Entergy

Entergy Nuclear
Vermont Yankee, LLC
Entergy Nuclear Operations, Inc.
320 Governor Hunt Road
Vernon, VT 05354-9766
Tel 802 451 3102
Fax 802 451 3001

Christopher J. Wamser
Site Vice President - VY

July 24, 2012

SVY 12-050

Town of Vernon Planning Commission
567 Governor Hunt Road
Vernon, VT 05354

Town of Vernon Selectboard
567 Governor Hunt Road
Vernon, VT 05354

Windham Regional Commission
139 Main Street, Suite 505
Brattleboro, VT 05301

RE: Entergy Nuclear Vermont Yankee Station Blackout Diesel Generator
Certificate of Public Good – Section 248 Permit Process
45-Day Advance Notice of Proposed Project

I. Introduction

Entergy Nuclear Vermont Yankee, LLC, a Delaware limited liability company, and Entergy Nuclear Operations, Inc., a Delaware corporation (together, "Entergy VY"), are preparing to file a Petition for a Certificate of Public Good pursuant to 30 V.S.A. § 248 with the Vermont Public Service Board (the "PSB" or "Board") requesting approval to install a diesel-driven electric generator to be located at the Vermont Yankee Nuclear Power Station ("Vermont Yankee") in the Town of Vernon, Vermont (the "Project"). As explained in this letter, Entergy VY respectfully submits that the exclusive jurisdiction of the Nuclear Regulatory Commission ("NRC") over the construction and operation of Vermont Yankee preempts any action under state law that would prevent construction of the Project to meet NRC requirements. Entergy VY will make clear in its Petition that its request for a Certificate of Public Good is made subject to this reservation of rights.

The diesel-driven electric generator will replace the Vernon Hydro Station as Vermont Yankee's source of standby alternating current ("AC") station blackout power when the Vernon Hydro Station is transitioned out of the ISO New England ("ISO-NE") blackstart program as a result of ISO-NE changes to that program that took effect beginning on March 12, 2012. NRC regulation 10 C.F.R. § 50.63 requires Vermont Yankee to have a standby station blackout AC power source. The existing generators located at Vermont Yankee cannot be credited for compliance with NRC regulation 10 C.F.R. § 50.63. The date that the Vernon Hydro Station is expected to transition out of the ISO-NE blackstart program is no earlier than January 1, 2013, and no later

than September 1, 2013.

As explained in this letter, the Project is of limited size and scope and does not raise a significant issue with respect to the substantive criteria of Section 248. As such, Entergy VY plans to petition the PSB under subsection (j) of Section 248, the Board's procedure for projects that have minor impacts.

Entergy VY anticipates filing a Petition for a Certificate of Public Good for the Project with the Board on or after September 7, 2012, and is providing the information in this 45-day advance notice package to the Vernon Planning Commission, Windham Regional Commission, and Vernon Selectboard in accordance with PSB Rule 5.402.

This letter (1) describes the Project, (2) provides a summary of the potential impacts of the Project, and (3) explains, in accordance with Board Rule 5.402(A), the rights of the Vernon Planning Commission and the Windham Regional Commission to comment on the Project plans.

II. Project Description and Construction Plans

The Project involves the installation of a 3,000 kilowatt, diesel-driven electric generator to maintain compliance with NRC regulation 10 C.F.R. § 50.63, which requires that Vermont Yankee have a standby station blackout AC power source. The Project Site Plan included with this letter illustrates the proposed location of the Project in relation to the surrounding areas of the Vermont Yankee site.

The diesel generator enclosure for the Project, including air inlet plenums attached to the sides of the enclosure, has approximate dimensions of 46 feet long, 19 feet wide, and 16 feet high (including fuel tank base), with a vertical air discharge plenum having a top height of 20 feet. To allow interconnection to an existing underground electric line to the Vermont Yankee electrical distribution system, a switchgear assembly will be installed in a separate enclosure located adjacent to the generator enclosure. The approximate dimensions of the switchgear enclosure are 28 feet long, 15 feet wide, and 15 feet high. A resistive load bank will be installed to provide the capability to periodically load test the diesel-driven electric generator. The approximate dimensions of the load bank are 20 feet long, 7 feet wide, and 12 feet high.

