

STATE OF VERMONT
PUBLIC SERVICE BOARD

Docket No. 8300

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)

Order entered: 7/13/2016

ORDER DENYING MOTION FOR RECONSIDERATION

I. INTRODUCTION

In this Order, the Vermont Public Service Board (“Board”) denies the motion filed on June 14, 2016, by the New England Coalition (“NEC”) for reconsideration of the Board’s June 1 Order in this proceeding.

II. BACKGROUND

This docket concerns a petition filed by Entergy Nuclear Vermont Yankee, LLC, and Entergy Nuclear Operations, Inc. (together, “Entergy VY”) requesting authorization to construct a second independent spent fuel storage installation pad and related improvements at the Vermont Yankee Nuclear Power Station in the Town of Vernon, Vermont.

On February 23, 2016, the Board conducted a technical hearing in this proceeding.

Between March 11, 2016, and May 10, 2016, NEC filed a motion to admit new evidence, a motion to take judicial notice, and a motion for an interim order (the “Post-Hearing Motions”).

On June 1, 2016, the Board issued an Order in this proceeding denying the Post-Hearing Motions.

On June 14, 2016, NEC filed a motion for reconsideration of the June 1 Order (the “Motion for Reconsideration”).

On June 24, 2016, Entergy VY filed a response in opposition to NEC's motion for reconsideration ("Entergy VY Response").

No other responses to NEC's motion have been received.

III. DISCUSSION AND CONCLUSION

NEC argues that the Board's June 1 Order unfairly "served to malign NEC,"¹ and disagrees with the Board's conclusions related to the timing and materiality of the additional evidence presented by NEC, which it sought to admit in the Post-Hearing Motions. NEC further argues that many of the items identified by the Board as a basis for the June 1 Order were addressed in its prior filings. Finally, NEC argues that its failure to present the evidence it sought to introduce through the Post-Hearing Motions was based on its expectation that Entergy VY witnesses "would be answering cross-examination questions with the truth, the whole truth, and nothing but the truth,"² and that NEC could not have reasonably anticipated that it would need to present such evidence in order to impeach those witnesses.

Entergy VY argues that "NEC has not demonstrated that the Board failed to consider its previous arguments or failed or erred in its application of law,"³ and, as such, has failed to meet the standard for reconsideration.

We conclude that NEC has not articulated a basis that would cause us to reconsider the decisions reached in the June 1 Order. NEC's arguments in the Motion for Reconsideration are largely the same as those presented in its Post-Hearing Motions, which were considered by the Board in the June 1 Order. While we acknowledge NEC's disagreement with the conclusions of that Order, NEC has not presented a clear argument that the Board erred in its judgement.

NEC also objects to the "accusatory and disparaging language"⁴ used in the June 1 Order. We observe that the language of the June 1 Order was not intended to impugn NEC's conduct as an intervenor in this proceeding, but rather to articulate the reasons for which the Board concluded that it would be inappropriate to admit the evidence that NEC sought to introduce in

1. Motion for Reconsideration at 2.
2. Motion for Reconsideration at 5.
3. Entergy VY Response at 3.
4. Motion for Reconsideration at 2.

light of its prejudicial impact on other parties. We stand by our conclusion that NEC had sufficient opportunity to present this evidence and that, as such, its inclusion after the completion of hearings would have been prejudicial to other parties. Accordingly, we find no basis to reconsider our decision in this regard.

SO ORDERED.

Dated at Montpelier, Vermont, this 13th day of June, 2016.

<u>s/James Volz</u>)	
)	PUBLIC SERVICE
)	
<u>s/Margaret Cheney</u>)	BOARD
)	
)	OF VERMONT
<u>s/Sarah Hofmann</u>)	

OFFICE OF THE CLERK

FILED: July 13, 2016

ATTEST: s/Judith C. Whitney
Clerk of the Board

NOTICE TO READERS: This decision is subject to revision of technical errors. Readers are requested to notify the Clerk of the Board (by e-mail, telephone, or in writing) of any apparent errors, in order that any necessary corrections may be made. (E-mail address: psb.clerk@vermont.gov)

Appeal of this decision to the Supreme Court of Vermont must be filed with the Clerk of the Board within thirty days. Appeal will not stay the effect of this Order, absent further order by this Board or appropriate action by the Supreme Court of Vermont. Motions for reconsideration or stay, if any, must be filed with the Clerk of the Board within ten days of the date of this decision and Order.