

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

ATOMIC SAFETY AND LICENSING BOARD

Before Administrative Judges:

Lawrence G. McDade, Chairman
Dr. Michael F. Kennedy
Dr. Richard E. Wardwell

In the Matter of

ENTERGY NUCLEAR OPERATIONS, INC.

(Indian Point Nuclear Generating Units 2 and 3)

Docket Nos. 50-247-LR and 50-286-LR

ASLBP No. 07-858-03-LR-BD01

November 2, 2016

ORDER

(Granting Unopposed Motion for Extension of Time)

On July 13, 2016, the Board issued an order scheduling filings addressing the Track 2 contentions in this proceeding.¹ The Board issued this order in response to a joint motion from the State of New York (New York), Riverkeeper, Inc. (Riverkeeper), Entergy, and the NRC Staff (collectively, the Parties), who requested that these filings be delayed to provide time for the Parties to prepare evidence and testimony related to degradation detected in Indian Point Unit 2 baffle-former bolts during inspection.² Thereafter, the Parties filed a Joint Motion for Reconsideration of the Board's Scheduling Order, which the Board also granted.³

¹ Order (Scheduling of Further Filings on Track 2 Contentions) (July 28, 2016) (unpublished).

² Joint Motion for Track 2 Hearing Schedule Deferral (Mar. 30, 2016) at 5.

³ Order (Granting Joint Motion for Reconsideration) (Aug. 3, 2016) (unpublished) [hereinafter Order Granting Joint Motion for Reconsideration]. This order maintained the previously-set deadlines for filing baffle-former bolt testimony, but allowed the Parties additional time for the filing of Proposed Findings of Fact and Conclusions of Law. Id. at 3–4.

On October 14, 2016, Entergy notified the Board that planned hot cell testing of 3 baffle-former bolts removed from Indian Point Unit 2 had been conducted, and that, based on those results, it would test 5 additional bolts “to help better understand how the location of the bolt . . . impacts the contribution of irradiation and load on that bolt.”⁴ According to Entergy, the results of those tests are expected in late November 2016.⁵ On October 26, Riverkeeper and New York filed an unopposed Motion requesting that the deadlines for filings on baffle-former bolt issues be extended by 60 days to allow their experts to prepare and submit their supplemental testimony based on the results of the hot cell testing.⁶

Before turning to the Motion, the Board notes that New York also filed a letter on October 21, 2016.⁷ In that letter, New York states that according to the disclosure log provided by Entergy, the results summary report for the first round of hot cell examination was prepared in July 2016, but was not disclosed to any other party until October, on the same day the Board was notified by Entergy that hot cell testing “ha[d] been conducted.”⁸ New York also stated that other relevant disclosures from Entergy have been delayed.⁹

The Board finds this news very disconcerting. In granting the Parties’ Joint Motion for Reconsideration, we emphasized our concern about the extended nature of these proceedings,

⁴ Letter from Paul M. Bessette, Counsel for Entergy, to ASLB, Re: Licensing Board Notification Regarding Status of Hot Cell Testing of Indian Point Unit 2 Baffle-Former Bolts, at 1 (Oct. 14, 2016).

⁵ Id.

⁶ Unopposed Joint Motion To Extend Track 2 Hearing Schedule Deadlines (Oct. 26, 2016).

⁷ Letter from John Sipos, New York, to ASLB, Re: Indian Point Nuclear Generating Station, Unit 2 and Unit 3 Docket Nos. 50-247-LR/50-286-LR; ASLBP No. 07-858-03-LR-BD01 (Oct. 21, 2016).

⁸ Id. at 1.

⁹ Id. at 2 (i.e. IP2 Baffle Bolt Cracking, May 20, 2016; Salem 1 Baffle to Former Bolt Status, May 10, 2016).

which question whether Indian Point can continue to operate safely.¹⁰ Any delay in making these safety findings must be warranted by the circumstances.¹¹ We consented to the Parties' request in their Joint Motion for Reconsideration that the Board wait to view certain technical documents until they were filed as exhibits with the baffle-former bolt supplemental testimony, but noted that the parties had agreed to share those technical documents with each other "as soon as practicable."¹² In doing so, we established that it was the Parties' responsibility to ensure that continued delay of this proceeding remained justified.¹³ Failure to disclose the summary report on hot cell testing until 3 months after it had been prepared does not appear to be a "practicable" delay, nor does it appear to demonstrate an effort to avoid needless deferment. No later than 5:00 PM EST on November 16, 2016, Entergy shall inform the Board in writing, with copies to all other parties in this proceeding, whether the representation by New York that the summary report for the first round of hot cell test results was prepared in July but not disclosed until October is accurate and, if accurate, explain the reasons for the delay.¹⁴

Despite our reluctance to further extend an already substantially delayed schedule, the Board finds good cause for New York and Riverkeeper's request, and the Motion for extension of time is granted. New York and Riverkeeper's supplemental testimony on baffle-former bolt issues, and New York's reply testimony related to its February 5, 2016, Motion for the admission of six exhibits, shall be filed no later than 5:00 PM EST on January 17, 2017. Entergy and the NRC Staff's supplemental testimony shall be filed no later than 5:00 PM EDT on March 20,

¹⁰ Order Granting Joint Motion for Reconsideration at 2–3.

¹¹ Id. at 2.

¹² Id. at 3.

¹³ Id.

¹⁴ Similar representation shall be made regarding the other potentially relevant documents identified by New York in its October 21, 2016 letter. See supra note 9.

2017. New York and Riverkeeper's reply testimony shall be filed no later than 5:00 PM EDT on May 1, 2017. All parties' proposed findings of fact and conclusions of law shall be filed no later than 5:00 PM EDT on June 16, 2017, and all parties' reply proposed findings of fact and conclusions of law shall be filed no later than 5:00 PM EDT on July 31, 2017.

It is so ORDERED.

FOR THE ATOMIC SAFETY
AND LICENSING BOARD

/RA/

Lawrence G. McDade, Chairman
ADMINISTRATIVE JUDGE

Rockville, Maryland
November 2, 2016

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NUCLEAR REGULATORY COMMISSION

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ENTERGY NUCLEAR OPERATIONS, INC.)	Docket Nos. 50-247-LR
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(Indian Point Nuclear Generating,)	
Units 2 and 3))	

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing **ORDER (Granting Unopposed Motion for Extension of Time)** have been served upon the following persons by Electronic Information Exchange.

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

Dated at Rockville, Maryland
this 2nd day of November, 2016