

STATE OF VERMONT  
PUBLIC SERVICE BOARD

Petition of Entergy Nuclear Vermont Yankee, LLC, and )  
Entergy Nuclear Operations, Inc., for a certificate of public )  
good authorizing the construction of a second independent )  
spent fuel storage installation storage pad and related )       Docket 8300  
improvements, including installation of a new diesel generator )  
with an electrical rating of approximately 200kW, at the )  
Vermont Yankee Nuclear Power Station in the Town of )  
Vernon, Vermont )

RESPONSE OF THE WINDHAM REGIONAL COMMISSION TO ENTERGY NUCLEAR  
VERMONT YANKEE'S FIRST SET OF DISCOVERY REQUESTS

This is the response of the Windham Regional Commission (WRC) to Entergy Nuclear Vermont Yankee, LLC, and Entergy Nuclear Operations, Inc. (collectively "Entergy VY") first set of discovery requests. WRC is filing one complete set of our responses with the Board with one set with Entergy VY and one copy served on each other party of record.

GENERAL OBJECTIONS:

1. WRC objects to the requests to the extent that they (a) are overbroad or unduly burdensome; (b) call for the production of documents not in the possession, custody or control of WRC; (c) call for the review, compilation, or production of publicly available documents that could be obtained by the requesting party in a less burdensome manner, including on a public website; (d) call for the review, compilation and/or production of documents already in Entergy VY's possession, custody, or control; (e) are vague and/or ambiguous; (f) call for the review, compilation, or production of a voluminous number of documents at great expense to WRC.

## Discovery Questions

Q.EN.WRC.1-CC-1: Identify and produce all exhibits to be introduced or used at hearing in support of Mr. Campany's prefiled testimony in this proceeding.

A.EN.WRC.1-CC-1: WRC has not determined what exhibits will be used throughout the technical hearings. WRC reserves the right to introduce exhibits at its discretion while cross examining witnesses. WRC may use Response of Entergy Nuclear Vermont Yankee, LLC, and Entergy Nuclear Operations, Inc., to the Department of Public Service's First Set of Information Requests filed by Entergy VY in Docket 8300 on June 17, 2015 and Windham Regional Commission Comments RE: Entergy CY Petition for a Certificate of Public Good for a Second Spent Fuel Storage Facility filed by WRC in Docket 8300 on August 13, 2014, in support of its prefiled testimony. As these exhibits should already be in the possession of Entergy VY they will not be produced here.

Person Responsible for Response: Chris Campany  
Title: Executive Director  
Date: September 29, 2015

Q.EN.WRC.1-CC-2: Identify, list and produce all documents, data compilations, workpapers, or other tangible things provided to, prepared by, reviewed by, relied upon or used by Mr. Campany in developing his prefiled testimony, including the exhibits to his prefiled testimony.

A.EN.WRC.1-CC-2: WRC used Response of Entergy Nuclear Vermont Yankee, LLC, and Entergy Nuclear Operations, Inc., to the Department of Public Service's First Set of Information Requests filed by Entergy VY in Docket 8300 on June 17, 2015 and Windham Regional Commission Comments RE: Entergy CY Petition for a Certificate of Public Good for a Second Spent Fuel Storage Facility filed by WRC in Docket 8300 on August 13, 2014, in developing its prefiled testimony. As these documents should already be in the possession of Entergy VY they will not be produced here.

Person Responsible for Response: Chris Campany  
Title: Executive Director  
Date: September 29, 2015

Q.EN.WRC.1-CC-3: With respect to the witnesses for whom prefiled testimony was submitted and who were identified as an expert in this proceeding, to the extent not already produced: (i) Produce a curriculum vitae or resume; (ii) Identify and produce all publications authored by the witness within the preceding ten years; (iii) Identify all matters in the last five years in which the witness has testified as an expert at hearing or trial, or by deposition, in the preceding five years and identify, list and produce any transcripts, affidavits, testimony or other written statements by the witness in connection with the matters.

A.EN.WRC.1-CC-3: OBJECTION: By this reference, WRC incorporates General Objection 1. Specifically, this request seeks information that is overly broad and is of limited importance to the issues in this docket. Mr. Campany represents the WRC as its Executive Director and does not claim, and has not claimed, to be an expert witness.

Person Responsible for Response: Chris Campany  
Title: Executive Director  
Date: September 29, 2015

Q.EN.WRC.1-CC-4: At page 18 of Mr. Campany's prefiled testimony, he states (at lines 5-7) that "ENO will have ongoing revenue even after the [VY] Station ceases producing electricity...."

a. State in detail WRC's understanding of ENO's sources of ongoing revenue, the amount of such revenue and the amount of such revenue that is offset by costs.

b. Identify, list and produce all documents relied upon to support WRC's response to (a).

