

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION  
ATOMIC SAFETY AND LICENSING BOARD

Before Administrative Judges:

Paul S. Ryerson, Chairman  
Dr. Michael F. Kennedy  
Dr. Richard E. Wardwell

In the Matter of

ENTERGY NUCLEAR VERMONT YANKEE,  
LLC, AND ENTERGY NUCLEAR  
OPERATIONS, INC.

(Vermont Yankee Nuclear Power Station)

Docket No. 50-271-LA-2

ASLBP No. 15-937-02-LA-BD01

March 16, 2015

ORDER

(Denying Motion to Stay the Proceeding and Extending Deadline for Reply)

The Vermont Department of Public Service, on behalf of the State of Vermont, moves for a stay in this proceeding while the Commission considers a Petition for Reconsideration related to the Commission's approval of certain exemptions from emergency planning requirements at the Vermont Yankee Nuclear Power Station.<sup>1</sup> Alternatively, Vermont requests a seven-day extension of time to file its reply brief.<sup>2</sup>

NRC Staff and Entergy oppose Vermont's Motion.<sup>3</sup> NRC Staff argues that Vermont did not provide enough time for "effective consultation" because it consulted with the other parties on the day the motion was submitted, and also argues that Vermont had enough time to file a

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<sup>1</sup> Vermont originally filed its motion on March 12, 2015. See State of Vermont's Motion to Stay the License Amendment Proceeding Pending Commission Reconsideration (Mar. 12, 2015) [hereinafter "Motion to Stay"]. The State refiled its motion after the Board denied the first for failure to comply with the consultation requirement of 10 C.F.R. § 2.323(b). State of Vermont's Notice of Refiled Motion (Mar. 13, 2015); see Licensing Board Order (Denying Motion to Stay the Proceeding) (Mar. 13, 2015) (unpublished).

<sup>2</sup> Motion to Stay at 2.

<sup>3</sup> Certificate of Consultation (Mar. 13, 2015).

reply using the same arguments made in its Petition for Reconsideration.<sup>4</sup> Entergy agrees with the Staff that the motion should be rejected for failure to offer enough time for consultation.<sup>5</sup> Entergy also argues that the motion should be denied because there is nothing to stay and Vermont has failed to address the standards for seeking a stay under 10 C.F.R. § 2.342(e).

The Board denies Vermont's Motion to Stay. There has been no action or decision in this proceeding that *can* be stayed,<sup>6</sup> nor has Vermont explained how its motion satisfies any of the four factors for granting a stay listed in 10 C.F.R. § 2.342(e).

Vermont has not explained why a seven-day extension is necessary for the filing of its reply brief. Because the Board would benefit from completed briefing in this proceeding, the Board sets Tuesday, March 17, 2015, at 5pm EDT as the deadline for the reply. There will be no further extensions.

It is so ORDERED.

THE ATOMIC SAFETY  
AND LICENSING BOARD<sup>7</sup>

*/RA/*

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Dr. Michael F. Kennedy  
ADMINISTRATIVE JUDGE

*/RA/*

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Dr. Richard E. Wardwell  
ADMINISTRATIVE JUDGE

Rockville, Maryland  
March 16, 2015

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<sup>4</sup> Id. at 1. The NRC Staff's answer to the Motion was not due until March 23, see 10 C.F.R. § 2.323(c), but the Board is aware of the Staff's opposition based on its consultation statement and has chosen to expedite the process to ensure a timely decision on contention admissibility.

<sup>5</sup> Entergy's Answer Opposing State of Vermont's Motion to Stay the License Amendment Proceeding Pending Commission Reconsideration at 2–3 (Mar. 13, 2015).

<sup>6</sup> See 10 C.F.R. § 2.342(a).

<sup>7</sup> Judge Ryerson was not available to participate in this decision.

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NUCLEAR REGULATORY COMMISSION

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ENTERGY NUCLEAR VERMONT YANKEE, LLC ) Docket No. 50-271-LA-2  
AND ENTERGY NUCLEAR OPERATIONS, INC. )  
)  
(Vermont Yankee Nuclear Power Station) )

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing **ORDER (Denying Motion to Stay the Proceeding and Extending Deadline for Reply)** have been served upon the following persons by the Electronic Information Exchange.

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DOCKET NO. 50-271-LA-2

**ORDER (Denying Motion to Stay the Proceeding and Extending Deadline for Reply)**

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

Dated at Rockville, Maryland  
this 16<sup>th</sup> day of March, 2015