

J. Beiling  
A. Kisicki

STATE OF VERMONT  
PUBLIC SERVICE BOARD

Docket No. 7862

Amended Petition of Entergy Nuclear Vermont Yankee, )  
LLC, and Entergy Nuclear Operations, Inc., for )  
amendment of their Certificate of Public Good and other )  
approvals required under 30 V.S.A. § 231(a) for authority )  
to continue after March 21, 2012, operation of the )  
Vermont Yankee Nuclear Power Station, including the )  
storage of spent nuclear fuel )

2012 MAY -4 P 3:54  
STATE OF VERMONT  
DEPT OF PUBLIC SERVICE  
MONTPELIER, VT  
05520-2601

Order entered:

5/4/2012

**PREHEARING CONFERENCE MEMORANDUM**

The Vermont Public Service Board ("Board") convened a prehearing conference in this proceeding on May 2, 2012. The following parties entered appearances at the prehearing conference:

John H. Marshall, Esq., Downs Rachlin Martin PLLC, Sanford I. Weisburst, Quinn Emanuel Urquhart & Sullivan, LLP, and Robert B. Hemley, Esq., Gravel and Shea PC, for Entergy Nuclear Vermont Yankee, LLC, and Entergy Nuclear Operations, Inc. ("Entergy VY");

John Beiling, Esq., and Aaron Kisicki, Esq., for the Vermont Department of Public Service ("Department");

Peter H. Zamore, Esq., Sheehy Furlong & Behm P.C., for Green Mountain Power Corporation ("GMP"); and

Caroline S. Earle, Esq., for IBEW Local No. 300 ("IBEW").

Also appearing at the prehearing conference<sup>1</sup> were:

Jon Groveman, Esq., for the Vermont Agency of Natural Resources;

Jared Margolis, Esq., for the New England Coalition;

James Dumont, Esq., for the Vermont Public Interest Research Group ("VPIRG");

1. All of the parties listed below are also parties to Docket 7440, the initial proceeding in which the Board considered a request from Entergy VY for approval of an amended CPG and such other approvals as were necessary to enable continued operation of the Vermont Yankee Nuclear Power Station after March 21, 2012.

Jamey Fidel, Esq., for the Vermont Natural Resources Council ("VNRC") and Connecticut River Watershed Council ("CRWC");

Christopher Campany, for the Windham Regional Commission ("WRC");

Sandra Levine, Esq., for the Conservation Law Foundation ("CLF");

Carolyn B. Anderson, Esq., for Central Vermont Public Service Corporation ("CVPS");  
and Randall Pratt, for Vermont Electric Cooperative, Inc.

### I. SCHEDULE

The primary topic of discussion was the schedule for this proceeding. Prior to the prehearing conference, Entergy VY filed a proposed schedule. The Department and ANR, joined by VNRC and CRWC, also filed a proposal, as did CLF.

The parties' schedules exhibited four primary differences. First, Entergy VY sought to prefile its testimony on June 29. Both CLF and the Department proposed schedules that required such filing by May 15. Second, the Department proposed a schedule that allowed it to file its direct and surrebuttal testimony two weeks after the other parties. Third, CLF's proposed schedule advanced hearings by four months, which was achieved by accelerating the date for Entergy VY to file its initial testimony and shortening other periods. And fourth, Entergy VY proposed a deadline for parties to file preliminary motions, including Rule 60(b) motions, with responses thereto.

We have considered each of the proposals and the comments of the parties on the proposals at the prehearing conference. We adopt the schedule set out below. The schedule calls for Entergy VY to file its initial testimony on June 29, consistent with its proposal. We accept this date based upon Entergy VY's representations that it cannot prepare testimony earlier.

The proposed schedule does not accept the Department's proposal that it file its testimony two weeks after other intervenors. The Department will have a full opportunity to respond to other parties' testimony during surrebuttal and did not demonstrate a need to have a separate filing.

We also do not accept CLF's proposal for a shorter schedule. We agree with CLF's observations that this schedule is longer than we have adopted in most cases, including in Docket 7440. Entergy VY's proposal includes longer response times than typically apply. Although we

might have been more inclined to adopt a shorter schedule, none of the other parties advocated such adoption.

