

UNITED STATES COURT OF APPEALS  
FOR THE DISTRICT OF COLUMBIA CIRCUIT

State of Vermont, et al.,

Petitioners,

Case No. 15-1279

vs.

U.S. Nuclear Regulatory Commission  
and United States of America,

September 2, 2015

Respondents.

**ENERGY NUCLEAR VERMONT YANKEE, LLC AND**  
**ENERGY NUCLEAR OPERATIONS, INC.**  
**MOTION FOR LEAVE TO INTERVENE**

Pursuant to 28 U.S.C. § 2348, Rules 15(d) and 27 of the Federal Rules of Appellate Procedure, and Circuit Rules 15(b) and 27 for the United States Court of Appeals for the District of Columbia Circuit, Entergy Nuclear Vermont Yankee, LLC (“ENVY”) and Entergy Nuclear Operations, Inc. (“ENOI”) (collectively, “Entergy”) hereby move for leave to intervene in the above-captioned proceeding.

Entergy (both ENVY and ENOI) holds the Nuclear Regulatory Commission (“NRC”) operating license for the Vermont Yankee Nuclear Power Station (“Vermont Yankee”), which is located in Vermont. ENVY also is the owner of Vermont Yankee and its Decommissioning Trust Fund. Entergy has permanently ceased operations of Vermont Yankee, which is in the process of being decommissioned. ENOI submitted a request to the NRC on January 6, 2015 for

exemptions from the NRC regulations to allow (1) the use of a portion of the funds from ENVY's Vermont Yankee Decommissioning Trust Fund for certain costs for the management of irradiated fuel, and (2) disbursements for irradiated fuel management activities to be made without prior notice to the NRC. The NRC issued the requested exemptions on June 23, 2015. 80 Fed. Reg. 35,992.

The exemptions are the subject of the petition for review submitted by the State of Vermont, the Vermont Yankee Nuclear Power Corporation, and Green Mountain Power ("Petitioners") on August 13, 2015 in Case No. 15-1279. The Petitioners claim that the NRC acted arbitrarily, abused its discretion, and violated various statutes in approving the exemptions and not providing the Petitioners with an opportunity to participate in the process. Therefore, the Petitioners seek review of the NRC's decision to issue the exemptions.

Because ENOI was the applicant for the exemptions that are the subject of the petition for review and the exemptions impact the use of ENVY's Vermont Yankee Decommissioning Trust Fund, both ENOI's and ENVY's interests will be directly affected if the NRC's decision on the exemptions is set aside or suspended, because such an action would adversely affect the funding of Entergy's irradiated fuel management activities pursuant to the exemptions. Therefore, pursuant to 28 U.S.C. § 2348, Entergy may appear as of right in any proceeding to review the

underlying decision. Accordingly, Entergy respectfully requests leave to so appear as a respondent in support of the NRC's decision to issue the exemptions.

As further support, because Entergy holds the NRC operating license for Vermont Yankee, it is responsible for property that is the subject of this action, including Vermont Yankee's irradiated fuel. Moreover, the Petitioners have explicitly identified Vermont Yankee as the focus of the petition and have named ENOI as the recipient of the exemptions. If the request for relief were to be granted, then Entergy's interests with respect to the exemptions for Vermont Yankee could be substantially and adversely affected. Entergy, therefore, has a unique, direct, and substantial interest in this proceeding. The disposition of this action may as a practical matter impair or impede Entergy's ability to protect its interests. Entergy is the only party fully capable of asserting and protecting the unique interests that it has in the subject matter of this proceeding.

Finally, by filing this motion, Entergy does not necessarily concede that the petition for review is procedurally proper or within this Court's jurisdiction, and Entergy reserves all rights in that regard.

**WHEREFORE**, for the foregoing reasons, Entergy respectfully requests that this Court grant its leave to intervene in the above-captioned proceeding, with the full rights attendant thereto.

Respectfully submitted,

/s/ Brad Fagg

Brad Fagg

(Counsel of Record)

MORGAN, LEWIS & BOCKIUS LLP

1111 Pennsylvania Avenue, N.W.

Washington, D.C. 20004

(202) 739-5191

(202) 739-3001 (facsimile)

bfagg@morganlewis.com

Of Counsel:

Stephen J. Burdick

MORGAN, LEWIS & BOCKIUS LLP

1111 Pennsylvania Avenue, N.W.

Washington, D.C. 20004

(202) 739-5059

(202) 739-3001 (facsimile)

sburdick@morganlewis.com

*Counsel for Entergy Nuclear Vermont  
Yankee, LLC and Entergy Nuclear  
Operations, Inc.*

September 2, 2015

UNITED STATES COURT OF APPEALS  
FOR THE DISTRICT OF COLUMBIA CIRCUIT

State of Vermont, et al.,

Petitioners,

Case No. 15-1279

vs.

U.S. Nuclear Regulatory Commission  
and United States of America,

September 2, 2015

Respondents.

**ENERGY NUCLEAR VERMONT YANKEE, LLC AND**  
**ENERGY NUCLEAR OPERATIONS, INC.**  
**CERTIFICATIONS AND DISCLOSURES**

Pursuant to Rule 26.1 of the Federal Rules of Appellate Procedure and Circuit Rule 26.1, Entergy Nuclear Vermont Yankee, LLC and Entergy Nuclear Operations, Inc. hereby represent that they are the holders of the Nuclear Regulatory Commission operating license for the Vermont Yankee Nuclear Power Station, located in Vermont.