A concrete pad, the dimensions of which are approximately 54 feet long and 35 feet wide, will be installed to provide a suitable mounting surface for the generator enclosure, switchgear enclosure and load bank. The area around the concrete pad will be graded for proper storm water runoff. The maximum area of disturbance for the Project is an area of approximately 60 feet by 80 feet within Vermont Yankee's Protected Area. The Project site is flat and was entirely disturbed during Vermont Yankee's construction.

Existing Vermont Yankee site roadways will be used for access to the Project site. No new on-site access roads are required for the Project. Project equipment will be transported to the Vermont Yankee site via Vermont Route 142 and Governor Hunt Road. All Project equipment is designed for over-the-road travel.

After the Project is commissioned, the new generator and associated equipment will be tested periodically. Entergy VY anticipates that testing will be performed quarterly, and during such testing the new generator will be operated for a period of one hour.

III. Aesthetics

The proposed Project is consistent with the current use of the Vermont Yankee site. The new generator enclosure, switchgear enclosure and load bank will be located between two existing buildings on the south side of Vermont Yankee's Protected Area. The Protected Area currently contains four electric generators (including a steam-driven electric generator rated at 684,000 kilowatts, two diesel-driven electric generators each rated at 3,000 kilowatts and another diesel-driven electric generator rated at 175 kilowatts), along with maintenance and office buildings. Off-site visibility of the generator enclosure, switchgear enclosure and load bank will be very limited since this equipment will be mostly obscured by and not discernible from the existing surrounding buildings. Accordingly, Entergy VY respectfully submits that no aesthetic mitigation should be required for the Project.

IV. Right of the Local and Regional Planning Commissions to Comment on the Project Plans

Pursuant to Section 248(f) of Title 30 of the Vermont Statutes Annotated (30 V.S.A § 248(f)), municipal and regional planning commissions can make recommendations, if any, to the PSB and to the petitioner at least seven days prior to filing of the Petition for the Project with the Board. In order to allow the PSB to take your views into account, Entergy VY requests that your comments be submitted no later than August 31, 2012, which is seven days prior to the anticipated filing date of September 7, 2012. You also have the right to make revised recommendations within 45 days after the date that the Petition is filed with the Board, if the Petition contains new or more detailed information that was not previously included in this letter's description of Project construction plans.

For additional information regarding this process, including your right to participate in the PSB's proceeding, please refer to the "Guide to the Vermont Public Service Board's Section 248 Process" which can be found at **http://www.psb.vermont.gov**.

In providing this notice pursuant to Section 248(f), Entergy VY notes its continued objection to the exercise by the Board of jurisdiction related to matters of exclusive federal jurisdiction, including such exercise of its jurisdiction under Section 248 of Title 30, Vermont Statutes Annotated.

Under *Pacific Gas & Electric Co. v. State Energy Resources Conservation & Development Commission*, 461 U.S. 190, 212 (1983), federal law preempts any attempt by a state to regulate the "operation of a nuclear power plant," whether or not the state regulation is grounded in safety concerns. *See id.* ("At the outset, we emphasize that the [state] statute does not seek to regulate the … operation of a nuclear power plant. It would clearly be impermissible for California to

attempt to do so, for such regulation, even if enacted out of non-safety concerns, would nevertheless directly conflict with the NRC's exclusive authority over plant ... operation."). As noted *supra*, at 1, the NRC has prescribed a regulation regarding Vermont Yankee's operation, and Entergy VY needs to install a new diesel-driven electric generator to meet the regulation's requirements.[1] Exercise of the PSB's authority under Section 248 to prohibit such installation would therefore be preempted under this aspect of "field" preemption as set forth in *Pacific Gas*.

