



State of Vermont
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January 14, 2010

Susan M. Hudson, Clerk
Vermont Public Service Board
112 State Street
Montpelier, VT 05620-2701

Re: Docket 7440 – Act 189 buried pipe issue

Dear Mrs. Hudson:

It has come to the attention of the Department of Public Service (Department or DPS) that Entergy Nuclear Vermont Yankee, LLC and Entergy Nuclear Operations, Inc. (collectively ENVY or Petitioners) did not provide accurate information to the Department or its contractor, Nuclear Safety Associates (NSA) regarding Section 3(a)(7) of Act 189 of the 2007-2008 Vermont Legislature (Act 189).¹ Section 3 details which specific ENVY systems were to be assessed as part of the Act 189 comprehensive reliability assessment (CRA). Subsection (7) requires that "an underground piping system that carries radionuclides" be included in the assessment.

In preparing the scope of the CRA in conjunction with the Public Oversight Panel (POP),² the DPS and NSA assessment team were informed by ENVY that there were no piping systems that met the description of section 3(a)(7) of Act 189.³ As a result, the scope of the assessment substituted ENVY's Service Water System (SWS) for the underground piping described in Act 189, including

¹ Act 189 established the requirement for a comprehensive reliability assessment of the Vermont Yankee Nuclear Station. The Department hired Nuclear Safety Associates as its primary contractor for conducting the assessment. The results of that assessment were contained in a report that was provided to the Vermont Legislature as well as the Public Service Board in the form of a Department Exhibit in Docket 7440. That report was the center piece of the Department's assessment in Docket 7440 of the potential reliability of the plant on a going forward basis.

² The Public Oversight Panel was established by section 6 of Act 189.

³ The Department and its contractors understood Act 189's language to apply to underground pipe carrying contaminated liquids. The pipe inspection discussed on page 262 of the NSA CRA report (Exh. DPS-Panel-1) discussed a gaseous vent pipe and thus is not considered to be a disclosure by ENVY of underground piping covered by section 3(a)(7) of Act 189. The Department believes that ENVY also interpreted Act 189's underground piping language to be limited to pipes carrying liquids due to their ability to contaminate soils in the event of a leak.



a review of ENVY's Buried Pipe and Tank Inspection Program (BPTIP) as it is applied to the SWS.

As a result of the reliance on ENVY representations and the resultant modified scope of the CRA, the NSA report concluded:

Act 189 included an in-depth inspection of 'an underground piping system that carries radionuclides'. However, there are no underground piping systems carrying radionuclides at ENVY. As an alternative and in agreement with the Department of Public Service and the Public Oversight Panel, the buried piping in the Service Water System was selected for a detailed examination of the ENVY underground piping inspection program.⁴

As a result of the recent discovery of tritium in a monitoring well, the State has learned that there are indeed underground piping systems at the Vermont Yankee plant that carry radionuclides. At this time ENVY has disclosed the existence of a pressurized 2" pipe that meets the description of underground piping in Act 189. Additionally, ENVY has disclosed that there may be some additional piping that meets this description as well. The Department is making further inquiries about this possibility and will alert the Board as to its findings.

As a result of the earlier incorrect information, the Department concludes that the requirements of section 3(a)(7) of Act 189 were not met and the statement in Exhibit DPS-Panel-1 that no underground piping carrying radionuclides exists at Vermont Yankee is incorrect. The Department believes that at a minimum the following actions are necessary to remedy the situation:

1. ENVY must immediately provide, in the form of an affidavit by a company representative with personal knowledge, a comprehensive list to the DPS that completely and accurately identifies all pipes/systems that meet the description of section 3(a)(7) of Act 189. This list will then be subject to independent verification by DPS.
2. An independent vertical inspection of the identified applicable buried piping system(s) must be conducted per the requirements of Act 189
3. Based on the results of the vertical inspection, a potential horizontal inspection may also need to be conducted per the requirements of section 5(a)(2) of Act 189.⁵ Such an investigation could include an

⁴ Exh. DPS -Panel-1 at 262.

⁵ "At any point in the vertical inspection at which an emergency-related function, the operability, the design, the performance, or aging issues, or other unanalyzed or nonconforming conditions are encountered, a thorough horizontal or lateral exploration shall be conducted to determine extent-of-condition and root cause with attention to evaluating licensee performance in problem

extent of condition review, which may touch other systems, a root cause review, and an in-depth review of the TOTAL BPTIP program, which may include a review of any supporting Entergy corporate programs.

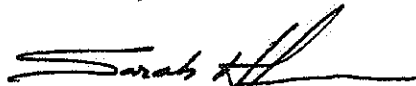
4. ENVY must perform a root cause analysis to determine why incomplete and inaccurate information was provided to the DPS and POP in the first instance. This analysis would then be subject to DPS review.

The Department also believes that the Board will need to conduct a status conference to determine what steps are necessary in Docket 7440 given the current status of affairs. The Department suggests that it be scheduled two to three weeks into the future so that the DPS will have some idea of the extent of the issue based on its review of information it expects to receive from ENVY regarding the existence of underground piping per Act 189's requirements.

Lastly, the Department wishes to alert the Board that it is reviewing the possibility for financial sanctions against the Petitioners pursuant to 30 V.S.A. § 30 for their failure to make a proper disclosure to the Department, and if sanctions appear legally supportable will be making an additional recommendation in that regard.