We also have not made specific provision for the filing of preliminary motions. At this time, it is not clear whether there is a need for any party to file such motions or even whether Entergy VY itself seeks to file a preliminary motion. Entergy VY's proposal also allowed the filing of Rule 60(b) motions by May 15. It is our understanding that this request pertained to motions related to Orders that we issued in Docket 7440 on March 19, March 29, and April 12, 2012; Entergy VY had requested that we incorporate those Orders into this Docket. As we discuss in Part II of this Order, we decline to incorporate these Orders. Thus, to the extent that Entergy VY seeks to file a Rule 60(b) motion, it must do so in Docket 7440 and there is no need to incorporate an opportunity for Rule 60(b) motions in this docket.

The schedule we adopt also has one change that was not proposed by any party. Rather than a unified set of hearings in June 2013 covering both direct and rebuttal testimony, we have adopted a schedule that bifurcates hearings between the direct and rebuttal cases. We have used this approach in the past, such as in Docket 6545, the proceeding in which we approved Entergy VY's purchase of Vermont Yankee, and found it useful. Considering the nature of the issues we expect will be litigated in this proceeding, we conclude that holding separate hearings on the direct and rebuttal cases will better inform our decisionmaking.

Finally, the schedule below includes two public hearings, to be held in November of this year. This date is later than proposed by the parties. The Board has determined that it would be useful if the public comments occurred after all parties have filed their direct cases.

Entergy files Amended Petition	April 16, 2012
Prehearing Conference	May 2, 2012
Intervention Deadline; 7440 parties provide Notice of Appearance	June 18, 2012
Entergy Prefiles Testimony	June 29, 2012
First Round of Discovery on Entergy	July 27, 2012
Entergy Responds to First Round Discovery	August 17, 2012

Second Round of Discovery on Entergy	September 5, 2012
Entergy Responds to Second Round Discovery	September 19, 2012
Other Parties Prefile Testimony	October 22, 2012
Public Hearings	Week of November 5 (in Vernon) Week of November 19 (using VIT)
First Round of Discovery on Other Parties	November 13, 2012
Other Parties Respond to First Round Discovery	December 5, 2012
Second Round of Discovery on Other Parties	December 21, 2012
Other Parties Respond to Second Round Discovery	January 11, 2013
Notice of Depositions Due	January 14, 2013
Depositions (if needed)	January 22-February 1, 2013
Technical Hearings on Direct Case	Weeks of February 11 and 19, 2013
Entergy Prefiles Rebuttal Testimony	March 11, 2013
Discovery on Entergy's Rebuttal Testimony	March 25, 2013
Entergy Responds to Discovery on Rebuttal Testimony	April 8, 2013
Other Parties Prefile Surrebuttal Testimony	April 24, 2013
Discovery on Other Parties' Surrebuttal Testimony	May 8, 2013
Other Parties Respond to Discovery on Surrebuttal Testimony	May 22, 2013
Notice of Depositions Due	May 23, 2013
Depositions	May 28-June 6, 2013
Technical Hearings (Rebuttal Phase) (1-2 Weeks)	June 17 thru June 28, 2013
Parties file Proposals for Decision and Initial Briefs	August 6, 2013
Parties File Reply Briefs	August 26, 2013

## **II. INCORPORATION OF ORDERS FROM DOCKET 7440**

In its Petition, Entergy VY requested that the Board:

Enter in the new docket created by this Amended Petition the Order of the Board in Docket No. 7440 dated March 19, 2012, March 29, 2012, and April 12, 2012, so that Entergy VY's rights to appellate review of those Orders are preserved, including Entergy VY's ability to argue that Section 814(b) is applicable.

We decline to adopt Entergy VY's request. The Orders in Docket 7440 stand for themselves in that Docket. If Entergy VY seeks modification of those Orders it may do so in that proceeding. We note that we are also issuing a memorandum to parties in Docket 7440 soliciting comments on further steps in that docket, including the possibility that the docket would be closed.

