

STATE OF VERMONT  
PUBLIC SERVICE BOARD

Petition of Entergy Nuclear Vermont Yankee, )  
LLC and Entergy Nuclear Operations, Inc., for a )  
certificate of public good, pursuant to 30 V.S.A. )  
§ 248 and 10 V.S.A. § 6522, authorizing the )  
construction of a second independent spent fuel )                   Docket No. 8300  
storage installation storage pad and related )  
improvements, including installation of a new )  
diesel generator with an electrical rating of )  
approximately 200 kW, at the Vermont Yankee )  
Nuclear Power Station in the Town of Vernon, )  
Vermont )

RESPONSE OF ENTERGY NUCLEAR VERMONT YANKEE, LLC, AND  
ENTERGY NUCLEAR OPERATIONS, INC., TO THE NEW ENGLAND COALITION, INC.

This is the response of Entergy Nuclear Vermont Yankee, LLC (“ENVY”), and Entergy Nuclear Operations, Inc. (“ENO”), (ENVY and ENO will be referred to collectively as “Entergy VY”) to the New England Coalition, Inc. (“NEC”), Third Set of Information Requests. Entergy VY is filing one complete copy of their responses with the Board, with two copies served on NEC (plus an electronic copy in Word format) and one copy served on each other party of record.

GENERAL OBJECTIONS:

1. Entergy VY objects to the “Instructions” contained in the NEC’s Third Set of Information Requests to the extent such instructions purport to place greater requirements on Entergy VY or reserve greater rights to NEC than are permitted by the Vermont Rules of Civil Procedure, as made applicable to Board proceedings by Board Rule 2.214(A).
2. Entergy VY objects to any request for information or production of documents that is or are subject to the attorney-client privilege, constitute work product, are protected under state or federal law or are proprietary or confidential, constitute draft and/or non-final documents and/or communications containing or concerning same. Consistent with the foregoing, Entergy VY has not provided documents from inside or outside counsels’ files.
3. Entergy VY objects to the requests to the extent that they (a) are overbroad or unduly burdensome; (b) are cumulative; (c) call for the production of documents not in the possession, custody or control of Entergy VY; (d) 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; (e) call for the review, compilation and/or production of documents already in NEC’s possession, custody, or control; (f) are vague and/or ambiguous; (g) seek information not reasonably calculated to lead to the discovery of admissible evidence; or (h)

call for the review, compilation, or production of a voluminous number of documents at great expense to Entergy VY.

4. Entergy VY objects to the purported requirement that it identify the person who prepared each document produced and the date on which the document was prepared as being unduly burdensome and beyond the requirements of the discovery rules.

5. Entergy VY objects to any requests for documents or information beyond the scope of this tribunal's jurisdiction, including without limitation to the extent that (a) primary jurisdiction rests more properly with, and/or actually has been exercised by, another agency or tribunal, or (b) the document, legal issue or factual information in question has been otherwise determined by another agency or tribunal of competent jurisdiction.

6. Entergy VY objects to any request for documents or information relating to matters within the primary or exclusive jurisdiction of the U.S. Nuclear Regulatory Commission ("NRC"). Entergy VY will respond to NEC's requests herein noting its continued objection to the State of Vermont's assertion of jurisdiction over matters for which the federal government and the NRC have exclusive jurisdiction, including such exercise of its jurisdiction under Section 248 of Title 30, Vermont Statutes Annotated and Chapter 157 of Title 10, Vermont Statutes Annotated.

7. Each of these General Objections shall be incorporated by reference into the below-referenced objections and responses as if expressly restated therein. Entergy VY does not hereby waive any objections and reserves the right to later raise any additional, available objection.

