

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

RESPONSE OF ENTERGY NUCLEAR VERMONT YANKEE, LLC, AND
ENTERGY NUCLEAR OPERATIONS, INC., TO THE NEW ENGLAND COALITION,
INC.'S SECOND SET OF INFORMATION REQUESTS

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") Second Set of Information Requests. Entergy VY is filing one complete copy of its responses with the Board, with two copies served on the 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 NEC's Second Set of Information Requests to the extent such instructions purport to place greater requirements on Entergy VY or reserve greater rights to the 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 requests for documents or information that are outside the scope of NEC's limited, permissive intervention in this proceeding as set forth in the Public Service Board's July 7, 2015 Order RE: Motions to Intervene, because the request is not related to the areas of the Project's impacts on the local environment, the reuse of the Vermont Yankee property, regional planning and development, or aesthetics.

7. 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.

8. 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.

Discovery Questions

Q.NEC:EN.2-1: Re: Q.NEC:EN.1-7: Why are the calculations proprietary?

A.NEC:EN.2-1: OBJECTION. Entergy VY incorporates by reference the objections stated in A.NEC:EN.1-7. Entergy VY further objects to this request as being 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, because the request is not related to the areas of the Project's impacts on the local environment, the reuse of the Vermont Yankee property, regional planning and development, or aesthetics.

Without waiving its objections, Entergy VY responds:

The report that describes the calculation of the projected site boundary dose once all of Entergy VY's spent fuel has been loaded into 58 casks located on both ISFSI pads was prepared by Holtec International. Holtec International asserts in the report: "This document is proprietary and the property of Holtec International."

Person Responsible for Response: George Thomas
Title: Senior Project Manager
Date: July 20, 2015

Q.NEC:EN.2-2: Re: Q.NEC:EN.1-9: In light of the United States Nuclear Regulatory Commission's recent approval of withdrawal(s) of up to \$225 million, more or less, from the decommissioning trust fund, please update your answer to this question.

A.NEC:EN.2-2: OBJECTION. Entergy VY incorporates by reference the objections stated in A.NEC:EN.1-9. Entergy VY further objects to this request as being 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, because the request is not related to the areas of the Project's impacts on the local environment, the reuse of the Vermont Yankee property, regional planning and development, or aesthetics.

Without waiving its objections, Entergy VY states that A.NEC:EN.1-9 remains accurate.

Person Responsible for Response: T. Michael Twomey
Title: Vice President, External Affairs, Entergy Wholesale Commodities ("EWC"); Vice President, Entergy Nuclear Operations, Inc. ("ENOI")
Date: July 20, 2015

Q.NEC:EN.2-3: Re: Q.NEC:EN.1-12: Why have you not evaluated the Waste Specialists, LLC's in Andrews, Texas or the Holtec applications in Hobbs, New Mexico for interim consolidated storage? And if you have, please disclose the status of such evaluation(s).

A.NEC:EN.2-3: OBJECTION. Entergy VY incorporates by reference the objections stated in A.NEC:EN.1-12. Entergy VY further objects to this request as being 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, because the request is not related to the areas of the Project's impacts on the local environment, the reuse of the Vermont Yankee property, regional planning and development, or aesthetics. In addition, Entergy VY objects to this request as calling for speculation.

Without waiving its objections, Entergy VY states that neither Waste Control Specialists, LLC ("WCS"), nor Holtec International ("Holtec") has filed an application to obtain an NRC license to construct and operate an interim spent fuel storage facility. WCS has only submitted a letter of intent to file sometime during the first half of the NRC's Fiscal Year 2016 an application for an NRC license for an independent spent fuel storage facility (*see* <https://adamswebsearch2.nrc.gov/webSearch2/view?AccessionNumber=ML15040A687>). According to WCS, "[w]hile WCS has not sought federal or state funding for licensing of the [facility], it will require clarity from Congress to move forward. WCS must be sure that the [S]ecretary of Energy can enter into contracts with private entities ... to store used nuclear fuel and high-level waste, and to use the Nuclear Waste Fund for that purpose." *See* <http://m.csstorau.e.com/t/No-stcps-forward-on-nuclear-waste-storawg>. In that regard, the Nuclear Waste Policy Act ("NWSA") only authorized the Secretary of Energy to enter into contracts for the storage of spent nuclear fuel at "a federally owned and operated interim away-from-reactor storage facility" through January 1, 1990 (42 U.S.C. § 10156), and a United States Court of Appeals has held that "the NWSA does not allow the Department [of Energy] to utilize [Nuclear Waste Fund] monies to pay for the interim storage costs of [nuclear plant owners]." *Alabama Pwr. Co. v. United States Dep't of Energy*, 307 F. 3d 1300 (11th Cir. 2002).

