



UNITED STATES  
NUCLEAR REGULATORY COMMISSION  
WASHINGTON, D.C. 20555-0001

June 16, 2015

Mr. William E. Griffin  
Chief Assistant Attorney General  
State of Vermont  
Office of the Attorney General  
109 State Street  
Montpelier, VT 05609-1001

The Honorable Christopher Recchia  
Commissioner  
Vermont Department of Public Service  
112 State Street – Drawer 20  
Montpelier, VT 05620-2601

Mr. Peter H. Zamore  
Counsel for Vermont Yankee Nuclear  
Power Corporation and  
Green Mountain Power  
Sheehey Furlong & Behm P.C.  
30 Main Street, Gateway Square  
6<sup>th</sup> Floor, P.O. Box 66  
Burlington, VT 05402

Ms. Charlotte B. Ancel  
Vice President, General Counsel  
Power Resources, and Corporate Secretary  
Green Mountain Power Corporation  
163 Acorn Lane  
Colchester, VT 05446

SUBJECT: VERMONT YANKEE NUCLEAR POWER STATION – REQUEST FOR PUBLIC PARTICIPATION ON ENTERGY'S JANUARY 6, 2015, DECOMMISSIONING TRUST FUND EXEMPTION REQUEST

Dear Messrs. Griffin, Recchia, Zamore and Ms. Ancel:

I am responding to your letters dated June 4 and June 5, 2015, regarding your request for public participation in NRC's review of Entergy's decommissioning trust fund exemption request.

The June 4, 2015, letter (of which Messrs. Griffin and Recchia were signatories) stated that the U.S. Nuclear Regulatory Commission (NRC) staff should withdraw its conclusions contained in NRC letters dated April 16 and April 21, 2015 (Agencywide Documents Access and Management System (ADAMS) Accession Nos. ML15097A361 and ML15107A074, respectively), regarding the adequacy of the Vermont Yankee Nuclear Power Station (VY) decommissioning trust fund (DTF). Specifically, it is asserted that the staff's conclusions are inappropriate to support Entergy Nuclear Operations' (Entergy's) cancellation of \$110 million in credit lines and parental guarantees and that the cancellation should not be allowed until after a full evaluation has been completed that determines that the DTF will cover all appropriate decommissioning costs at VY.

In accordance with the NRC regulations, the staff has a well-established review process to ensure that licensees have sufficient funding in their DTF. The NRC's review of the site-specific cost estimate, as submitted with the VY Post Shutdown Decommissioning Activities Report, and Entergy's 2013 decommissioning funding status report determined that Entergy provided reasonable assurance that sufficient funding for radiological decommissioning, as defined in Title 10 of the *Code of Federal Regulations* (10 CFR) 50.2, of VY will be available for the decommissioning process. Further, in accordance with NRC regulations, the staff conducts reviews of DTF reports submitted by Entergy on an annual basis to confirm that VY continues to maintain sufficient funding for radiological decommissioning. Entergy submitted their most

recent report on March 30, 2015 (ADAMS Accession No. ML15092A141). The staff is currently reviewing this report to ensure that VY will have sufficient funding to complete radiological decommissioning. Entergy must continue to submit these annual reports in accordance with NRC regulations, and the staff will continue to evaluate them, to ensure that Entergy demonstrates reasonable assurance of having the funds necessary to complete radiological decommissioning throughout the remaining life of the license. If the funds do not cover the projected decommissioning cost, the status report must include a plan to obtain additional funds to cover the cost.

Further, based on its reasonable assurance determination, the NRC staff also concluded that there is no longer a need for Entergy to maintain lines of credit for operations and operational maintenance costs for VY. Entergy provided adequate assurance that funds will be available for radiological decommissioning and spent fuel management, and the NRC had no objection to the request for consent to cancel the two lines of credit. The staff communicated its approval to Entergy by letter dated April 16, 2015.

