answers were filed on February 16, 2016.<sup>1</sup> On February 19, 2019, the Board granted New York's Motion, conditioned upon its filing of expert testimony demonstrating

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<sup>1</sup> See (1) "State of New York Motion for Leave to File Six Documents as Additional Exhibits" (Feb. 5, 2016); (2) "NRC Staff Answer to 'State of New York Motion for Leave to File Six Documents as Additional Exhibits'" (Feb. 16, 2016); and (3) "Entergy's Answer to State of New York Motion for Leave to File Six Documents as Additional Exhibits" (Feb. 16, 2016).

the relevance, materiality and reliability of the proposed exhibits.<sup>2</sup> New York filed its supplemental testimony on March 4, 2016; Entergy and the Staff filed responsive testimony on March 18, 2016. The filing of New York's reply testimony has been deferred pending the parties' submittal of updated information regarding IP2 baffle bolt inspections;<sup>3</sup> the filing of proposed findings of fact and conclusions of law has been suspended pending the Board's receipt of the parties' supplemental testimony.<sup>4</sup> The evidentiary record is to be closed within 10 days after the filing of all supplemental testimony, unless the Board requires additional testimony on the proposed exhibits.<sup>5</sup> On June 28, 2016, the parties submitted alternative proposed schedules for filing further evidentiary submissions on Track 2 safety contentions.<sup>6</sup> The Board has directed the parties to state their availability for a conference call during the week of July 11-14, 2016, to discuss the schedule for further filings.<sup>7</sup>

2. Baffle-Former Assembly Bolt Inspection Findings. On March 29, 2016, the Applicant notified the Board and parties that (a) its ongoing inspection of baffle-former assembly bolts in the Indian Point Unit 2 ("IP2") reactor pressure vessel had identified "indications" and other degradation requiring replacement of 227 of 832 baffle-former bolts;

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<sup>2</sup> *Entergy Nuclear Operations, Inc.* (Indian Point Nuclear Generating Units 2 and 3), "Order (Requesting Expert Testimony on New York's Proposed Exhibits and Suspending Deadline for Filing Proposed Findings of Fact and Law)" (Feb. 19, 2016).

<sup>3</sup> *Entergy Nuclear Operations, Inc.* (Indian Point Nuclear Generating Units 2 and 3), "Order (Granting New York's Motion for Extension of Time)" (Mar. 15, 2016). See discussion *infra*.

<sup>4</sup> See (1) *Entergy Nuclear Operations, Inc.* (Indian Point Nuclear Generating Units 2 and 3), "Order (Setting Post-Hearing Briefing Schedule)" (Dec. 7, 2015); (2) "Order (Adopting Joint Motion for Track 2 Hearing Schedule Deferral)" (Apr. 1, 2016); and (3) "Order (Adopting Track 2 Hearing Schedule Deferral at Request of the Parties)" (May 10, 2016).

<sup>5</sup> Order of February 19, 2016, at 3.

<sup>6</sup> "Third Joint Status Report Regarding Proposed Track 2 Schedule" ("Third Joint Status Report") (June 28, 2016).

<sup>7</sup> *Entergy Nuclear Operations, Inc.* (Indian Point Nuclear Generating Units 2 and 3), "Order (Adopting Schedule Deferral at Request of the Parties and Requesting Conference Call Availability)" (June 8, 2016).

(b) it was reporting this event to the NRC pursuant to 10 C.F.R. § 50.72; (c) it has entered its inspection findings into its Corrective Action Program and is taking appropriate corrective actions; and (d) it would initiate consultations among the parties to discuss the potential impact of these findings on the adjudication of Contentions NYS-25 and NYS-38/RK-TC-5.<sup>8</sup> As stated previously, the Staff expects to present its inspection findings concerning the baffle-former bolts in its quarterly Inspection Report for the period of April 1 – June 30, 2016, on or before August 15, 2016.<sup>9</sup>

3. Other Safety Issues. As stated previously, the Staff is reviewing issues associated with two recent Interim Staff Guidance (“ISG”) documents (LR-ISG-2012-02 and LR-ISG-2013-01).<sup>10</sup> In addition, a further ISG (LR ISG-2015-01) has been issued,<sup>11</sup> and an additional draft ISG (LR ISG-2016-01) has been issued for public comment.<sup>12</sup> The Staff has not yet determined whether these matters will be addressed in an SER Supplement for IP2 and IP3. The Staff will provide further information to the Board regarding these issues when available.