## **III. INTERVENTIONS**

The schedule set out above includes a deadline for filing of motions to intervene. In addition, we reiterate what we stated in our Order of March 29, 2012, in Docket 7440: "Any party to the current docket will be allowed to be a party to the new proceeding, but must file a statement confirming its intention to remain a party and a notice of appearance." The schedule sets a date of June 18, 2012, for filing such notices. Until that date, parties must serve all filings in this proceeding on parties to Docket 7440, even if such party has not yet filed the requisite notice of appearance and statement of intent.

## **IV. FILING OF DOCUMENTS**

Parties shall file an original and seven (7) copies of all documents (rather than the original and six copies normally required). In addition, parties must provide an electronic copy of all testimony, motions and responses, and briefs (e-mail submission is acceptable). If the electronic filings are submitted in .pdf format, they must be submitted in a form that permits the Board and other parties to search the document and extract text.

**SO ORDERED.**

Dated at Montpelier, Vermont, this 4<sup>th</sup> day of May, 2012.

s/James Volz )

) PUBLIC SERVICE

s/David C. Coen )

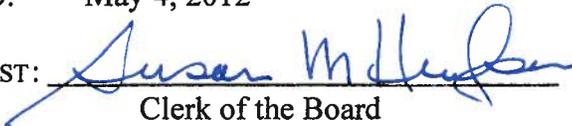
) BOARD

s/John D. Burke )

) OF VERMONT

A TRUE COPY  
OFFICE OF THE CLERK

FILED: May 4, 2012

ATTEST:   
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@state.vt.us)*

PSB Docket No. 7862 - SERVICE LIST

Parties:

John Beling, Esq., Director for Public Advocacy  
Aaron Kisicki, Esq.  
Vermont Department of Public Service  
112 State Street  
Montpelier, VT 05620-2601

John H. Marshall, Esq.  
Nancy S. Malmquist, Esq.  
Lisa A. Fearon, Esq.  
Downs Rachlin Martin PLLC  
P.O. Box 99  
St. Johnsbury, VT 05819-0099

(For Entergy Nuclear Vermont Yankee, LLC,  
and Entergy Nuclear Operations, Inc.)

Kathleen M. Sullivan, Esq.  
Robert Juman, Esq.  
Sanford I. Weisburst, Esq.  
Quinn Emanuel Urquhart & Sullivan, LLP  
51 Madison Avenue, 22<sup>nd</sup> Floor  
New York, NY 10010

(For Entergy Nuclear Vermont Yankee, LLC  
and Entergy Nuclear Operations, Inc.)

Robert B. Hemley, Esq.  
Matthew B. Byrne, Esq.  
Gravel and Shea PC  
PO Box 369  
Burlington, VT 05402-0369

(For Entergy Nuclear Vermont Yankee, LLC, and  
Entergy Nuclear Operations, Inc.)

Caroline S. Earle, Esq.  
Law Office of Caroline S. Earle PLC  
PO Box 1385  
Montpelier, VT 05601-1385

(For International Brotherhood of Electrical  
Workers, Local Union 300)

Peter H. Zamore, Esq.  
Charlotte B. Ancel, Esq.  
Sheehey Furlong & Behm P.C.  
30 Main Street, P.O. Box 66  
Burlington, VT 05402

(For Green Mountain Power Corporation)

Donald J. Rendall, Jr., General Counsel  
Mari M. McClure, Esq.  
Green Mountain Power Corporation  
163 Acorn Lane  
Colchester, VT 05446

Interested Persons:

James Volz, David C. Coen, John D. Burke, Board Members  
George Young, Lars Bang-Jensen, Jay Dudley, June Tierney, PSB

JoAnn Q. Carson (Court Reporter)  
11 Northshore Drive  
Burlington, VT 05408

Kim Sears (Court Reporter)  
18 Paddock Lane  
Williston, VT 05495

Docket 7440 Parties Service List

Jon Groveman, General Counsel  
Agency of Natural Resources  
103 South Main Street, Center Building  
Waterbury, VT 05671-0408