Additionally, any state action that denies approval of the Project would be preempted under conflict preemption. *See English v. Gen. Elec. Co.*, 496 U.S. 72, 72 (1990) (explaining that "state law is pre-empted to the extent that it actually conflicts with federal law"). Again, Entergy VY is installing the diesel-driven electric generator to meet the requirements of an NRC regulation, and thus a state directive prohibiting such installation would conflict with the federal mandate and be preempted. *See Long Island Lighting Co. v. County of Suffolk*, 628 F. Supp. 654 (E.D.N.Y. 1986) (declaring a local law to be preempted because it impeded compliance with a license requirement of the NRC for plant operation).

---

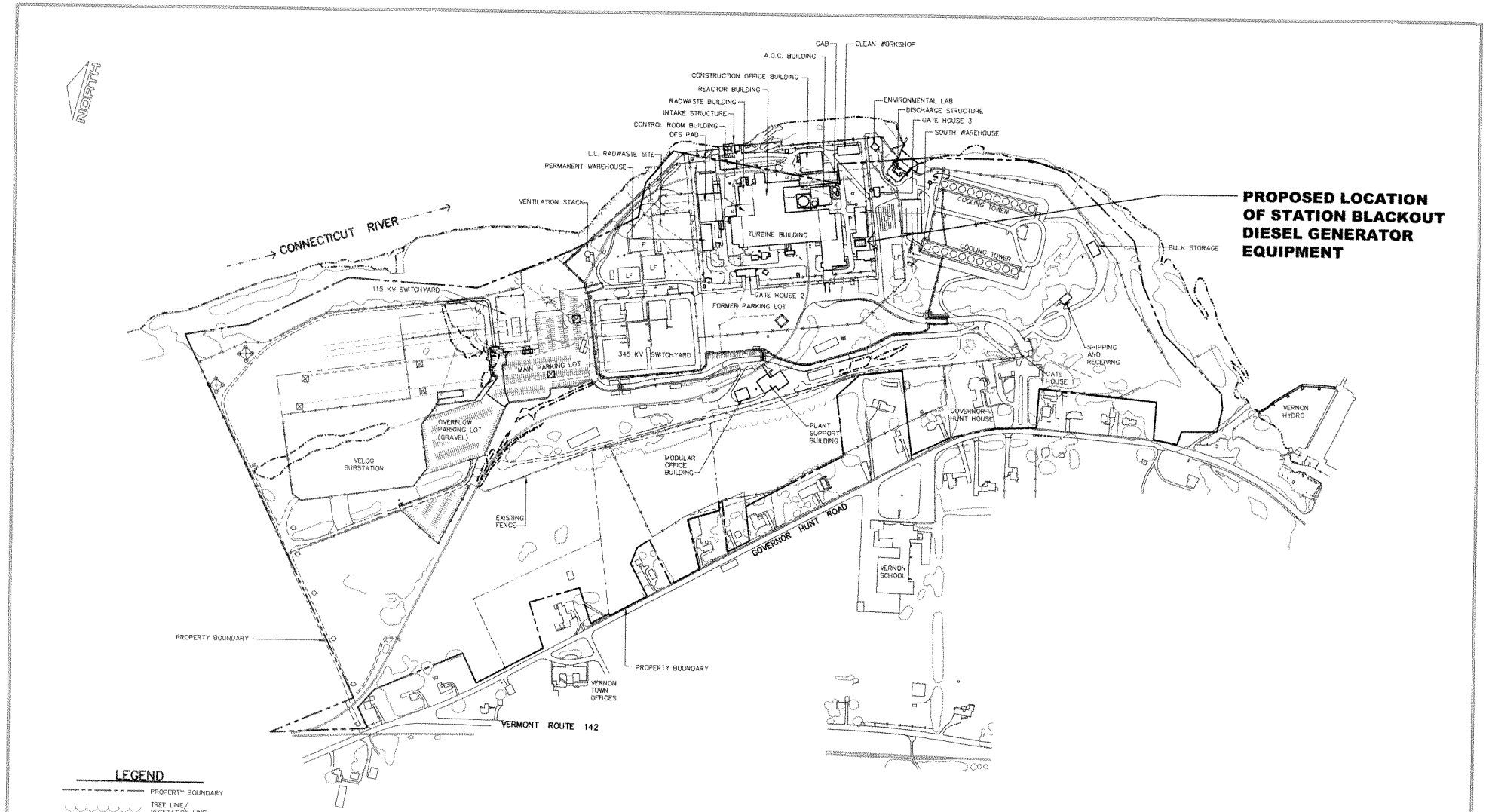
[1] Entergy VY's application for a Certificate of Public Good to continue operating Vermont Yankee until March 21, 2032 pursuant to the renewed license issued by the NRC is being addressed in Board Docket No. 7862. As the Board has recognized, the federal district court's decision dated January 20, 2012 allows Entergy VY to operate Vermont Yankee pending the Board's decision on the amended petition in Docket No. 7862. *See* Docket No. 7440, Order Re: Entergy VY Motion for Declaratory Ruling, issued 3/19/2012 at 26-27 ("We are mindful of the Department's contention that the District Court's decision serves to enjoin the Board from enforcing orders that would require cessation of operations at Vermont Yankee."); *see also Entergy Nuclear Vermont Yankee, LLC v. Shumlin*, No. 11-cv-99, Judgment, ECF No. 183, at 2 (D. Vt. Jan. 20, 2012) (barring State from "bringing an enforcement action, or taking other action, to compel Vermont Yankee to shut down after March 21, 2012, because it failed to obtain legislative approval (under the provisions of Act 160) for a Certificate of Public Good for continued operation, as requested by [Entergy VY's] pending petition in Public Service Board Docket No. 7440, or in any subsequent petition"); *see also id.* (similar with respect to 10 V.S.A. § 6522(c)(4)); *Entergy Nuclear Vermont Yankee v. Shumlin*, No. 11-cv-99, Mem. and Order on Pls.' Expedited Mot. for an Injunction Pending Appeal, ECF No. 209, at 5 (D. Vt. Mar. 19, 2012 (similar with respect to 10 V.S.A. § 6522(c)(2)). The Board's May 4, 2012 Prehearing Conference Memorandum provides a schedule that calls for the completion of briefing on August 26, 2012, which precludes a decision in Docket No. 7862 in time to address Vernon Hydro Station's expected transition out of the ISO-NE blackstart program between January 1, 2013 and September 1, 2013 and necessitates this separate application for a Certificate of Public Good. Entergy VY acknowledges that issuance of the Certificate of Public Good requested for this Project will have no bearing upon the outcome in Docket No. 7862.