Holtec reports that it has entered into a memorandum of agreement with the Eddy Lea Energy Alliance to establish an interim storage facility, but has not said when it intends to file an application for an NRC license. *See* <http://www.holtecinternational.com/2015/04/holtec-partners-with-eddy-lea-in-new-mexico-to-build-consolidated-interim-storage-facility/>.

Entergy VY further notes that Private Fuel Storage, LLC ("PFS"), a consortium in which Entergy VY's affiliates are participants (*see* A.NEC:EN 1-20), required nearly 10 years to obtain an NRC license to construct and operate its proposed spent fuel storage facility from the time it filed its application. *See* <http://pbadupws.nrc.gov/docs/ML0604/ML060450412.pdf>.

Accordingly, it is far too premature in the licensing process for either proposed facility for Entergy VY to conduct an evaluation of either proposed project.

Person Responsible for Response: T. Michael Twomey
Title: Vice President, External Affairs, EWC; Vice President, ENOI
Date: July 20, 2015

Q.NEC:EN.2-4: Re: Q.NEC:EN.1-14: Same question as asked with the addition of the time period in question of February 6, 2013, to June 17, 2015 in lieu of "without limitation".

A.NEC:EN.2-4: OBJECTION. Entergy VY incorporates by reference the objections stated in A.NEC:EN.1-14. Entergy VY further objects to this request as being 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, because the request is not related to the areas of the Project's impacts on the local environment, the reuse of the Vermont Yankee property, regional planning and development, or aesthetics.

Without waiving its objections, Entergy refers to the last paragraph of A.NEC:EN.1-14.

Person Responsible for Response: T. Michael Twomey
Title: Vice President, External Affairs, EWC; Vice President, ENOI
Date: July 20, 2015

Q.NEC:EN.2-5: Re: Q.NEC:EN.1-17: Describe the procedure by which you review, evaluate and rank contingencies in the event the DOE does not remove the fuel.

A.NEC:EN.2-5: OBJECTION. Entergy VY incorporates by reference the objections stated in A.NEC:EN.1-17. Entergy VY further objects to this request as being 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, because the request is not related to the areas of the Project's impacts on the local environment, the reuse of the Vermont Yankee property, regional planning and development, or aesthetics. In addition, Entergy VY objects to this request as calling for speculation.

Without waiving its objections, Entergy VY states that in the event that DOE does not remove the spent nuclear fuel from the site, Entergy VY will continue to take the steps required to ensure the continued safe storage of that spent fuel pursuant to its NRC license and to recover the costs of such continued storage through litigation against DOE. If Congress enacts legislation providing other alternatives for the interim or permanent storage of spent nuclear fuel, Entergy VY will consider the alternatives presented by such legislation. Entergy VY is currently unaware of any other possible review, evaluation, or ranking of contingencies it could undertake.

Person Responsible for Response: T. Michael Twomey
Title: Vice President, External Affairs, EWC; Vice President, ENOI
Date: July 20, 2015

Q.NEC:EN.2-6: Re: Q.NEC:EN.1-20: Does Entergy have an ownership or other interest in any company seeking permits to store low level waste, mid-level waste or high level waste?

A.NEC:EN.2-6: OBJECTION. Entergy VY incorporates by reference the objections stated in A.NEC:EN.1-20. Entergy VY further objects to this request as being 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, because the request is not related to the areas of the Project's impacts on the local environment, the reuse of the Vermont Yankee property, regional planning and development, or aesthetics. In addition, Entergy VY objects to this request as vague.

Without waiving its objections, Entergy VY states that it does not have an ownership or other interest in any company seeking permits to store any type of radioactive waste. As noted in A.NEC:EN.1-20, Entergy VY's affiliates have an ownership interest in PFS, the consortium that obtained an NRC license to construct an off-site interim spent fuel storage facility. PFS, however, has been unable to initiate construction of that facility due to actions taken by the U.S. Department of the Interior.

Person Responsible for Response: T. Michael Twomey
Title: Vice President, External Affairs, EWC; Vice President, ENOI
Date: July 20, 2015

Q.NEC:EN.2-7: Re: Q.NEC:EN.1-20: Please describe entity as used in this answer. Are you able to move your spent fuel without transferring it to another "entity" as used in this answer? If so why have not you evaluated this option?

A.NEC:EN.2-7: OBJECTION. Entergy VY incorporates by reference the objections stated in A.NEC:EN.1-20. Entergy VY further objects to this request as being 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, because the request is not related to the areas of the Project's impacts on the local environment, the reuse of the Vermont Yankee property, regional planning and development, or aesthetics.

