

**UNITED STATES  
NUCLEAR REGULATORY COMMISSION  
ATOMIC SAFETY AND LICENSING BOARD**

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In re: Docket Nos. 50-247-LR; 50-286-LR  
License Renewal Application Submitted by ASLBP No. 07-858-03-LR-BD01  
Entergy Nuclear Indian Point 2, LLC, DPR-26, DPR-64  
Entergy Nuclear Indian Point 3, LLC, and  
Entergy Nuclear Operations, Inc. March 11, 2010  
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**STATE OF NEW YORK’S MOTION FOR LEAVE TO FILE  
NEW AND AMENDED CONTENTIONS CONCERNING THE DECEMBER 2009  
REANALYSIS OF SEVERE ACCIDENT MITIGATION ALTERNATIVES**

**A. Introduction**

Pursuant to 10 C.F.R. § 2.309(f)(2) the State of New York seeks leave to file the attached Contentions 12B, 16B, 35, and 36. The Contentions are based on Entergy’s filing on December 14, 2009 of a new severe accident mitigation alternatives (“SAMA”) analysis (“December 2009 SAMA Reanalysis”). The new December 2009 SAMA Reanalysis is not merely a minor alteration in the previous analysis, but represents an entirely new SAMA analysis using different assumptions and input values and producing markedly different results. The new analysis does not merely modify a few parts of the prior analysis but is, rather, a replacement of that prior analysis.

Review of the December 2009 SAMA Reanalysis and its supporting documentation reflects that many modifications were made in the MACCS2 and SAMA reanalysis and the result is an entirely new analysis.<sup>1</sup> Thus, Entergy not only substantially altered the meteorological

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<sup>1</sup> This reanalysis replaces substantial portions of Appendix E to the ER and Attachment E to Appendix E, and as such is a *de facto* amendment to the ER.

inputs to account for an erroneous wind direction in the initial SAMA, it also chose to use one year, the year 2000, as the only year of meteorological inputs rather than its previous approach of averaging five years (years 2000-2004). December 2009 SAMA Reanalysis at 4-5. It further incorporated in to the “base case” analysis additional factors related to lost tourism and business as the result of a severe accident. *Id.* at 5. It ran new sensitivity analyses incorporating a new severe accident scenario. *Id.* at 4. It also recalculated the costs for several previously-identified SAMAs by engaging in more detailed engineering cost analyses of proposed mitigation measures. *Id.* at 7-8.<sup>2</sup> It appears that Entergy may also have corrected a formatting error when it prepared the December 2009 SAMA Reanalysis. *See* Statement of David Chanin, ¶ 11. The 2009 SAMA Reanalysis reflects substantial increases in population dose risk and off site economic cost risk. *See id.* at ¶ 8-10. Moreover, in the new SAMA reanalysis, Entergy identifies six new mitigation measures, three for each reactor, which it believes may be cost-effective but that it previously reported were not cost-effective. In addition, three other mitigation measures, which were also previously not identified as cost-effective, also are now cost-effective. Nine other SAMAs that were found to be marginally cost-effective in the original SAMA analysis are now, in the December 2009 SAMA Reanalysis, substantially more cost-effective. *See and Compare* ER, Appendix E, at 4-74 to 4-78 to December 2009 SAMA Reanalysis at 10-28. In short, the December 2009 SAMA Reanalysis reflects a “do over” of the Severe Accident Mitigation Alternative analysis required by 10 C.F.R. § 51.53(c)(3)(ii)(L).

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<sup>2</sup> However, Entergy has not completed the necessary economic analysis to confirm that all the newly identified cost-effective mitigation measures and all the substantially more beneficial cost-effective mitigation measures are actually cost-effective. Rather, it asserts that it is not obligated to do so within the confines of this relicensing proceeding because it has already demonstrated that its aging management program will adequately deal with all potential safety issues and thus, pursuant to Part 54, none of the mitigation measures are appropriate for consideration in the relicensing hearing. December 2009 SAMA Reanalysis at 32.

New York State's proposed Contentions 12B, 16B, 35, and 36 are based on the December 2009 SAMA Reanalysis. Pursuant to two Orders of this Board granting extensions of time to file proposed new contentions based on that filing, these contentions are all timely, having been filed within the time limits set by those two Orders. *See* ASLB Order dated January 22, 2010 (Granting New York's Motion To Establish February 25, 2010 As The Date By Which New York May File Contentions Related To Entergy's Revised Submission Concerning Severe Accident Mitigation Alternatives) and ASLB Order, dated February 24, 2010 (Extending Time Within Which To File New Contentions [to March 11, 2010]).