**Requests to George Thomas**

**Discovery Questions**

Q.NEC:EN.GT.3-1: Regarding Thomas' pre-filed rebuttal answer 17 at page 11, line 4:

- A. Please provide any analyses, data, conclusions, criteria, reports, memos, maps, drawings, diagrams, illustrations, studies, rubric or any other document used or made in identifying, excluding, or selecting potential locations on and off site including cost comparisons and results of surveys or other documents indicating public and other stakeholder opinion with respect to siting.
- B. Provide the identity (name, title, organization) of all employees, contractors and subcontractors of those involved in the decision making process of the location selection and exclusions of potential locations on and off site. Include a timeline of the decision making process.
- C. At Line 7: Was the right of way issue as discussed the only reason the north and east side was not selected? Provide all evidence of an attempt to mitigate the preclusion of this location in addition to the documents requested in question 1(A) above.
- D. At Line 9: Were the aesthetics and radiation issues as discussed the only reasons the west side was not selected? Provide all evidence of an attempt to mitigate the preclusion of this location in addition to the documents requested in question 1(A) above.
- E. At Line 13: Why is the release of radiation an issue in siting the pad on the west side? Provide the studies or data showing where the release would cease to be a concern.
- F. At Line 19: Were the West Cooling Tower Deep Basin, Vertical Cask Transporter path, aesthetics and radiation issues as discussed the only reasons the south side was not selected? Provide all evidence of an attempt to mitigate the preclusion of this location in addition to the documents requested in question 1(A) above. Also provide documents showing which properties would be affected by the lighting and provide objective lighting criteria used in evaluating ISFSI siting at Vermont Yankee.
- G. At Line 4, Page 12: Why is the release of radiation an issue in siting the pad on the south side? Provide the studies or data showing where the release would cease to be a concern due to proximity to neighboring properties.
- H. Would the presence or absence of plant structures affect the aesthetic impacts of the proposed ISFSI after decommissioning the VY nuclear power station? If you are working with the assumption that the ISFSI will be emptied of spent fuel prior to

plant license termination, please provide all supporting documents for that assumption.

A.NEC:EN.GT.3-1: OBJECTION. By this reference, Entergy VY incorporates General Objection 6. Specifically, this request seeks production of documents related to spent nuclear fuel management, which is within the NRC's primary or exclusive jurisdiction. Entergy VY objects to this request as overly broad, unduly burdensome, and vague. Entergy further objects to this request on the grounds that it is not reasonably limited in scope and seeks information that is outside the scope of NEC's permitted intervention in this proceeding, as set forth in the Board's July 7, 2015 Order Re: Motions to Intervene. Entergy VY further objects to this request to the extent it seeks information that is protected by the attorney-client privilege or attorney work product doctrine.

Without waiving any objection, Entergy VY responds:

A. See A.NEC:EN.1-10 and the Attachments provided therewith. Entergy VY reviewed and discussed internally the potential site location options but did not prepare any formal analyses, reports or other documentation regarding alternative locations.

See Attachment A.NEC:EN.GT.3-1.A.

B. On Tuesday 9/10/2013, a meeting and site tour were conducted to review the potential locations for the 2nd ISFSI storage pad.

Attendees were the following Entergy VY employees:

Robert Smith, Vice President Decommissioning  
Kenneth Swanger, Dry Fuel Storage Project Manager  
Scott Dorval, Radiation Protection Supervisor  
Brian Copperthite, Security Supervisor  
George Thomas, Senior Project Manager

Following the meeting and site tour, the decision was made to locate the second ISFSI storage pad to the west of the existing storage pad in the Vermont Yankee Nuclear Power Station's ("VY Station") Protected Area, as currently proposed.

C. No. There are a number of reasons that contributed to that decision. Please refer to the initial prefiled testimony of George Thomas dated June 30, 2014, describing other reasons for not locating the second ISFSI pad elsewhere on the VY Station site. It is not possible to locate an ISFSI within a high-voltage transmission line right-of-way due to National Electric Safety Code (NESC) requirements for an appropriate clearance between energized high-voltage lines and structures or other objects and because doing so would present an unacceptable hazard to the ISFSI. Excluding locations beneath the existing 345 kV and 115 kV lines, there is insufficient

land to construct an ISFSI pad in this location. There are no reasonable mitigation measures for this location available within Entergy VY's control.

D. No. There are a number of reasons that contributed to that decision. Please refer to the initial prefiled testimony of George Thomas dated June 30, 2014, describing other reasons for not locating the second ISFSI elsewhere on the VY Station site. There are no reasonable mitigation measures for this location available within Entergy VY's control.