Without waiving its objections, Entergy VY states that, as used in A.NEC:EN.1-20 and this response, "entity" refers to a person, partnership, organization, or business that has a legal and separately identifiable existence. As stated in A.NEC:EN.1-24, Entergy VY has an NRC-issued general license (license number SFGL-36) to store Vermont Yankee spent fuel at the existing ISFSI facility pursuant to 10 C.F.R. § 72.210. The requirements of 10 C.F.R. § 72.210 limit the location of an ISFSI storing fuel owned by Entergy VY to the Vermont Yankee site. Therefore, storage of Vermont Yankee spent fuel in an off-site ISFSI would require transferring the spent fuel to another entity that is licensed to store it in a location other than the Vermont Yankee site.

Person Responsible for Response: T. Michael Twomey
Title: Vice President, External Affairs, EWC; Vice President, ENOI
Date: July 20, 2015

Q.NEC:EN.2-8: Re: Q.NEC:EN.1-21: Please describe the alternative assumptions which should and or could be made now with respect to this question considering the United States Department of Energy's (DOE) continued inability to develop a consolidated interim storage or even permanent national storage? Also consider the NRC rule of on site storage for up to hundreds of years.

A.NEC:EN.2-8: OBJECTION. Entergy VY incorporates by reference the objections stated in A.NEC:EN.1-21. Entergy VY further objects to this request as being 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, because the request is not related to the areas of the Project's impacts on the local environment, the reuse of the Vermont Yankee property, regional planning and development, or aesthetics.

Without waiving its objections, Entergy VY states that it cannot describe all of the alternative assumptions that could be made concerning when DOE will have an interim and/or permanent spent fuel storage facility, because there are an unlimited number of such possible assumptions. Entergy VY considered it most reasonable to assume a scenario based on DOE's most recent official statement of its plans. *See* Attachment A.NEC:EN.1-13 (2013 Strategy for the Management and Disposal of Used Nuclear Fuel and High-Level Radioactive Waste). The NRC's Continued Storage Rule, 79 Fed. Reg. 56,238 (Sept. 19, 2014), sets forth the NRC's generic determination of the environmental impacts of continued spent fuel storage beyond the reactor's licensed operating life for purposes of license renewal. That rule has no bearing upon DOE's actions to address spent nuclear fuel storage.

Person Responsible for Response: T. Michael Twomey
Title: Vice President, External Affairs, EWC; Vice President, ENOI
Date: July 20, 2015

Q.NEC:EN.2-9: Re: Q.NEC:EN.1-23: Why would not the company consider other options for screening such as building the screen/facade to look like a building (perhaps a red barn with white trim).

A.NEC:EN.2-9: . OBJECTION. Entergy VY incorporates by reference the objections stated in its response to NEC:EN.1-23.

Without waiving its objections, Entergy VY states that the project could be screened by a barrier wall built and painted to resemble a structure. However, an imitation barn would appear incongruous as an agricultural building in an industrial setting surrounded by extensive security infrastructure. Disguising the project behind a barrier wall resembling an industrial building or warehouse would be less incongruous. However, as described in A.DPS.EN.1-24, a barrier wall of any type would still result in increased project visibility and thus cause greater visual impacts.

Person Responsible for Response: Harry Dodson
Title: Principal, Dodson & Flinker Inc.
Date: July 20, 2015

Q.NEC:EN.2-10: Re: Q.NEC:EN.1-24: We see no evidence of your having had investigated other sites for storage although the NRC license appears to allow such siting. State your rationale for not investigating another site for an ISFSI capable of holding all 60 casks on or off the VY site.

A.NEC:EN.2-10: OBJECTION. Entergy VY incorporates by reference the objections stated in A.NEC:EN.1-24. Entergy VY further objects to this request as being 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, because the request is not related to the areas of the Project's impacts on the local environment, the reuse of the Vermont Yankee property, regional planning and development, or aesthetics.

Without waiving its objections, Entergy refers to A.NEC:EN.2-7 and objections therein, incorporated by reference.

As stated in A.NEC:EN.1-24, Entergy VY has an NRC-issued general license (license number SFGL-36) to store spent fuel at the existing ISFSI facility pursuant to 10 C.F.R. § 72.210. The requirements of 10 C.F.R. § 72.210 limit the location of an ISFSI storing fuel possessed by Entergy VY to the Vermont Yankee site. Therefore, storage of Vermont Yankee fuel in an off-site ISFSI is not permitted by Entergy VY's general license. If a separate ISFSI capable of holding 60 casks were to be constructed at another location on the Vermont Yankee site outside of the existing Protected Area, the 60 cask ISFSI would require a pad that is approximately 2.5 times the footprint of the Pad proposed by the Project, additional haul path upgrades, and construction of new Security facilities. This additional work would result in significant design, engineering, and construction costs in excess of the projected estimated costs for the current Project, as well as significant delays in the anticipated construction and fuel loading schedule. See also Mr. Thomas' prefiled testimony dated June 30, 2014 at pages 19-22.

Person Responsible for Response: George Thomas
Title: Senior Project Manager
Date: July 20, 2015

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

St. Johnsbury, Vermont. July 20, 2015.

Respectfully submitted,

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

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