Thank you for your attention to this important issue. Please feel free to call with any questions.

Sincerely,



Sarah Hofmann, Director for Public Advocacy



John J. Cotter, Special Counsel

Cc: Docket 7440 Service List
Act 189 Public Oversight Panel



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January 14, 2010

Mr. Rick Smith, President and CEO
Entergy Corporation
639 Loyola Ave.
Mail Stop L-ENT-28D
New Orleans, LA 70113

Re: Docket 7440 – Act 189 buried pipe issue

Dear Rick:

It has come to the attention of the Department of Public Service (Department or DPS) that Entergy Nuclear Vermont Yankee, LLC and Entergy Nuclear Operations, Inc. (collectively ENVY or Petitioners) did not provide accurate information to the Department or its contractor, Nuclear Safety Associates (NSA) regarding Section 3(a)(7) of Act 189 of the 2007-2008 Vermont Legislature (Act 189).¹ As you are aware, section 3 details which specific ENVY systems were to be assessed as part of the Act 189 comprehensive reliability assessment (CRA). Subsection (7) requires that "an underground piping system that carries radionuclides" be included in the assessment.

In preparing the scope of the CRA in conjunction with the Public Oversight Panel (POP),² the DPS and NSA assessment team were informed by ENVY that there were no piping systems that met the description of section 3(a)(7) of Act 189.³ As a result, the scope of the assessment substituted ENVY's Service

¹ Act 189 established the requirement for a comprehensive reliability assessment of the Vermont Yankee Nuclear Station. The Department hired Nuclear Safety Associates as its primary contractor for conducting the assessment. The results of that assessment were contained in a report that was provided to the Vermont Legislature as well as the Public Service Board in the form of a Department Exhibit in Docket 7440. That report was the center piece of the Department's assessment in Docket 7440 of the potential reliability of the plant on a going forward basis.

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Water System (SWS) for the underground piping described in Act 189, including a review of ENVY's Buried Pipe and Tank Inspection Program (BPTIP) as it is applied to the SWS.

As a result of the reliance on ENVY representations and the resultant modified scope of the CRA, the NSA report concluded:

Act 189 included an in-depth inspection of 'an underground piping system that carries radionuclides'. However, there are no underground piping systems carrying radionuclides at ENVY. As an alternative and in agreement with the Department of Public Service and the Public Oversight Panel, the buried piping in the Service Water System was selected for a detailed examination of the ENVY underground piping inspection program.⁴

As a result of the recent discovery of tritium in a monitoring well, the State has learned that there are indeed underground piping systems at the Vermont Yankee plant that carry radionuclides. At this time ENVY has disclosed the existence of a pressurized 2" pipe that meets the description of underground piping in Act 189. Additionally, ENVY has disclosed that there may be some additional piping that meets this description as well. The Department expects ENVY to promptly follow-up on this possibility and to alert the DPS to its findings.

As a result of the earlier incorrect information, the Department concludes that the requirements of section 3(a)(7) of Act 189 were not met and the statement in the Exhibit DPS-Panel-1 that it filed with the Board in Docket 7440 that no underground piping carrying radionuclides exists at Vermont Yankee is incorrect.

As a result, the Department requires that ENVY immediately provide, in the form of an affidavit by a company representative with personal knowledge, a comprehensive list that completely and accurately identifies all pipes/systems that meet the description of section 3(a)(7) of Act 189. This list will then be subject to independent verification by DPS.

Once the list is received and verified, the Department intends to conduct an independent vertical inspection of the identified applicable buried piping system(s) to fulfill its obligations under Act 189. Based on the results of the vertical inspection, a potential horizontal inspection may also need to be conducted per the requirements of section 5(a)(2) of Act 189.⁵ Such an

⁴ Exh. DPS -Panel-1 at 262.

⁵ "At any point in the vertical inspection at which an emergency-related function, the operability, the design, the performance, or aging issues, or other unanalyzed or nonconforming conditions are encountered, a thorough horizontal or lateral exploration shall be conducted to determine extent-of-condition and root cause with attention to evaluating licensee performance in problem

investigation could include an extent of condition review, which may touch other systems, a root cause review, and an in-depth review of the TOTAL BPTIP program, which may include a review of any supporting Entergy corporate programs. Additionally, Envy must perform a root cause analysis to determine why incomplete and inaccurate information was provided to the DPS and POP during the scoping phase of the CRA. The Department will then review the ENVY analysis.

The Department will also be filing recommendations with the Public Service Board, including the need for a status conference to determine what steps are necessary in Docket 7440 given the current status of affairs.

Lastly, ENVY should be aware that the DPS is reviewing the possibility for financial sanctions against the Petitioners pursuant to 30 V.S.A. § 30 for their failure to make a proper disclosure to the Department in the first instance, and if sanctions appear legally supportable will be making an additional recommendations to the Public Service Board in that regard.

Thank you for your attention to this important issue. Please feel free to call with any questions.

Sincerely,



David O'Brien
Commissioner, Vermont Department of Public Service

Cc: Docket 7440 Service List
Jay Thayer, Vice President, Nuclear Operations, Entergy Services, Inc.
Michael Colomb, Site Vice President, Vermont Yankee