Entergy Nuclear Vermont Yankee, LLC further represents as follows:

Entergy Nuclear Vermont Yankee, LLC is a Delaware limited liability company formed to hold the assets of the Vermont Yankee Nuclear Power Station. Entergy Nuclear Vermont Yankee, LLC is a direct, wholly-owned subsidiary of Entergy Nuclear Vermont Investment Company, LLC, and an indirect, wholly-owned subsidiary of Entergy Nuclear Holding Company #3, LLC; Entergy Nuclear Holding Company, LLC; and Entergy Corporation. No other publicly held company has 10 percent or more equity interest in Entergy Nuclear Vermont Yankee, LLC.

Entergy Nuclear Operations, Inc. further represents as follows:

Entergy Nuclear Operations, Inc. is a Delaware corporation engaged principally in the business of operating nuclear power facilities owned by its affiliates in the northeastern United States. Entergy Nuclear Operations, Inc. is a direct, wholly-owned subsidiary of Entergy Nuclear Holding Company #2 and an indirect wholly owned subsidiary of Entergy Corporation. No other publicly held company has 10 percent or more equity interest in Entergy Nuclear Operations, Inc.

In addition, pursuant to Circuit Rules 27(a)(4) and 28(a)(1)(A), the undersigned counsel for Entergy Nuclear Vermont Yankee, LLC and Entergy Nuclear Operations, Inc. certifies as follows:

(1) The following parties participated before the U.S. Nuclear Regulatory Commission with respect to the exemption request that is the subject of Case No. 15-1279:

- Applicant: Entergy Nuclear Operations, Inc.
- Plant Licensees: Entergy Nuclear Vermont Yankee, LLC and Entergy Nuclear Operations, Inc.
- Agency: Staff of the Nuclear Regulatory Commission.

(2) The following parties appear before this Court with respect to Case No. 15-1279:

- Petitioners: The State of Vermont; the Vermont Yankee Nuclear Power Corporation; and Green Mountain Power.
- Respondents: U.S. Nuclear Regulatory Commission and the United States of America.

- Intervenor: Entergy Nuclear Vermont Yankee, LLC and Entergy Nuclear Operations, Inc.

Respectfully submitted,

/s/ Brad Fagg

Brad Fagg

(Counsel of Record)

MORGAN, LEWIS & BOCKIUS LLP

1111 Pennsylvania Avenue, N.W.

Washington, D.C. 20004

(202) 739-5191

(202) 739-3001 (facsimile)

bfagg@morganlewis.com

*Counsel for Entergy Nuclear Vermont  
Yankee, LLC and Entergy Nuclear  
Operations, Inc.*

September 2, 2015

UNITED STATES COURT OF APPEALS  
FOR THE DISTRICT OF COLUMBIA CIRCUIT

State of Vermont, et al.,

Petitioners,

Case No. 15-1279

vs.

U.S. Nuclear Regulatory Commission  
and United States of America,

September 2, 2015

Respondents.

**CERTIFICATE OF SERVICE**

Pursuant to Rule 25 of the Federal Rules of Appellate Procedure and Circuit Rule 25 of this Court, I, Stephen Burdick, hereby certify that, on September 2, 2015, the foregoing documents, “Entergy Nuclear Vermont Yankee, LLC and Entergy Nuclear Operations, Inc. Motion for Leave to Intervene” and “Entergy Nuclear Vermont Yankee, LLC and Entergy Nuclear Operations, Inc. Certifications and Disclosures,” were served on all parties or their counsel of record through the CM/ECF system, which will send a notice of electronic filing to the following individuals:



Grace H. Kim, Senior Attorney  
Andrew P. Averbach, Solicitor  
Office of the General Counsel  
U.S. Nuclear Regulatory Commission  
MS O-15D21  
11555 Rockville Pike  
Rockville, MD 20852-2738  
grace.kim@nrc.gov  
Andrew.averbach@nrc.gov  
Counsel for U.S. Nuclear Regulatory  
Commission

William H. Sorrell  
Attorney General  
Kyle H. Landis-Marinello  
Assistant Attorney General  
State of Vermont  
Office of the Attorney General  
109 State Street  
Montpelier, VT 05609-1001  
kyle.landis-marinello@vermont.gov  
Counsel for State of Vermont

Robert C. Kirsch  
Felicia H. Ellsworth  
Wilmer Cutler Pickering Hale and Dorr  
LLP  
60 State Street  
Boston, MA 02109  
robert.kirsch@wilmerhale.com  
felicia.ellsworth@wilmerhale.com  
Counsel for State of Vermont

Peter H. Zamore  
Sheehey Furlong & Behm P.C.  
30 Main Street, Gateway Sq, 6th Fl  
P.O. Box 66  
Burlington, VT 05402  
pzamore@sheeheyvt.com  
Counsel for Vermont Yankee  
Nuclear Power Corporation

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

Pursuant to Electronic Case Filing Rule ECF-6 and Circuit Rules 25(d) and 27(b), on September 2, 2015, I also submitted four paper copies of these documents by First Class Mail addressed to the Clerk.

/s/ Stephen Burdick  
Stephen J. Burdick  
(Of Counsel)  
MORGAN, LEWIS & BOCKIUS LLP  
1111 Pennsylvania Avenue, N.W.  
Washington, D.C. 20004  
(202) 739-5059  
(202) 739-3001 (facsimile)  
sburdick@morganlewis.com

*Counsel for Entergy Nuclear Vermont  
Yankee, LLC and Entergy Nuclear  
Operations, Inc.*

DB1/ 84428343