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<sup>8</sup> Letter from Paul M. Bessette, Esq. to the Board (“Licensing Board Notification of Preliminary Indian Point Unit 2 Baffle-Former Assembly Bolt Inspection Findings”) (Mar. 29, 2016).

<sup>9</sup> See (1) Letter from Sherwin E. Turk, Esq. to the Board (May 12, 2016); and (2) Third Joint Status Report, at 2.

<sup>10</sup> See (1) Notice of Issuance, Interim Staff Guidance; LR-ISG-2012-02; “Aging Management of Internal Surfaces, Fire Water Systems, Atmospheric Storage Tanks, and Corrosion under Insulation,” 78 Fed. Reg. 70,076 (Nov. 22, 2013); (2) Notice of Issuance, Interim Staff Guidance; LR-ISG-2013-01; “Aging Management of Loss of Coating or Lining Integrity for Internal Coatings/ Linings on In-Scope Piping, Piping Components, Heat Exchangers, and Tanks,” 79 Fed. Reg. 68,308 (Nov. 14, 2014).

<sup>11</sup> See Notice of Issuance, Interim Staff Guidance; LR-ISG-2015-01, “Changes to Buried and Underground Piping and Tank Recommendations,” 81 Fed. Reg. 23 (Feb. 4, 2016). This LR-ISG will replace aging management program (AMP) XI.M41, “Buried and Underground Piping and Tanks,” and the associated Updated Final Safety Analysis Report (UFSAR) Summary Description in LR-ISG-2011-03, “Changes to the Generic Aging Lessons Learned (GALL) Report Revision 2 Aging Management Program (AMP) XI.M41, ‘Buried and Underground Piping and Tanks.’”

<sup>12</sup> Draft License Renewal Interim Staff Guidance [LR ISG-2016-01]; Request for Comment, “Changes to Aging Management Guidance for Various Steam Generator Components,” 81 Fed. Reg. 36,612 (June 7, 2016).

Environmental Issues

4. FSEIS Supplement. On December 22, 2015, the Staff issued its draft second supplement (Volume 5) to the Final Supplemental Environmental Impact Statement ("FSEIS") for license renewal of IP2 and IP3.<sup>13</sup> Public comments have been filed and are currently under review by the Staff. The Staff has determined that it will require additional time to address the issues raised in the public comments on the draft FSEIS supplement; the Staff currently expects to issue Final Supplement 2 (Volume 5) to the FSEIS in January 2017.<sup>14</sup>

5. Contention NYS-35/36. On June 30, 2010, the Board issued LBP-10-13, in which it, *inter alia*, admitted Contentions NYS-35 and NYS-36, and consolidated them into Contention NYS-35/36.<sup>15</sup> On July 14, 2011, the Board issued LBP-11-17, granting summary disposition on Contention NYS-35/36 (Implementation of Cost-Beneficial SAMAs) in favor of New York.<sup>16</sup> On February 18, 2015, the Commission granted the Staff and Entergy's petitions for review of the Board's rulings on Contention NYS-35/36;<sup>17</sup> on June 2, 2016, the Commission issued CLI-16-10, in which it, *inter alia*, reversed the Board's decision in LBP-11-17 and

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<sup>13</sup> "Generic Environmental Impact Statement for License Renewal of Nuclear Plants, Supplement 38 Regarding Indian Point Nuclear Generating Unit Nos. 2 and 3, Draft Report for Comment," NUREG-1437, Supplement 38, Vol. 5 (Dec. 2015) ("Draft FSEIS Supplement 2"). See Letter from Sherwin E. Turk to the Board (Dec. 22, 2015), at 1.

<sup>14</sup> Letter from Jane Marshall (NRC) to Vice President, Operations, Entergy Nuclear Operations, Inc., "Schedule Revision for the Environmental Review of the Indian Point Nuclear Generating Unit Nos. 2 and 3 License Renewal Application" (June 28, 2016).

<sup>15</sup> *Entergy Nuclear Operations, Inc.* (Indian Point Nuclear Generating Units 2 and 3), LBP-10-13, 71 NRC 673 (2010).

<sup>16</sup> *Entergy Nuclear Operations, Inc.* (Indian Point Nuclear Generating Units 2 and 3), LBP-11-17, 74 NRC 11, *petition for review granted*, CLI-15-3, 81 NRC 217 (Feb. 18, 2015).

