

June 4, 2008

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE COMMISSION

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In the Matter of)	
_____)	
AMERGEN ENERGY COMPANY, LLC)	Docket No.
(Oyster Creek Nuclear Generating Station))	50-219-LR
_____)	
_____)	
In the Matter of)	
_____)	
ENTERGY NUCLEAR OPERATIONS, INC.)	Docket Nos.
(Indian Point Nuclear Generating)	50-247-LR
Units 2 and 3))	and 50-286-LR
_____)	
_____)	
In the Matter of)	
_____)	
ENTERGY NUCLEAR OPERATIONS, INC.)	Docket No. 50-293LR
(Pilgrim Nuclear Power Station))	
_____)	
_____)	
In the Matter of)	
_____)	
ENTERGY NUCLEAR OPERATIONS, INC.)	Docket No. 50-271LR
(Vermont Yankee Nuclear Power Station))	
_____)	

**MOTION BY NUCLEAR INFORMATION AND RESOURCE SERVICE;
JERSEY SHORE NUCLEAR WATCH, INC.; GRANDMOTHERS, MOTHERS
AND MORE FOR ENERGY SAFETY; NEW JERSEY PUBLIC INTEREST
RESEARCH GROUP; NEW JERSEY SIERRA CLUB; NEW JERSEY
ENVIRONMENTAL FEDERATION; RIVERKEEPER, INC.; PILGRIM WATCH
AND NEW ENGLAND COALITION
FOR LEAVE TO REPLY TO NRC STAFF'S OPPOSITIONS TO
SUPPLEMENTAL PETITION FOR ADDITIONAL INVESTIGATION AND
CORRECTION OF DEFICIENCIES REGARDING LICENSE RENEWAL
REVIEWS FOR OYSTER CREEK, INDIAN POINT, PILGRIM, AND VERMONT
YANKEE NUCLEAR POWER PLANTS**

Submitted by:

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Nuclear Information and Resource Service; Jersey Shore Nuclear Watch, Inc.; Grandmothers, Mothers and More for Energy Safety; New Jersey Public Interest Research Group; New Jersey Sierra Club; New Jersey Environmental Federation; (“Oyster Creek Organizations”); Riverkeeper, Inc. (“Riverkeeper”); Pilgrim Watch; and New England Coalition (“NEC”) (collectively “Petitioners”) hereby move for leave to reply to the NRC Staff’s Answer to Supplemental Petition for Additional Investigation and Correction of Deficiencies in License Renewal Reviews (May 27, 2008) (“NRC Staff Response”), in which the Staff opposes Supplemental Petition For Additional Investigation and Correction of Deficiencies Regarding License Renewal Reviews for Oyster Creek, Indian Point, Pilgrim, and Vermont Yankee Nuclear Power Plants (May 15, 2008) (“Supplemental Petition”).

While the Commission’s regulations in 10 C.F.R. § 2.323(c) do not permit the filing of replies to motions without permission from the Commission, Petitioners respectfully submit that this case presents the type of “compelling circumstances” which warrant a reply. First, the NRC Staff raises arguments regarding the alleged legality of the Staff’s destruction of audit-related documents that Petitioners could not have anticipated. As set forth in Petitioners’ Reply, the Staff’s arguments are blatantly inconsistent with program plans that were developed by the Staff itself for license renewal reviews at the Oyster Creek and Indian Point plants and with NRC’s general document retention policies. Second, the Staff also claims that the audit-related documents are privileged, and therefore that Petitioners would have had no right to see them if they had not been destroyed. This argument is so far afield of NRC’s ordinary interpretation of the privilege doctrine that Petitioners could not have anticipated it and in

any event takes no account of the failure to retain licensee documents that could not have been privileged. Thus, Petitioners did not foresee that the Staff's argument that the failure to retain working documents did not affect Petitioners rights to participate in license renewal proceedings. Third, Petitioners could not have anticipated that the Staff would argue that there is sufficient documentation available to show that the relicensing reviews are adequate, when the core finding of the May 8, 2008 memorandum from the Inspector General is that "it was difficult to verify specific details of on-site review activities," because the NRC Staff did not preserve its working files. Petitioners seek leave to respond to the Staff's unfounded claim.

As stated in the attached Certificate of Counsel, in conformance with 10 C.F.R. § 2.323, Petitioners made a sincere attempt to obtain the NRC Staff's consent to the filing of the attached Reply, but consent was denied.

Respectfully submitted,

<p>/s</p> <hr/> <p>Richard Webster, Esq. Eastern Environmental Law Center 744 Broad Street Newark, NJ 07102 973-353-3189 rwebster@kinoy.rutgers.edu <i>Counsel for Oyster Creek Organizations</i></p>	<p>/s</p> <hr/> <p>Mary Lampert Pilgrim Watch 148 Washington Street Duxbury, MA 02332 781-934-0387 mary.lampert@comcast.net <i>Representative for Pilgrim Watch</i></p>
<p>/s</p> <hr/> <p>Phillip Musegaas Riverkeeper, Inc. 828 South Broadway Tarrytown, NY 10591 914-478-4501 x 224 phillip@riverkeeper.org <i>Counsel for Riverkeeper, Inc.</i></p>	<p>/s</p> <hr/> <p>Robert L. Stewart New England Coalition 229 Kibbee Extension Brookfield, Vermont 05036 802-276-3095 Jakeskis@aol.com <i>Representative for New England Coalition</i></p>

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