UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D.C. 20555-0001

October 2, 2012

Ms. Sarah Hofmann, Deputy Commissioner
State of Vermont Department of Public Service
112 State Street
Montpelier, VT 05620-2601

SUBJECT: RESPONSE TO THE STATE OF VERMONT DEPARMENT OF PUBLIC SERVICE REGARDING DECOMMISSIONING FUNDING ASSURANCE FOR VERMONT YANKEE

Dear Commissioner Hofmann:

I am responding to your letter to Mr. James Kim dated April 13, 2012 (Agencywide Documents Access and Management System (ADAMS) Accession No. ML121140285), regarding the decommissioning funding status (DFS) reporting requirements for the Vermont Yankee Nuclear Power Station by Entergy Nuclear Vermont Yankee LLC, and Entergy Nuclear Operations, Inc. (together, "Entergy").

In your letter, you expressed concerns with Entergy's March 30, 2012, letter (ADAMS Accession No. ML12093A382), in which the licensee stated that an annual decommissioning funding report was not required for Vermont Yankee since it did not plan to cease operations within 5 years based on receiving its renewed license from the NRC. You stated that Entergy should not be able to presume it will be running beyond 5 years and should continue to file the annual decommissioning status updates, given that the state's Public Good permitting process and a federal appeals case are still underway. You requested the NRC to direct Entergy to continue submitting annual decommissioning status updates pursuant to federal regulations until the pending federal court proceedings are completed.

As you're aware, Title 10 of the *Code of Federal Regulations* (10 CFR), Section 50.75(f)(1) and (2), requires power reactor licensees to report decommissioning funding assurance information to the NRC at least once every 2 years. The regulation also states that, "any licensee for a plant that is within 5 years of the projected end of its operation, or where conditions have changed so that it will close within 5 years (before the end of its licensed life), or has already closed (before the end of its licensed life)...shall submit this report annually."

Consistent with 10 CFR 50.75(f)(1), the licensee for Vermont Yankee submitted its latest DFS report on March 31, 2011 (ADAMS Accession No. ML110940051), reflecting December 31, 2010, information. In a letter to all holders of licenses for operating power reactors, dated April 6, 2012 (ADAMS Accession No. ML120760369), the NRC staff concluded that the licensee meets decommissioning funding assurance requirements. A summary of the NRC staff's reviews can be found in SECY-11-049, "Summary Findings Resulting from the Staff Review of the 2010 Decommissioning Funding Status Reports for Operating Power Reactor Licensees," dated October 26, 2011 (ADAMS Accession No. ML112620046).

The NRC staff has not identified any issues in the licensee's most recently submitted financial statements that would warrant taking additional actions to ensure it will provide adequate

decommissioning funding assurance. Additionally, as you know, on March 21, 2011, the NRC granted Vermont Yankee a license extension to operate until March 21, 2032; therefore, it is no longer held to the provisions of 10 CFR 50.75 requiring an annual decommissioning funding report from a licensee that is within 5 years of the projected end of its operation, or where conditions have changed so that it will close within 5 years. While not required to submit DFS reports annually, Entergy is required to submit a Biennial Decommissioning Funding Report for Vermont Yankee by March 31, 2013, and every other year thereafter, per 10 CFR 50.75.

Since your letter, the D.C. Circuit Court of Appeals denied the Vermont Department of Public Service (DPS) and New England Coalition's appeal for review of the NRC's issuance of Vermont Yankee's license extension in a decision dated June 26, 2012 (ADAMS Accession No. ML12181A490). The NRC staff is aware that Entergy's petition for renewal of its Certificate of Public Good for continued operation beyond March 21, 2012, is currently in review at the state level by the DPS in accordance with Title 30 V.S.A. Section 231. The NRC staff recognizes that the state's public good permitting process is an important approval path in addition to the NRC's review of radiological safety, security and environmental effects, to ensure that the plant will continue to promote the general good of the state.

We appreciate the State of Vermont DPS's continued cooperation with the NRC in its review of the effectiveness of licensee activities in ensuring that the health and safety of the public are adequately protected and compliance with applicable NRC regulations with respect to decommissioning funding assurance is met.

I appreciate this opportunity to respond to your letter. Should you have any additional questions, you may contact me at 301-415-1030.

Sincerely,

Richard V. Guzman, Sr. Project Manager
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Division of Operating Reactor Licensing
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