Also, the NRC staff's review of the parent company guarantee removal concluded that the parent company guarantee could be canceled because the bases for maintaining the guarantee were no longer applicable. Specifically, Entergy was originally required to obtain the parent guarantee to address a decommissioning funding shortfall in 2009; however, the shortfall has been eliminated and there is no longer a need for the parent company guarantee. NRC communicated this to Entergy by letter dated April 21, 2015.

As stated in your June 5, 2015, letter, the Vermont Attorney General's Office, the Vermont Department of Public Service, the Vermont Yankee Nuclear Power Corporation, and Green Mountain Power requested an opportunity for public participation in the NRC review of Entergy's exemption request. That exemption request seeks permission to use the DTF to pay for spent fuel management expenses and eliminates a 30-day notice requirement.

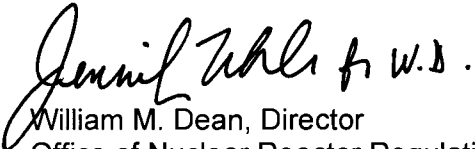
The Commission's regulatory framework establishes a clear distinction between exemptions and license amendments. These two regulatory actions are governed by separate regulations, subject to separate regulatory reviews, and are evaluated using separate standards and separate processes for public participation. This is not only a long-standing regulatory position, it has been the staff's position in litigation involving the State of Vermont. Approximately 2 months before it wrote the June 5, 2015, letter, the State filed a petition for intervention and a request for hearing asserting that it should have a hearing on license amendments and exemptions for the VY DTF (ADAMS Accession No. ML15110A484). As the NRC staff stated in its pleadings (ADAMS Accession No. ML15135A523), a petitioner may seek a hearing on license amendments, but not on exemption requests. In a prior petition for intervention, filed approximately 4 months before the June 5, 2015, letter, the State also petitioned for intervention and a hearing on license amendments and exemptions regarding VY emergency planning (ADAMS Accession No. ML15040A723). The staff argued in its pleading in that matter that the State had no right to a hearing on the exemption, a position upheld by the Atomic Safety and Licensing Board established to hear the matter. *Entergy Nuclear Vermont Yankee, LLC and Entergy Nuclear Operations, Inc.* (Vermont Yankee Nuclear Power Station), LBP-15-18, \_\_\_ NRC \_\_\_ (slip op.) (May 18, 2015) (ADAMS Accession No. ML15138A270).

I would also like to take this opportunity to document some of the information that my staff discussed with the State of Vermont officials and staff, as well as other state representatives, during a May 29, 2015, telephone conference call. As the staff stated in that call, it is reviewing the regulatory requirements associated with the use by Entergy of the first 3 percent of the DTF to pay for spent fuel management planning costs. Based on the results of its review, the NRC staff will take appropriate regulatory action, if warranted. Further, based on the State's January 26, 2015, letter, the staff initiated a further review of the VY site-specific cost estimate. This review is ongoing.

On a separate note, in accordance with the regulatory processes governing requests for enforcement action under Section 2.206 of Title 10 of the *Code of Federal Regulations*, the NRC will formally respond by letter to the questions that were raised in the January 27, 2015, letter, submitted by the State of Vermont and the Vermont Office of the Attorney General. The staff will issue its letter upon completion of the Final Director's Decision associated with a 2.206 petition that was filed in March 2013, by Mr. Timothy Judson, President of Citizens Awareness Network, on behalf of the Alliance for a Green Economy, Citizens Awareness Network, Pilgrim Watch, and Vermont Citizens Action Network.

The NRC understands your interest and concern in the pending decommissioning of VY and looks forward to continuing to work with all parties involved to ensure, first and foremost, the health and safety of the public. If you have any further questions or concerns, please contact Mr. James Kim at (301) 415-4125 or by e-mail at [James.Kim@nrc.gov](mailto:James.Kim@nrc.gov).

Sincerely,

  
William M. Dean, Director  
Office of Nuclear Reactor Regulation

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Sincerely,  
*/RA Jennifer Uhle for/*

William M. Dean, Director  
 Office of Nuclear Reactor Regulation

Docket No. 50-271

cc: Listserv

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