A.EN.WRC.1-CC-4: WRC does not have detailed knowledge of ENO's sources of ongoing revenue. It is our understanding from an organizational chart showing the legal affiliate relationship between the entities that are involved in the management of Vermont Yankee Nuclear Power Station and the Decommissioning Trust Fund contained within the Report of the State Auditor, Entergy Nuclear Vermont Yankee, Monitoring and Management of the Decommissioning Trust Fund, August 31, 2010, Report Number 10-06, (Appendix III, page 36) that Entergy Nuclear Operations, Inc. is a subsidiary of Entergy Nuclear Holding Company #2, which is in turn a subsidiary of Entergy Corporation, and that ENO is the "licensed operator for 8 nuclear power plants." It is our logical assumption that as the operator of additional nuclear power plants other than Vermont Yankee that ENO has ongoing revenue even after Vermont Yankee ceases producing electricity. The document referenced here is in the public domain and is therefore not produced here.

Person Responsible for Response: Chris Campany

Title: Executive Director

Date: September 29, 2015

Q.EN.WRC.1-CC-5: At page 18 of Mr. Campany's prefiled testimony, he states (at lines 9-11) that the Board should "hold Entergy Corporation, as the parent, ultimately responsible for all future spent fuel management costs that are not reimbursed by DOE."

a. State in detail the basis for WRC's position that Entergy Corporation should be held liable for such costs.

b. Identify, list and produce all documents relied upon to support WRC's response to (a).

A.EN.WRC.1-CC-5: It is and has been the position of the WRC that it is in the best interest of the orderly development of the region that the Vermont Yankee site be restored to greenfield status as soon as possible so that it may be reused. Entergy Corporation is the corporate parent of both ENVY and ENO. Each benefitted directly through the operation of the Station. It is logic and the WRC's interest in the public good of Vermont Yankee's host region that dictate our position that ENVY, ENO, and Entergy Corporation should be held jointly and severally responsible for all costs related to decommissioning, spent fuel management, and site restoration, the reason being that in the event one of the responsible entities is not capable of meeting its obligations, the others should be held fully liable. Spent fuel management costs not reimbursed by the DOE should not be a reason or cause for delayed spent fuel management, decommissioning, site restoration, and the return of the site to reuse. We need not rely on any documents to support our fair and rational conclusion.

Person Responsible for Response: Chris Campany  
Title: Executive Director  
Date: September 29, 2015

Q.EN.WRC.1-CC-6: At page 18 of Mr. Campany's prefiled testimony, he states (at lines 1-4) that WRC has made "extensive prior arguments that both ENVY and ENO have jointly operated the [VY] Station for more than 12 years, and made decisions regarding operations and spent fuel management on behalf of and with the direct oversight of Entergy Corporation" and that the Board should hold Entergy Corporation, "as the parent, ultimately responsible for all future spent fuel management costs that are not reimbursed by DOE."

a. Identify and list all documents containing WRC's "prior arguments," made before Board Docket 7082, in which it argued that Entergy Corporation's relationship to both ENVY and ENO with respect to management of the VY Station's spent fuel warranted liability for such management to any entity other than ENVY and ENO, including specifically Entergy Corporation.

b. Produce all documents identified in WRC's response to (a).

c. Admit that WRC was established in 1965.

d. Admit that there was no legal obstacle to WRC seeking to participate as a party in Docket 6545.

e. Admit that WRC did not seek to participate as a party in Docket 6545 before July 31, 2002.

f. Identify any and all "prior arguments" made by WRC to the Public Service Board in Docket 6545 before July 31, 2002 as to the respective liability of ENVY, ENO and Entergy Corporation with respect to the operation and decommissioning of the VY Station.

g. List and produce all documents identified and/or relied upon to support WRC's response(s) to subsections (a) through (f).

A.EN.WRC.1-CC-6a: To the best of Mr. Campany's knowledge the WRC made no such argument before Board Docket 7082.

A.EN.WRC.1-CC-6b: As Mr. Campany is not aware that the WRC made such an argument before Board Docket 7082, there are no documents to be produced.

A.EN.WRC.1-CC-6c: The WRC was established in 1965 as the Windham Regional Planning Commission.

A.EN.WRC.1-CC-6d: To the best of Mr. Campany's knowledge there was no legal obstacle to WRC seeking to participate as a party in Docket 6545.

A.EN.WRC.1-CC-6e: To the best of Mr. Campany's knowledge the WRC did not seek to participate as a party in Docket 6545 before July 31, 2002.

