



[7590-01-P]

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50-271 and 50-458; NRC-2009-0572]

License Nos. DPR-28 and NPF-47

Entergy Nuclear Operations, Inc.

Entergy Operations, Inc.

Entergy Nuclear Vermont Yankee, LLC

Entergy Gulf States Louisiana, LLC

Notice of Issuance of Director's Decision

Notice is hereby given that the Director, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission (NRC or the Commission), has issued a Director's Decision on a petition filed by Mr. Sherwood Martinelli (hereafter referred to as the Petitioner). Electronic transmissions sent on December 22, 2009, and December 28, 2009, amended the original petition, dated August 22, 2009. The petition concerns the operation of the River Bend Station, Unit 1, owned by Entergy Gulf States Louisiana, LLC, and operated by Entergy Operations, Inc., and the operation of the Vermont Yankee Nuclear Power Station owned by Entergy Nuclear Vermont Yankee, LLC, and operated by Entergy Nuclear Operations, Inc.

The Petitioner requested that the NRC; 1) suspend the operating license of any Entergy Nuclear Operations, Inc., or Entergy Operations, Inc. (both corporations hereafter referred to as Entergy), nuclear power plant with a projected shortfall in its decommissioning trust funds; 2) take action to ensure that the licensee rectify any shortfalls in the decommissioning trust funds; and 3) take additional actions that include imposing daily fines, suspending all Entergy-related filings before the Commission, and ordering the licensee's compliance with all NRC regulations.

Based on the original petition dated August 22, 2009, the Petitioner expressed his belief that Entergy deliberately mismanaged its decommissioning trust funds and knowingly provided false financial documentation supporting filings before the Commission and that the NRC staff was complicit in these actions. The Petitioner noted that the biennial decommissioning funding assurance reports submitted by Entergy in March 2009 for its fleet of nuclear reactors had projected shortfalls totaling hundreds of millions of dollars. The Petitioner requested a number of actions, including suspending the operating licenses of all Entergy facilities with projected shortfalls until the licensee restores the decommissioning funds to the minimum levels required by NRC regulations.

Based on the December 22, 2009, request that amended the original petition, the Petitioner expressed his belief that, because the NRC's Petition Review Board accepted his petition with respect to Vermont Yankee Nuclear Power Station and River Bend Station, the NRC had effectively acknowledged violations by Entergy and that the NRC was remiss in not taking immediate enforcement actions. The Petitioner asked the NRC to impose daily fines on Entergy and to release all financial documentation provided by Entergy that the agency relied on when determining whether adequate decommissioning funds would exist.

Based on the December 28, 2009, request that amended the original petition, the Petitioner expressed his belief that allowing Entergy to rely on SAFSTOR to accumulate decommissioning funds for Indian Point Nuclear Generating, Unit No. 2, is unacceptable. The Petitioner asked the NRC to impose additional enforcement on Entergy that would result in either the withdrawal of its license renewal applications or the imposition of a \$5 billion fine, along with a statement by Entergy acknowledging that it had submitted false and inaccurate financial statements on its decommissioning funding assurance.

The NRC sent a copy of the proposed Director's Decision to the Petitioner and Entergy for comment on September 8, 2011. The agency received comments from Entergy and incorporated them into the final Director's Decision. The agency did not receive any comments from the Petitioner.

The Director of the Office of Nuclear Reactor Regulation denied the Petitioner's request to suspend the operating licenses of the Entergy facilities that have projected shortfalls in their decommissioning trust funds and denied the Petitioner's request that the NRC take certain actions to ensure that the licensee rectifies any shortfalls in the decommissioning trust funds and take other actions to ensure the integrity of the decommissioning trust funds. These actions included suspending all licensing actions for Entergy facilities, ordering immediate actions by Entergy to redress the projected shortfalls, and imposing daily fines until the licensee has deposited adequate funds to make the decommissioning funds fully whole. The Director of the Office of Nuclear Reactor Regulation granted the Petitioner's request that the agency make available to the Petitioner all data and information presented by Entergy and used by the NRC staff to decide whether facilities operated by Entergy have adequate decommissioning funds as required by the regulations. All information supplied by Entergy and used by the staff is publicly available in the Agencywide Documents Access and Management System (ADAMS). The Director's Decision (DD-11-07) under Title 10 of the *Code of Federal Regulations* (10 CFR) 2.206, "Requests for Action under This Subpart," explains the reasons for these decisions. The complete text is available in ADAMS under Accession No. ML112870542 for inspection at the Commission's Public Document Room located at One White Flint North, Public File Area 01 F21, 11555 Rockville Pike (first floor), Rockville, MD, and online in the NRC library at <http://www.nrc.gov/reading-rm.html>.

The NRC will file a copy of the Director's Decision with the Secretary of the Commission for the Commission's review in accordance with 10 CFR 2.206. As a provision of this regulation, the Director's Decision will constitute the final action of the Commission 25 days after the date of the decision unless the Commission, on its own motion, institutes a review of the Director's Decision in that time.

Dated at Rockville, Maryland, this 8th day of November 2011.

FOR THE NUCLEAR REGULATORY COMMISSION

Eric J. Leeds, Director
Office of Nuclear Reactor Regulation