If you are interested in a presentation on this Project, or have comments or request further information, please contact Bernard Buteau at (802) 451-3115, or via e-mail at bbuteau@entergy.com.

Sincerely,

Christopher J. Wamser

cc:
Commissioner Elizabeth Miller, Vermont Department of Public Service
Mrs. Susan M. Hudson, Public Service Board Clerk



REV. #	DESCRIPTION	BY & DATE	CHK. & DATE	REV. #	DESCRIPTION	BY & DATE	CHK. & DATE

GRAPHIC SCALE

300 0 100 200 400 800

(IN FEET)
1 inch = 200 ft.

DATE SURVEY: 5/22/12
DATE PLAN: 5/24/12
DESIGNED BY: JEG
DRAWN BY: TJS
CHECKED BY: JEG
SCALE: 1"=200'

GENERATOR EQUIPMENT LOCATION PLAN
ENTERGY NUCLEAR VERMONT YANKEE, LLC
VERNON, VERMONT

SVE Associates © 2012

Engineering Surveying Landscape Architecture Planning
P.O.Box 1818, Brattleboro, VT 05302-1818 Phone (802) 257-0561 Fax (802) 257-0721
website: www.sveassoc.com

PROJ. NO. 84000-13
CAD NO. 84000-13-03
SHEET
OF

Drawing name: P:\Projects\84000-13 Entergy Nuclear VT Yankee Revised SW\Dwg\Version\84000-13-03 Overview.dwg Jul 30, 2012 - 11:02am