**B. Additional Factual Background**

The State of New York provides the following information in further support of its motion for leave to file the accompanying four contentions.

Following receipt of the December 2009 SAMA Reanalysis, the State of New York asked Entergy various questions about the Reanalysis and MACCS2 inputs and outputs. The requests were made in December 2009 and January and February 2010. Entergy responded to the State's requests. Specifically, on December 15, 2009, the State asked Entergy's counsel to produce electronic versions of the output files and results Entergy used in the December 2009 SAMA Reanalysis as well as for the original SAMA analysis. *See* Letter, John Sipos to Kathryn Sutton and Paul Bessette (Dec. 15, 2009). Entergy responded and provided some of the requested information on December 18, 2009, including input files (electronic files bearing a suffix ".inp") and two reports. *See* Letter, Kathryn M. Sutton and Paul M. Bessette to Janice A. Dean and John Sipos (Dec. 18, 2009). The State received this information on December 21, 2009.

On December 30, 2009, the State again asked Entergy's counsel to produce electronic versions of the output files (electronic files bearing a suffix ".out") and results Entergy used in

the December 2009 SAMA Reanalysis. *See* Letter, John Sipos to Kathryn Sutton and Paul Bessette (Dec. 30, 2009). Entergy’s counsel provided the requested information on January 6, 2010. *See* Letter, Paul M. Bessette to Janice Dean and John Sipos (Jan. 6, 2010). The State received this information on January 7, 2010.

On January 14, 2010, the State sought clarification from Entergy concerning the availability of a report entitled “ENERCON Services Site Specific MACCS2 Input Data for Indian Point Energy Center, Rev. 1.” *See* Letter, John Sipos to Kathryn M. Sutton, Paul M. Bessette, and Jonathan M. Rund (Jan. 14, 2010). Entergy clarified that it had listed this document in its December 30, 2009 supplemental disclosure log and delivered the ENERCON site specific input data to the State. *See* Letter, Paul M. Bessette to Janice Dean and John Sipos (Jan. 19, 2010). The State received this ENERCON document on January 20, 2010.

On January 21, 2010, the State filed a formal motion requesting that the Board set a date of February 25 as the date for filing new SAMA-related contentions; on January 22, 2010, the ASLB granted the State’s motion. *See* Order, In the Matter of Entergy Nuclear Operations, Inc. (Indian Point Nuclear Generating Units 2 and 3), Docket Nos. 50-0247-LR and 50-286-LR, ASLBP No. 07-858-03-LR-BD01 (Jan. 22, 2010). At the request of the State of New York, that date was subsequently extended to March 11, 2010. *See* Order, In the Matter of Entergy Nuclear Operations, Inc. (Indian Point Nuclear Generating Units 2 and 3), Docket Nos. 50-247-LR and 50-286-LR, ASLPB No. 07-858-03-LR-BD01 (February 24, 2010).

On February 8, 2010, the State sent Entergy’s counsel a letter seeking, among other things, meteorological data inputs for the years with which Entergy compared the year 2000 in determining that results from the year 2000 were the “most conservative”; the output files from the original SAMA analysis for each of the five years analyzed; information identifying whether

Entergy or its affiliate, Enercon, used “weather bin catalog sampling” or some other method of selecting the 120 hours that constitute a weather sequence and explaining which of the five methods set forth in NUREG/CR 4691 constitutes “weather bin sampling,” and annual precipitation totals for years 2001 through 2004, and 2005 through 2009 as measured by the meteorological data collection system used for the MACCS2/SAMA analysis. *See* Letter, John Sipos to Kathryn M. Sutton, Paul M. Bessette, and Jonathan M. Rund (Feb. 8, 2010). The State also requested wind roses for 2000 through 2009 and precipitation data for the years 2001 through 2009 as measured by Entergy’s meteorological data collection system used by Entergy to prepare the MACCS2/SAMA analysis. *Id.* Entergy responded to the State’s request on February 16, 2010. *See* Letter, Paul M. Bessette and Kathryn M. Sutton to Janice A. Dean and John Sipos (Feb. 16, 2010). Entergy did not provide wind roses, nor did it provide precipitation data from 2005 through 2009. *Id.* In addition, on February 17, 2010, the State received a compact disc containing the MACCS2 computer code from NRC Staff. *See* Letter, Beth N. Mizuno to Janice Dean (Feb. 16, 2010).