E. OBJECTION. Entergy VY further objects that the request seeks the production of confidential and propriety information of Entergy VY's vendor, Holtec International. Upon the entry of an appropriate Protective Order in this proceeding and subject to and in accordance with the terms of the June 18, 2015 Protective Agreement, Entergy VY will make the report of Holtec International's radiological dose engineering calculations available for inspection, subject to the restrictions and procedures required by Holtec International.

Without waiving any objection, Entergy VY responds:

At the time that the location of the second ISFSI pad was selected, there were concerns that locating an ISFSI along the west edge of the VY site would result in elevated radiation levels (as compared to the chosen location) at the residential properties located along Governor Hunt Road. Subsequent to site selection, Holtec International provided a report of the radiation dose rates as a function of distance from the chosen location of the ISFSI pad that confirmed that locating an ISFSI west of the Vernon Substation would result in unacceptable radiation dose rates at those properties.

F. No. There are a number of reasons that contributed to that decision. Please refer to the initial prefiled testimony of George Thomas dated June 30, 2014, describing other reasons for not locating the second ISFSI elsewhere on the VY Station site. There are no reasonable mitigation measures for this location available within Entergy VY's control.

G. OBJECTION. Entergy VY further objects that the request seeks the production of confidential and propriety information of Entergy VY's vendor, Holtec International. Upon the entry of an appropriate Protective Order in this proceeding and subject to and in accordance with the terms of the June 18, 2015 Protective Agreement, Entergy VY will make the report of Holtec International's radiological dose engineering calculations available for inspection, subject to the restrictions and procedures required by Holtec International.

Without waiving any objection, Entergy VY responds:

At the time that the location of the second ISFSI pad was selected, there were concerns that locating an ISFSI south of the cooling towers would result in elevated radiation levels (as compared to the chosen location) at the residential properties located along Governor Hunt Road. Subsequent to site selection, Holtec International provided a report of the radiation dose rates as a function of distance from the chosen location of the ISFSI pad that confirmed that

locating an ISFSI on the south side of the VY site would result in unacceptable radiation dose rates at those properties.

H. OBJECTION. Entergy VY further objects that the requests seeks the production of an enormous amount of information that is of limited importance to the issues in this docket at substantial expense to Entergy VY.

Without waiving any objection, Entergy VY responds:

Regarding the first portion of the question, please refer to the prefiled testimony of Harry Dodson dated June 30, 2014, in which he explains that he analyzed the aesthetic impacts of the proposed ISFSI under three scenarios: first, with the VY Station in place as it currently exists; second, a simulation of the project without the buildings and structures that will likely be removed during decommissioning; and third, a simulation of the project without buildings and structures that will likely be removed during decommissioning, except certain facilities that could remain for potential reuse of the site. Please also refer to the supplemental prefiled testimony of Harry Dodson dated May 11, 2015, in which he updates the simulations and analysis for each scenario. Mr. Dodson concludes that under each scenario, the project will not have an adverse impact on the aesthetics of the area.

Regarding the second sentence of the question, the aesthetic analysis does not include any assumptions regarding the date that spent fuel will be removed from the site. Additionally, please see the responses and objections stated in A.NEC:EN.1-4, A.NEC:EN.1-13, A.NEC:EN.1-14, A.NEC:EN.1-21 and Attachments provided therewith and referenced therein.

Person Responsible for Response: George Thomas; Harry L. Dodson; T. Michael Twomey  
Title: Senior Project Manager; Principal, Dodson & Flinker Inc.; Vice President, External  
Affairs, EWC; Vice President, ENOI  
Date: November 24, 2015

Q.NEC:EN.GT.3-2: At Line 9: Provide all support for your statement "I estimate that such activities would take several years," especially considering the availability of subsurface geological maps and other previously performed site assessments. Please quantify what you intend by "several years." In your opinion is there any practical way to shorten the estimated time? Please provide support for your answer.

A.NEC:EN.GT.3-2: OBJECTION. The reference to "Line 9" is vague and ambiguous.

Without waiving any objection, Entergy VY responds:

Assuming the question refers to Page 12, Line 13, the expected schedule for constructing a pad based on the existing design in a different location would, at a minimum, include approximately:

- One year to complete soil characterization and engineering design;
- One year to obtain a Certificate of Public Good;
- Two years to construct the pad.

