

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  
improvements, including installation of a new  
diesel generator with an electrical rating of

March 11, 2016  
Docket No. 8300

**NEW ENGLAND COALITION'S MOTION TO ADMIT NEW EVIDENCE**

**I. INTRODUCTION**

New England Coalition ("NEC"), by and through its Pro Se Representatives, Clay Turnbull and Raymond Shadis, following the February 23, 2016 close of a Technical Hearing in the above captioned matter, now respectfully submits new evidence for admission into the record.

NEC is relying on V.C.R.P. Rule 60 (b) for the criteria applicable to reopening a record, although 60(b) appears to apply to those situations where a decision has already been rendered. NEC trusts that 60(b) criteria bound the present situation in which we are post-hearing and at the eve of submitting final briefs. The Board should evaluate the question of admitting new evidence at this juncture based upon V.R.C.P. 60(b) criteria; (1)(mistake, inadvertence, surprise), 60(b)(2)(newly discovered evidence), and 60(b)(3)(fraud, misrepresentation, or other misconduct).

In accord with the spirit and letter of V.C.R.P. Rule 60 (b), the evidence that NEC presents is in response to alleged fraud or mistake of Entergy witnesses, could not have been reasonably submitted earlier, is in all other ways admissible, and is material to a fair, informed decision. Further, admission of such evidence lies fully within the Public Service Board's discretion to admit or reject.

Finally, admission of the proffered new evidence will not unduly burden any party because (1) the information is very limited in scope and volume, and (2) the information is easily verifiable as to

source and accuracy and, (3) may readily be responded to in Briefs or Reply Briefs or in such interim comments as the Board may entertain. NEC avers that in the interest of simple justice the proffered new evidence should be admitted.

## **II. DISCUSSION**

On February 23, 2016, the Board and the parties heard testimony from two Entergy Nuclear Vermont Yankee ("ENVY") witnesses, George Thomas and Harry Dodson, while under cross-examination by NEC, that simply could not have been anticipated and which further challenged credence triggering a search by NEC for new evidence to verify, or refute, or make whole the representations of ENVY's witnesses.

### **1. George Thomas**

Mr. Thomas is the project manager for Entergy VY's proposed \$145 million Independent Spent Fuel Storage Installation project. According to the prefiled testimony of Mr. Thomas, in his capacity as project manager he pursued exploratory communications with Holtec International regarding the 100-U dry cask storage system as an alternative to Hi-Storm 100 system currently in use at Vermont Yankee.

Having had a very positive experience of cross-examining Mr. Thomas as an expert witness in several Vermont Yankee-related Public Service Board dockets, NEC anticipated that Mr. Thomas would have a solid command of the structural and operational features of an alternative cask system considered for his site. Accordingly, NEC did not see the need to ply Mr. Thomas with cross-examination exhibits regarding the Holtec 100U.

NEC was thus surprised by Mr. Thomas' apparent lapses of memory and his uniformed and un-informing responses as captured in the following transcript excerpts, which are a sharp contrast to detailed and often contradictory information readily available from Holtec and other authoritative sources and now offered as NEC Attachments One, Two, and Three.

Trans PP.15 Line 25,

BY MR. SHADIS: 25 Q. The Holtec web site lists a number of advantages to using the 100U system.

P-16 Lines 1-25

One of them is that decommissioning costs would be less than an above ground system. Does that make sense to you? MR. BYRNE: Object. I don't think we have a foundation for this, and if he's got a copy of the web page, it would be helpful for

the witness to have a copy of that. We don't have any of his cross exhibits at this point. CHAIRMAN VOLZ: Does the witness feel he has enough knowledge to answer the question or do you feel that you need to see what he's referring to? MR. THOMAS: We have not looked at the impact of 100U system on decommissioning. So I would be replying to Mr. Shadis with that response. BY MR. SHADIS: Q. In your estimation what are the advantages of the 100U as opposed to upright or HI-STORM or above ground HI-STORM? A. The advantages would be as Holtec states, which if I recall it's lower radiation levels, possibly a lower -- a lower -- they claim it's more -- they claim the system is more secure, and how they draw that conclusion I'm not sure. Q. The profile would be considerably lower, would it not? Something like 27 inches protruding above ground?