The magnitude of the changes made by the December 2009 SAMA Reanalysis are graphically represented in the following tables which illustrate, first, that the consequences of a severe accident have increased almost four fold and second, that the economic benefit to be achieved by implementing certain mitigation measures has increased dramatically in comparison to the cost of the mitigation measure.

<b>COMPARISON OF 2007 AND 2009 SAMA ANALYSIS</b>				
Consequence	Reactor Unit	2007 SAMA	December 2009 SAMA	Difference
Mean Population Dose Risk (PDR)	IP2	2.20 x 10 <sup>1</sup>	8.74 x 10 <sup>1</sup>	3.97x
	IP3	2.45 x 10 <sup>1</sup>	9.48 x 10 <sup>1</sup>	3.87x
Mean Off-site Economic Cost Risk(OECR)	IP2	4.49 x 10 <sup>4</sup>	2.12 x 10 <sup>5</sup>	4.72x
	IP3	5.28 x 10 <sup>4</sup>	2.61 x 10 <sup>5</sup>	4.95x

Source: Entergy Engineering Report IP-RPT-09-00044 (Dec. 3, 2009), Tables 1 & 2, p. 11 of 39  
 Entergy NL-09-165, (Dec. 11, 2009), Tables 1 & 2, p. 6 of 33  
 Entergy Environmental Report, Attachment E (April 2007), p. E.1-92 to 93  
 Entergy Environmental Report, Attachment E (April 2007), p. E.3-86 to 87  
 See also Statement of David Chanin, ¶ 8-10.

<b>Comparison of Changes in Benefits and Cost Calculations</b>						
SAMA Number and Description	Original Baseline Benefit	New Baseline Benefit	Original Baseline Benefit with Uncertainty	New Baseline Benefit with Uncertainty	Old Cost	New Cost
IP2 SAMA 028: Provide a portable diesel-driven battery charger.	\$420,459	\$1,357,046	\$885,176	\$2,856,939	\$494,000	\$938,000
IP2 SAMA 044: Use fire water system as backup for steam generator inventory.	\$984,503	\$2,350,530	\$2,072,638	\$4,948,485	\$1,656,000	\$1,656,000
IP2 SAMA 054: Install flood alarm in the 480VAC switchgear room.	\$1,722,733	\$5,591,781	\$3,626,807	\$11,772,170	\$200,000	\$200,000
IP2 SAMA 060: Provide added protection against flood propagation from stairwell 4 into the 480VAC switchgear room.	\$387,828	\$1,275,337	\$816,481	\$2,684,920	\$216,000	\$216,000

<b>Comparison of Changes in Benefits and Cost Calculations</b>						
<b>SAMA Number and Description</b>	<b>Original Baseline Benefit</b>	<b>New Baseline Benefit</b>	<b>Original Baseline Benefit with Uncertainty</b>	<b>New Baseline Benefit with Uncertainty</b>	<b>Old Cost</b>	<b>New Cost</b>
IP2 SAMA 061: Provide added protection against propagation from the deluge room into the 480V switchgear room.	\$853,187	\$2,754,991	\$1,796,183	\$5,799,982	\$192,000	\$192,000
IP2 SAMA 065: Upgrade the ASSS to allow timely restoration of seal injection and cooling.	\$1,722,733	\$5,591,781	\$3,626,807	\$11,772,170	\$560,000	\$560,000
IP3 SAMA 055: Provide hardwired connection to one SI or RHR pump from the Appendix R bus (MCC312A).	\$1,274,884	\$4,073,152	\$1,847,657	\$5,903,118	\$1,288,000	\$1,288,000
IP3 SAMA 061: Upgrade the ASSS to allow timely restoration of seal injection and cooling.	\$1,365,046	\$4,359,371	\$1,978,328	\$6,317,929	\$560,000	\$560,000
IP3 SAMA 062: Install flood alarm in the 480VAC switchgear room.	\$1,365,046	\$4,359,371	\$1,978,328	\$6,317,929	\$196,800	\$196,800

In addition as discussed in the accompanying Statement of David Chanin, who has substantial expertise with the MACCS2 code, it also appears that a column formatting error was contained in the initial SAMA analysis, and that the December 2009 SAMA Reanalysis was

changed in this regard. corrected this error. *See* Statement of David Chanin, at ¶ 11. It appears that the correction of this error in the December 2009 SAMA Reanalysis increased the value of “non-farm wealth” and, in turn, contributed to the increase of economic costs reflected in the December 2009 SAMA Reanalysis. *Id.*

### **C. The Contentions Meet All The Requirements of 10 C.F.R. § 2.309(f)(2)**

These contentions fully meet 10 C.F.R. § 2.309(f)(2) which requires for admissibility, in pertinent part, a showing that:

(i) The information upon which the amended or new contention is based was not previously available;

(ii) The information upon which the amended or new contention is based is materially different than information previously available; and

(iii) The amended or new contention has been submitted in a timely fashion based on the availability of the subsequent information.