A.EN.WRC.1-CC-6f: To the best of Mr. Campany's knowledge the WRC did not make arguments to the Public Service Board in Docket 6545 before July 31, 2002 as to the respective liability of ENVY, ENO and Entergy Corporation with respect to the operation and decommissioning of the VY Station.

A.EN.WRC.1-CC-6g: Regarding A.EN.WRC.1-CC-6c, the history of the WRC's founding can be found in the document The Windham Regional Commission Celebrating 50 Years 1965-2015, which is available on the WRC website.

Person Responsible for Response: Chris Campany  
Title: Executive Director  
Date: September 29, 2015



Q.EN.WRC.1-CC-7: At pages 12-13 of Mr. Company's prefiled testimony, he states (at page 12, lines 9-10) that "Entergy VY apparently intends to pay these costs [for spent fuel storage pads] from the Decommissioning Trust Fund and the Site Restoration Fund and then hope for reimbursement from DOE, which is not assured"; (at page 13, lines 3-6) that Entergy VY deferred "costs for a second consolidated pad to the post-operation period such that those costs would likely be assigned to the Decommissioning Trust Fund"; and (at page 13, lines 7-9) that "Entergy VY elected to sell property in the area known as the 'North 40' to VELCO for a switchyard, raising capital for itself, but potentially rendering that area unsuitable for a consolidated ISFSI."

a. State in detail all information known to WRC that supports the statements by Mr. Company quoted in Q.EN.WRC.1-CC-7.

b. Admit that WRC was a party to Vermont Public Service Board Docket 7373, *Joint Petition of Vermont Electric Power Company, Inc., Vermont Transco, LLC, and Central Vermont Public Service Corporation for a certificate of public good pursuant to 30 V.S.A. Section 248, authorizing the construction of the Southern Loop Transmission Project.*

c. Admit that WRC did not appeal or otherwise challenge the Vermont Public Service Board's February 11, 2009, findings of fact and order in Docket 7373.

d. Identify all statements by WRC that the Vernon Substation for which a certificate of public good was requested by Vermont Electric Power Company, Inc., Vermont Transco, LLC and Central Vermont Public Service Corporation in Docket 7373 was not needed for reliability purposes.

e. Identify all statements by WRC in Docket 7373, made in prefiled testimony or in any other filing in that docket, that any funds received by Entergy VY from the sale and/or lease of property at the VY Station site in connection with construction of the Vernon Substation should be set aside by Entergy VY to fund later decommissioning of the plant.

f. State in detail WRC's understanding of (a) which costs of constructing the first ISFSI pad were recovered by Entergy VY from DOE and (b) how such recovery affects the likelihood of recovery of the costs related to the construction of the second ISFSI proposed in this docket.

g. Identify all statements by WRC made in any filing in Docket 7082 or otherwise with respect to that docket that the Board should condition the issuance of a certificate of public good to construct the first ISFSI on Entergy VY's commitment to pre-fund the cost of any future ISFSI construction, required to decommission the plant, from operating revenues received prior to shutdown.

h. State in detail WRC's understanding of how Entergy VY intends to fund spent fuel management at the VY Station.

i. List and produce all documents identified and/or relied upon to support WRC's response(s) to subsections (a) through (h).

A.EN.WRC.1-CC-7a: Concerning WRC's statement that "Entergy VY apparently intends to pay these costs [for spent fuel storage pads] from the Decommissioning Trust Fund and the Site Restoration Fund," we could cite numerous documents but will point to the Supplemental Prefiled Testimony and Exhibits of T. Michael Twomey filed in Docket 8300 on May 11, 2015.

Concerning WRC's statement that reimbursement from the DOE is not assured, we directed the reader of our prefiled testimony to the 2<sup>nd</sup> paragraph on page 10 of our Reply Brief in Docket 7862 filed on October 25, 2013. The referenced paragraph is provided here, along with footnoted citations of source documents.

Entergy VY has also asked the Board to "conclude that costs incurred for Spent Nuclear Fuel (SNF) management will be recovered from the Federal Government,"<sup>1</sup> but full recovery is far from assured. In its initial brief Entergy VY discussed spent fuel management expenses and quoted Entergy VY witness Michael Twomey stating that at trial Entergy VY was awarded \$46,645,454 from DOE for damages through April 30, 2008, but he makes no mention of what its initial claim was. On appeal the award was reduced to approximately \$40 million, a cut of more than \$6 million which represents roughly 13% of the original damage award.<sup>2</sup> We understand the previously disallowed expenses may be limited to capital costs, required payments into a Clean Energy Development Fund, construction of a visual barrier, and a flood analysis,<sup>3</sup> and we recognize there may be future costs that are similarly rejected. We see the litigation

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<sup>1</sup> Docket 7862, Entergy VY initial brief, 8/16/13, page 40; Entergy VY *Proposal for Decision*, finding 744, 753