<sup>17</sup> *Entergy Nuclear Operations, Inc.* (Indian Point Nuclear Generating Units 2 and 3), CLI-15-3, 81 NRC 217 (Feb. 18, 2015).

directed the Staff to consider the cost-beneficial SAMAs as a current operating license issue under 10 C.F.R. Part 50, for review and action as appropriate.<sup>18</sup>

6. Contention NYS-12C (SAMAs). On February 14, 2014, New York filed a petition for review of the Board's Partial Initial Decision (LBP-13-13) concerning Contention NYS-12C,<sup>19</sup> and on April 28, 2014, New York filed a petition for review of the Board's Order denying its motion to reopen and reconsider that portion of the decision.<sup>20</sup> On May 4, 2016, the Commission issued CLI-16-07, in which it reversed the Board's decision on Contention NYS-12, directed the Staff to perform additional sensitivity analyses due to uncertainties in the CDNFRM and TIMDEC input values, and denied New York's petition for review of the Board's Order denying New York's motion to reopen and reconsider.<sup>21</sup> The Staff plans to conduct the required sensitivity analyses and may present the results of those analyses in a further FSEIS supplement. The Staff will provide additional information to the Board regarding this matter when available.

7. Potential Filing of New Contention and Waiver Petition. On June 30, 2016, New York filed a motion<sup>22</sup> seeking to establish a schedule for its contemplated filing of a late

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<sup>18</sup> *Entergy Nuclear Operations, Inc.* (Indian Point Nuclear Generating Units 2 and 3), CLI-16-10, 83 NRC \_\_\_\_ (June 2, 2016) (slip op.).

<sup>19</sup> *Entergy Nuclear Operations, Inc.* (Indian Point Nuclear Generating Units 2 and 3), LBP-13-13, 78 NRC 246 (Nov. 27, 2013). On March 9, 2015, the Commission issued a Memorandum and Order resolving the Staff's, Entergy's and Hudson River Sloop Clearwater's petitions for review of other portions of LBP-13-13. See *Entergy Nuclear Operations, Inc.* (Indian Point Nuclear Generating Units 2 and 3), CLI-15-6, 81 NRC 340 (2015) (reversing the Board's resolution of Contention NYS-8 (Transformers), and reversing in part, and affirming in part, its resolution of Contention CW-EC3A (Environmental Justice).

<sup>20</sup> See "Order (Denying New York's Motion to Reopen the Record; Setting Deadline for New or Amended Contention)" (Apr. 1, 2014).

<sup>21</sup> *Entergy Nuclear Operations, Inc.* (Indian Point Nuclear Generating Units 2 and 3), CLI-16-7, 83 NRC \_\_\_\_ (May 4, 2016) (slip op.).

<sup>22</sup> "State of New York Motion to Establish a Schedule for Waiver and Contention Filings Concerning Site-Specific Review of Spent Fuel Storage Accidents and Mitigation Alternatives for the Indian Point Site and the New York City Metropolitan Area" (June 30, 2016).

contention and petition for waiver of the Commission's Continued Storage Rule.<sup>23</sup> Pursuant to 10 C.F.R. § 2.323(a)(2), answers to New York's motion are due July 11, 2016.

8. Other Matters. The Staff is not currently aware of any other matter that has the potential to impact the schedule for hearings in this proceeding. In accordance with the Board's direction (Order, at 2), the Staff will notify the Board as soon as any other event with potential to alter the hearing schedule arises.

Respectfully submitted,

**/Signed (electronically) by/**

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Dated at Rockville, Maryland  
this 1<sup>st</sup> day of July 2016

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<sup>23</sup> See (1) 10 C.F.R. 51.23(a); (2) Final Rule, "Continued Storage of Spent Nuclear Fuel," 79 Fed. Reg. 56,260 (Sept. 19, 2014).

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CERTIFICATE OF SERVICE

Pursuant to 10 C.F.R § 2.305 (as revised), I hereby certify that copies of the foregoing "NRC STAFF'S 53<sup>rd</sup> STATUS REPORT IN RESPONSE TO THE ATOMIC SAFETY AND LICENSING BOARD'S ORDER OF FEBRUARY 16, 2012," dated July 1, 2016, have been served upon the Electronic Information Exchange (the NRC's E-Filing System), in the above-captioned proceeding, this 1<sup>st</sup> day of July 2016.

**/Signed (electronically) by/**

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