*Id.*

#### **1. Information Not Previously Available**

Since these four contentions are based upon a document first filed on December 14, 2009, and on the new information contained in that document regarding the cost-effectiveness of SAMAs, the contentions rely on information not previously available and thus meet the first prong of the test set forth in 10 C.F.R. § 2.309(f)(e)(i).

#### **2. The New Information Is Materially Different Than Previously Available Information**

It was not until Entergy had completed its new December 2009 SAMA Reanalysis, that the State of New York was able to determine that (1) deficiencies identified in previously admitted Contentions 12A and 16A were being perpetuated in a new SAMA analysis, (2) nine



mitigation measures, not previously identified as cost-effective, were to have their cost analyses truncated in a way that would impede NRC Staff and this Board from making a final determination as to whether implementation of those nine mitigation measures as a condition of any extended operating license was warranted (proposed Contention 35), and (3) that certain previously identified mitigation measures that were marginally cost-effective, but as to which completed cost analyses had not been conducted, were now so substantially more cost-effective that it was unlikely that further cost estimates would tip the balance against the mitigation measure thus requiring implementation of these mitigation measures as a condition for any extended license (proposal Contention 36).

### **3. The Contentions Are Timely**

Pursuant to Orders issued by the Board and referenced above, Contentions based on the December 2009 SAMA Reanalysis were due to be filed on or before March 11, 2010. These Contentions have been filed on March 11, 2010.

Thus, the State of New York State has demonstrated that its four proposed new Contentions meet the requirements for admissibility set forth in 10 C.F.R. § 2.309(f)(2).

### **D. The Contentions Also Meet the Requirements of 10 C.F.R. § 2.309(c)**

Although a party is not required to demonstrate compliance with 10 C.F.R. § 2.309(c) where, as here it meets the requirements of 10 C.F.R. § 2.309(f)(2), NRC Staff has argued in other proceedings that a new contention is required to meet the provisions of both sections.<sup>3</sup>

Since the State easily meets both sets of standards and, out of an abundance of caution, it

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<sup>3</sup> 10 C.F.R. § 2.309(c) is only applicable to “late filed contentions.” Contentions that meet the requirements of 10 C.F.R. § 2.309(f)(2) are, by meeting subpart iii, “timely” and thus do not need to meet the provisions of § 2.309(c). *See In the Matter of Entergy Nuclear Vermont Yankee L.L.C. and Entergy Nuclear Operations, Inc.* (Vermont Yankee Nuclear Power Station) Docket No. 50-271-OLA, ASLBP No. 04-832-02-OLA (December 2, 2005) LBP-05-32, slip op. at 9-10. *See also In the Matter of Entergy Nuclear Vermont Yankee L.L.C. and Entergy Nuclear Operations, Inc.* (Vermont Yankee) LBP 07-015 (November 7, 2007), ML073110424, slip op. at 6, n. 12.

provides the following demonstration of its compliance with the requirements of 10 C.F.R. § 2.309(c).

### **1. Good Cause**

Contention 12B and 16B update Admitted Contentions 12A and 16A. Those admitted contentions identify fundamental defects in the SAMA analysis that was part of the original ER and that were embraced by NRC Staff in the DSEIS. Since the original SAMA analysis now is no longer operative for Entergy's Application and has been replaced by the December 2009 SAMA Reanalysis, it is necessary to reassert those admitted Contentions as being applicable to the new SAMA Reanalysis. This is particularly important because Entergy has made substantial alterations in the December 2009 SAMA Reanalysis upon which it now relies, several of which deal with meteorology and calculations of post accident economic losses. None of the numerous modifications made by Entergy in the SAMA reanalysis address either the failure to properly determine the population exposed or the cost of clean up following a severe accident. Nor do these changes correct the fundamental flaw in the meteorological model which continues to make non-conservative dispersion assumptions using the straight line Gaussian plume model and thus cannot account for the numerous complex terrain and topographical features of the site and its surrounding environment including its need to rely on a single meteorological tower, thus missing precipitation variations, the river valley effect on wind directions, differing mixing heights, to mention only a few of the ways in which the simplistic ATMOS model fails to provide a reasonably accurate depiction of how radiation from a severe accident will be dispersed among the 19 million people who are projected to be within 50 miles of Indian Point by 2035.