<sup>2</sup> Docket 7862, Entergy VY initial brief, 8/16/13, page 39; Docket 7862, PWT, 6/29/12, Twomey, page 19, line 9

<sup>3</sup> Docket 7862, PWT, 6/29/12, Twomey, page 19, line 15 and footnote 5

landscape regarding recoverable expenses as unsettled, and reject Entergy VY's assertion that all or most of the costs for SNF management will be recovered and not absorbed by the Decommissioning Trust Fund. Entergy VY has budgeted as much as \$502.9 million for spent fuel management,<sup>4</sup> and if the award for future damages is reduced by 13% the unreimbursed expenses could be as high as \$65 million. While WRC sees this level of unreimbursed expenses as unlikely, prudence requires that the Decommissioning Trust Fund be sufficient to allow for disallowed expenses at this level.

Concerning WRC's statement that that Entergy VY deferred "costs for a second consolidated pad to the post-operation period such that those costs would likely be assigned to the Decommissioning Trust Fund," the WRC will again point to the Supplemental Prefiled Testimony of Michael Twomey filed in Docket 8300 on May 11, 2015. Had the costs for a second consolidated pad been provided for while the plant was still in operation, the need to now draw funds from the decommissioning trust, as well as other sources detailed in Mr. Twomey's Supplemental Prefiled Testimony, would not be necessary.

Concerning WRC's statement that "Entergy VY elected to sell property in the area known as the 'North 40' to VELCO for a switchyard, raising capital for itself, but potentially rendering that area unsuitable for a consolidated ISFSI," WRC refers to Entergy VY's Decommissioning Cost Analysis, January 2007, section 2 page 4 of 12, bullet 1:

Construct the "North 40" ISFSI (Scenarios 1,3,4,5,7,8). Relocate the spent fuel storage pool assemblies and the fuel in the PA ISFIS so that decommissioning (or safe storage preparations) can proceed on the power block structures.

A.EN.WRC.1-CC-7b: The WRC was a party to Vermont Public Service Board Docket 7373, *Joint Petition of Vermont Electric Power Company, Inc., Vermont Transco, LLC, and Central Vermont Public Service Corporation for a certificate of public good pursuant to 30 V.S.A. Section 248, authorizing the construction of the Southern Loop Transmission Project.*

A.EN.WRC.1-CC-7c: The WRC did not appeal or otherwise challenge the Vermont Public Service Board's February 11, 2009, findings of fact and order in Docket 7373.

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<sup>4</sup> Docket 7862, EN-TLG-2, Decommissioning Cost Analysis, February 2012, page xix, scenario 2, cessation of operations in 2012, spent fuel off site in 2082.

A.EN.WRC.1-CC-7d: To the best of Mr. Campany's knowledge the WRC made no statements that the Vernon Substation for which a certificate of public good was requested by Vermont Electric Power Company, Inc., Vermont Transco, LLC and Central Vermont Public Service Corporation in Docket 7373 was not needed for reliability purposes.

A.EN.WRC.1-CC-7e: Mr. Campany is aware of no statements by the WRC in Docket 7373, in prefiled testimony or in any other filing in that docket, that any funds received by Entergy VY from the sale and/or lease of property at the VY Station site in connection with construction of the Vernon Substation should be set aside by Entergy VY to fund later decommissioning of the plant.

A.EN.WRC.1-CC-7f: Concerning WRC's understanding of (a) which costs of constructing the first ISFSI pad were recovered by Entergy VY from DOE and (b) how such recovery affects the likelihood of recovery of the costs related to the construction of the second ISFSI proposed in this docket, the WRC refers back to A.EN.WRC.1-CC-7a.

A.EN.WRC.1-CC-7g: Mr. Campany is aware of no statements by the WRC in any filing in Docket 7082 or otherwise with respect to that docket that the Board should condition the issuance of a certificate of public good to construct the first ISFSI on Entergy VY's commitment to pre-fund the cost of any future ISFSI construction, required to decommission the plant, from operating revenues received prior to shutdown.

A.EN.WRC.1-CC-7h: The WRC's understanding of how Entergy VY intends to fund spent fuel management at the VY Station is most recently based upon the Supplemental Prefiled Testimony of Michael Twomey filed in Docket 8300 on May 11, 2015.

A.EN.WRC.1-CC-7i: All documents identified and/or relied upon to support WRC's response(s) to subsections (a) through (h) have been cited above. As these documents should already be in the possession of Entergy VY or have been previously filed with the Board in other dockets and are thus readily available to Entergy VY, they will not be produced here.

Person Responsible for Response: Chris Campany  
Title: Executive Director  
Date: September 29, 2015