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June 24, 2016

**HAND DELIVERED**

Judith C. Whitney, Clerk  
Vermont Public Service Board  
112 State Street  
Montpelier, VT 05620

Re: 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 to Construct a Second Independent Spent Fuel Storage Installation ("ISFSI") at the Vermont Yankee Nuclear Power Station  
Docket No. 8300

Dear Ms. Whitney:

Enclosed for filing please find an original and six copies of Entergy VY's Opposition To NEC's Motion for Reconsideration, along with our Certificate of Service.

Thank you for your assistance with this matter. Please contact me should you have any questions about this filing.

Very truly yours,

GRAVEL & SHEA PC

Matthew S. Stern

MSS:nl

Enclosures

cc: Service List

bcc: Tim Ngau, Esq. (w/enclosures) (e-mail)  
Mr. George Thomas (w/enclosures) (e-mail)

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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 )  
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 )

Docket No. 8300

ENERGY VY'S OPPOSITION TO NEC'S MOTION FOR RECONSIDERATION

Entergy Nuclear Vermont Yankee, LLC, and Entergy Nuclear Operations, Inc. (together, "Entergy VY"), by its attorneys, submit the following memorandum in opposition to the New England Coalition's ("NEC") Motion for Reconsideration of the Board's Order of June 1, 2016 ("Motion"). NEC's Motion merely reargues its previous three post-hearing motions, which the Board denied on the merits. NEC has not stated a sufficient basis for reconsideration, and its motion must be denied.

Discussion

NEC does not identify the rule upon which it relies to request reconsideration of the Board's decision. Entergy VY assumes that NEC relies on Vermont Rule of Civil Procedure 59(e) which allows for motions to alter or amend judgment. *See Application of Peter Bourne*, CPG #NM-3394, Order of 4/7/2014 at 2 ("Motions for reconsideration are reviewed under Vermont Rule of Civil Procedure 59(e)."). Under well-established standards for Rule 59(e) motions, NEC's motion is without basis and must be denied.

The Board has broad authority to consider a Rule 59(e) motion for the purpose of correcting, modifying or vacating its judgment. *See In re SP Land Co., LLC*, 2011 VT 104, ¶ 16, 190 Vt. 418, 426, 35 A.3d 1007, 1013. Nevertheless, the Board has recognized that the power to alter or amend an order under Rule 59(e) “should be used with great caution” and “is not intended to permit parties to simply relitigate issues.” *Amended Petition of Entergy Nuclear Vermont Yankee, LLC*, Docket 7862, Order of 5/1/2014 at 4, 10 (denying NEC’s motion to amend because it lacked “any demonstration of error to justify amendment or alteration.”); *Petition of Entergy Nuclear Vermont Yankee, LLC*, Docket 7082, Order of 6/6/2006 (denying NEC’s motion for reconsideration); *see also Hutchinson v. Staton*, 994 F.2d 1076, 1082 (4th Cir. 1993) (“mere disagreement does not support a Rule 59(e) motion”). Nor is the rule intended to allow a party to “advance arguments that could and should have been presented to the court prior to the judgment.” *In re SP Land Co., LLC*, 2011 VT 104, ¶ 33 (cited in *Application of Brockway Mills, LLC*, CPG # NMP-6647, Order of 2/11/2016 at 4).

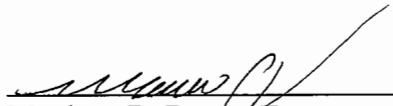
NEC’s Motion for Reconsideration is nothing more than an attempt to relitigate its previous motions. In fact, NEC “seeks to incorporate by reference” its Reply to Entergy Nuclear Vermont Yankee’s Opposition to New England Coalition’s Motion for an Interim Order dated May 31, 2016. *See* Motion at 2. NEC also directs the Board to several of its previous filings, including its April 8, 2016 Answer to Opposition to Admit New Evidence, its May 2, 2016 Reply to ENVY Opposition for Motion for Judicial Notice, and its Brief and Reply Brief, suggesting that the Board may not have fully considered these filings prior to issuing its Order. *Id.*

The remainder of NEC's Motion merely rehashes the arguments in its previous filings (*see id.* at 3-6) and objects to what NEC calls the Board's "intemperate and unwarranted choice of language" in denying NEC's motions (*id.* at 2, 7). NEC has not offered any new facts or law in support of its Motion, or pointed out any clear error in the Board's decision.

Even if NEC's Motion were considered despite its failure to meet the requirements of Rule 59(e), there is no basis for the Board to reconsider its order because NEC has not demonstrated that the Board failed to consider its previous arguments or erred in its application of law. The Board clearly addressed each of NEC's arguments in its June 1, 2016 order denying NEC's three post-hearing motions. *See generally*, Order of 6/1/2016. The Board again addressed NEC's arguments in its Final Order, rejecting NEC's challenges to the testimony of Mr. Thomas and Mr. Dodson. *See* Order of 6/17/2016 at 20 (finding that "NEC presented no evidence" to suggest "serious flaws in Entergy VY's analysis of alternatives or the likelihood that an alternative location or methodology (*i.e.* underground storage) were superior" and that "the comparison undertaken by Entergy VY was reasonable and sufficient. . ."); *id.* at 32-33 (rejecting NEC's assertions that Mr. Dodson's testimony contained errors and "leaves little to nothing upon which the Board may rely" and finding that "even if we agreed with these observations, which we do not, the basic fact remains that the second ISFSI will be a relatively small component of a well-established industrial site.").

NEC has not offered any justifiable reason under Rule 59(e), or otherwise, for the Board to alter or amend its decision. NEC's Motion should be expeditiously denied so that it does not interfere with the already tight Project schedule.

Dated: Burlington, Vermont  
June 24, 2016



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Nuclear Power Station in the Town of Vernon, )  
Vermont )

CERTIFICATE OF SERVICE

I, Matthew S. Stern, Esq., attorney for Petitioners, certify that, on June 24, 2016, I served Entergy VY's Opposition To NEC's Motion for Reconsideration on the counsel of record as follows:

Via E-mail and First-Class Mail, Postage Prepaid

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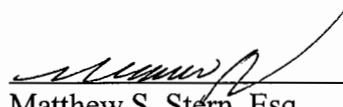
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Dated: Burlington, Vermont  
June 24, 2016

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