P. 17 Lines 1-25 P-18 Lines 1-25

Not necessarily. If you were able to install a 100U system and put it all the way in the ground, it would be. This is one of the issues with Vermont Yankee. If you put it all the way into the ground, you would go well beyond the groundwater level which is a major construction issue and is -- could be a major long term operational issue. In fact, I've talked to two project managers that have considered installing the system and they do not want to put it below ground level. We wouldn't either at Vermont Yankee. Q. Did you -- did you -- and in your conversations with Holtec did you raise that question? A. We discussed it. Yes. Q. And what was their response? A. They feel that their system has been designed to prevent the potential from groundwater and leakage. Q. I believe -- A. So even though it was below ground water, the bottoms of the casks of the support pad were below ground water, they felt it could be designed and it could be. Q. I believe one of your concerns with an alternate or alternative, I'm not sure which way that goes, with a second choice site near to the fence line was the dose rate from the storage facility; is that correct? A. That would be one of the concerns. A. That's correct. Q. Would the 100U eliminate that concern? A. I don't know because we didn't look at that specifically. Q. If I understood your answer earlier, you did say that the dose rate, radiation emanations from the 100U were considerably lower than the above ground casks? A. That's what Holtec claims. That's correct. Q. I see. Give me just a second here. [so] I can reset. Other than the groundwater level are there any other issues with respect, for example, to the depth of the soil at Vermont Yankee that would mitigate against the 100U? A. Would you repeat the question? Q. Yeah. You know one of the -- one of the things that mitigates against a 100U is that the groundwater levels are fairly high at Vermont Yankee. Are there any other physical issues at Vermont Yankee, for example, the depth of soil, that would mitigate against a 100U? A. Well it's -- it's more than just the groundwater. It's the difficulty in constructing such a facility because you would have to excavate down a considerable depth and then build it up. So the difficulties you have building it at the Vermont Yankee site, as I've stated previously, would result in a considerably higher cost as well as a considerably longer schedule.

NEC Attachments One and Two drawn from Holtec material authoritatively and convincingly show

that concerns with ground water are misplaced, that even with partial emplacement dose rates from the 100U would be "vanishingly small," that the time required to fill 100U casks amounts to ½ a shift change each; thus 68 casks, Vermont Yankee's total fuel load, could in theory be emplaced in just 34 days, just a fraction of the presently proposed 900 day schedule using the Hi-Storm 100. Holtec materials also show that not just two US sites (per Thomas), but three, San Onofre, Calloway, and Humbolt Bay (in place since 2008) are hosting the 100U system. Holtec materials in Attachment Two also show that the Calloway site mentioned by Mr. Thomas is being built on the surface with fill material being bermed around the casks. The option of less-than-full-depth burial is also illustrated in NEC Attachment Three, a report of the California Conservation Commission. NEC believes that mastery of these details is prerequisite to credibility on the subject of alternative cask system designs.

## **2. Harry Dodson**

During cross-examination, Entergy VY witness Harry Dodson declared emphatically and more than once that the only "viewscape" for the proposed ISFSI and casks was from the New Hampshire shore of the Connecticut River, by NEC's reckoning and with reference to Google Earth imaging, a distance of about one-half mile.

Trans. P-50 Lines 21-25

A. It would not be visible from the fence line. Q. Nowhere? A. Nowhere. The only location where it would be visible from would be the Connecticut River and the hiking trail along the New Hampshire shore.

There is no way that NEC could have anticipated this astounding statement. On review, Mr. Dodson's statement that the "only location" from which the ISFSI would be visible "would be the Connecticut River and the New Hampshire shore" did not square with NEC's memories of site layout retained from many site visits during both VPSB and U.S. NRC proceedings. NEC set about to either verify or find evidence to refute Mr. Dodson's statement.

Mr. Clay Turnbull made two trips to the perimeter of the site, one to the western fenceline near the VY Switchyard and one approaching the VY perimeter fence from the TransCanada Property to the North East of the ISFSI. Mr. Turnbull's Eyewitness Declaration, stating that the present ISFSI is highly visible from a number of offsite or perimeter vantage points, is submitted herein as Attachment 4.

In addition NEC sought out an authentic high-resolution satellite image from Google Earth. That

image shows numerous clear and open lanes of vision from the West of the perimeter fence as well as Northern vantage points on the Velco switchyard property and approaches from property now held by TransCanada. The Google Earth image is submitted as Attachment Five.

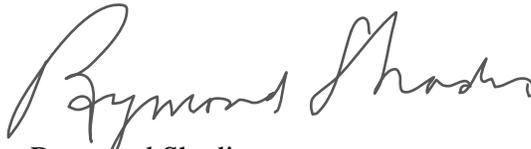
### **III. CONCLUSION**

For all of the above stated good reasons, NEC respectfully requests that the Board admit NEC Attachments One through Five into the evidentiary record.

Respectfully Submitted  
on Behalf of New England Coalition  
This Eleventh Day of March, 2016



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