The entire process would take at least approximately four years. There is no practical way to meet NRC requirements for an ISFSI pad with a shorter schedule, particularly given numerous uncertainties that may be encountered throughout each step in the process.

See Entergy VY's response A.DPS:EN.1-15 and the Attachments provided therewith and referenced therein.

Person Responsible for Response: George Thomas  
Title: Senior Project Manager  
Date: November 24, 2015

Q.NEC:EN.3-3: At Line 21: Provide any NRC regulation or law citations which would prevent you (Entergy VY, Entergy Nuclear Operations, et al.) from exploring offsite locations for interim storage. Provide any NRC regulation or law citations which would prevent you from applying for a stand-alone single-plant interim waste storage site license.

A.NEC:EN.3-3: OBJECTION. The request calls for a legal conclusion. Entergy VY further objects that the reference to "Line 21" is vague and ambiguous.

Without waiving any objection, Entergy VY responds:

Assuming the question refers to Page 12, Line 21, see Entergy VY's responses to A.NEC:EN.1-20, A.NEC:EN.2-3 and A.NEC:EN.2-10 and the objections stated therein. As referenced in those responses, Entergy VY's affiliates are participants in Private Fuel Storage, LLC, that after nearly 10 years of effort obtained a license from the NRC to construct and operate a spent fuel storage facility in Utah, but that was unable to develop that facility after the U.S. Department of the Interior issued decisions blocking the project. Entergy VY's affiliates invested approximately \$1.6 million to support Private Fuel Storage, LLC's efforts to develop an interim spent fuel storage facility.

Person Responsible for Response: George Thomas; T. Michael Twomey  
Title: Senior Project Manager; Vice President, External Affairs, EWC; Vice President, ENOI  
Date: November 24, 2015



**Requests to T. Michael Twomey**

Q.NEC:EN.TMT.3-4: At Page 1, A-1: What are your duties as "Vice-President of External Affairs"

- A. Have you experience in decommissioning? If so please provide an outline of that experience with relevant documentation.
- B. Have you experience in ISFSI siting and construction? If so please provide an outline of that experience with relevant documentation.

A.NEC:EN.TMT.3-4: As Vice-President of External Affairs, I am part of the executive team responsible for achieving the business objectives of Entergy's wholesale business. On a day-to-day basis, I am directly involved in strategic policy development, state and federal government affairs issues, and communications issues.

A. I am responsible for being knowledgeable about many of the regulatory aspects of the nuclear plants in Entergy's wholesale business, including the VY Station. Prior to my involvement with the VY Station, I did not have responsibility for the regulatory aspects of any nuclear plant being decommissioned.

B. I have not had responsibility for ISFSI siting and construction at any plant. George Thomas and others are responsible for ISFSI siting and construction for the VY Station although I am responsible for some of the associated regulatory aspects of such siting and construction, including the aspects covered in my prefiled testimony and the discovery responses for which I am responsible.

Person Responsible for Response: T. Michael Twomey  
Title: Vice President, External Affairs, EWC; Vice President, ENOI  
Date: November 24, 2015

Q.NEC:EN.TMT.3-5: At Page 2, Line 1:

Regarding your statement that adequate financial assurance exists for management of spent fuel, please explain how the total sum needed can be accurately predicted if there is no date certain for removal of spent fuel and subsequently the spent fuel casks? Please provide any documentation in support of your opinion/assertion.

A.NEC:EN.TMT.3-5: OBJECTION. By this reference Entergy VY incorporates General Objection 6. Specifically, this request seeks information and production of documents related to Entergy VY's financial soundness and spent nuclear fuel management, which are within the federal government's and the NRC's primary or exclusive jurisdiction.

Without waiving any objection, Entergy VY responds:

The date in the future when DOE removes the spent fuel will not significantly affect Entergy VY's financial ability to assure that it can manage the spent fuel on-site. As long as spent fuel has to be stored on the VY Station site, Entergy VY expects that it will recover the costs associated with such storage from the DOE because those costs will result from the DOE's breach of its contractual obligation to remove the spent fuel from the site.

Entergy VY refers to the following documents that support its financial ability to manage spent fuel:

1. Entergy VY's Post-Shutdown Decommissioning Activities Report, available at <http://vydecommissioning.com/wp-content/uploads/2014/12/BVY-14-078-PSDAR-and-Decommissioning-Cost-Estimate1.pdf>
2. Entergy VY's Update to Irradiated Fuel Management Program, dated December 19, 2015, available at <http://vydecommissioning.com/wp-content/uploads/2014/12/BVY-14-085-Update-to-Irradiated-Fuel-Management-Program.pdf>
3. Entergy VY's Request for Exemptions from 10 CFR 50.82(a)(8)(i)(A) and 10 CFR 50.75(h)(1)(iv), dated January 6, 2015, available at <http://vydecommissioning.com/wp-content/uploads/2015/01/BVY-15-002-Commingle-Funds-Exemption-Request.pdf>
4. NRC's letter, dated June 16, 2015, re Request for Public Participation on Entergy VY's Decommissioning Trust Fund Exemption Request, available at <http://vydecommissioning.com/wp-content/uploads/2015/08/NRC-Response-to-State-of-VT-Letters-6-16-15.pdf>
5. NRC's letter, dated June 17, 2015, re Exemptions from the Requirements of 10 CFR Part 50, Sections 50.82(a)(8)(i)(A) and 50.75(h)(1)(iv), available at <http://vydecommissioning.com/wp-content/uploads/2015/06/ML15128A219.pdf>
6. NRC's letter, dated November 2, 2015, re Review of Update to the Irradiated Fuel Management Plan, available at <http://vydecommissioning.com/wp-content/uploads/2015/11/ML15292A256.pdf>

7. NRC's letter, dated October 27, 2015, re NRC Enforcement Proceeding No. 2013-0192, available at <http://vydecommissioning.com/wp-content/uploads/2015/10/ML15253A581.pdf>

Person Responsible for Response: T. Michael Twomey  
Title: Vice President, External Affairs, EWC; Vice President, ENOI  
Date: November 24, 2015

Q.NEC:EN.TMT.3-6: At A5: ". . . Entergy VY's ability to recover spent fuel management costs from the DOE, as demonstrated by the judgment it received that provided for its recovery of nearly \$41 million of costs incurred through April 2008..."

Is the basis for the judgement DOE's failure to fulfil its contract obligation to remove spent fuel from the VY site in a timely manner? If your answer is in the affirmative, do you now trust that DOE will perform in a timely manner with respect to clearing the proposed ISFSI? If not, then what is the basis for the judgement? Please provide supporting documents for your answer.

A.NEC:EN.TMT.3-6: OBJECTION. By this reference Entergy VY incorporates General Objection 6. Specifically, this request seeks information and production of documents related to Entergy VY's financial soundness and spent nuclear fuel management, which are within the federal government's and the NRC's primary or exclusive jurisdiction. Entergy VY further objects to the extent the request calls for a legal conclusion.

Without waiving any objection, Entergy VY responds:

The nearly \$41 million judgment obtained against the DOE to reimburse Entergy VY's spent fuel management costs incurred through April 2008 was based on DOE's breach of its contractual obligation to remove spent fuel from the VY Station site in a timely manner.

Entergy VY's assumption about when DOE will begin removing spent fuel from the VY Station site for decommissioning planning purposes does not affect its right to recover future spent fuel management costs. Having already breached its contractual obligations by failing to remove spent fuel from the VY Station site in a timely manner, DOE will still be in breach even if it removes spent fuel on its currently announced schedule. DOE's future removal of spent fuel after the date required by its contract will not eliminate its breach. DOE's breach will therefore continue to be the basis for Entergy VY's entitlement to future judgments against DOE.

See Entergy VY's response A.DPS:EN.1-1 and the attachments provided therewith.

Person Responsible for Response: T. Michael Twomey  
Title: Vice President, External Affairs, EWC; Vice President, ENOI  
Date: November 24, 2015

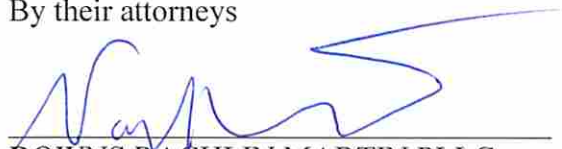
As to objections where responsive information was provided over stated objections:

St. Johnsbury, Vermont.      November 24, 2015.

Respectfully submitted,

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

By their attorneys



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