Contention 35 is focused on nine SAMAs that were identified as potentially cost-effective for the first time in the December 2009 SAMA Reanalysis. The failure to complete the engineering cost analysis for any of these nine SAMAs was not relevant until, following a complete reanalysis of the SAMAs by Entergy and the substantial increase in the benefits of these nine SAMAs as a result of the reanalysis, it was revealed that the nine SAMAs were now deemed potentially cost-effective. Once the SAMA screening process used by Entergy had reached that point, it was then relevant to insist that the engineering cost analyses be completed in order to determine, whether in fact, the nine SAMAs were cost-effective and thus eligible to be implemented as license conditions for an extended operating license for either IP 2 or IP 3.

Contention 36 is focused on nine mitigation measures in the new SAMA reanalysis as to which substantially new information, not previously available, makes a challenge to the failure to require implementation of these nine measures as part of an extended license, viable for the first time. Now that Entergy has recalculated the benefits of all SAMAs and substantially increased the benefit of previously cost-effective measures, in many cases by more than a factor of 2 and in some cases by as much as a factor of 5, the ratio between estimated cost and baseline benefit has increased dramatically such that, in some cases, the baseline benefit now exceeds the estimated cost by an order of magnitude or more and in several other instances the dollar difference between baseline benefit and estimated cost has widened considerably.<sup>4</sup> As a result of this new

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<sup>4</sup> See IP 2 SAMA 054 where the baseline benefit is now \$5.4 million greater than the estimated cost but was only \$1.2 million greater before; IP 2 SAMA 060 where the baseline benefit is now six times greater than the cost (\$1.275 million to \$216,000) but was only \$160,000 greater before; IP 2 SAMA 061 where the baseline benefit is now over 14 times greater than the cost compared to a mere \$800,000 difference between benefit and cost (less than twice as much); IP 3 SAMA 061 where the benefit now exceeds the cost by more than \$3.75 million, which is 8 times the cost where before the benefit exceeded the cost by less than \$1 million and less than 3 times; and IP 3 SAMA 062 where the benefit is now more than \$4.1 million greater than the cost, which is 21 times the cost, compared to a mere \$1.1 million before and only 6 times the cost. In three instances a mitigation measure that was previously only cost-effective when the cost estimate was compared to the “benefit with uncertainty” calculation has now become cost-effective even for the baseline benefit case. See IP 2 SAMAs 028 and 044 and IP 3 SAMA 055. In addition, one previously cost-effective measure has had a more detailed cost estimate and still remains cost-

SAMA reanalysis the State believes, for the first time, it can make a credible argument that, even though the cost estimates have not yet been completed, the difference between estimated cost and calculated benefit is so great that refined cost estimates are unlikely to dramatically change the outcome, that the safety advantages are and will remain “substantial”, as the Commission has interpreted that term (*see* S. Chilk, Staff Requirements Memorandum (“SRM”) to J.M. Taylor and W.C. Parler, “SECY-93-086—Backfit Considerations,” June 30, 1993, PDR Accession No. 9307300095 930630) and thus, the failure to require implementation of the nine identified SAMAs is not consistent with NEPA, the Atomic Energy Act and the Administrative Procedure Act.

Additionally, in Contention 36 the State has singled out only those SAMAs where: (1) the reduction in the population dose risk is substantial – 10% or more; (2) the difference between the economic cost and the benefit is substantial both in terms of the actual dollar difference and also how many times the benefit is larger than the cost; and/or (3) the cost has been further refined to a point where additional engineering cost analyses are not likely to substantially increase the cost.

The State has taken seriously the admonition that “[a]ll parties are obligated, in their filings before the presiding officer and the Commission, to ensure that their arguments and assertions are supported by appropriate and accurate references to legal authority and factual basis, including, as appropriate, citations to the record. Failure to do so may result in appropriate sanctions, including striking a matter from the record or, in extreme circumstances, dismissal of the party.” 10 C.F.R. § 2.323(d); *see* 69 Fed. Reg. 2182, 2183, Statement of Considerations, Changes to Adjudicatory Process (Jan. 14, 2004) referring to “existing requirements . . . to

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effective. *See* IP 2 SAMA 028. Thus, as to this measure, the new SAMA reanalysis provides a substantially stronger case for requiring its implementation than if the further cost estimate remained to be completed.

proffer specific, adequately supported contentions in order to be admitted as a party to the proceeding. In order to make the argument that a cost-effective SAMA must, absent a rational basis for exclusion, be included as a condition for an extended operating license, the case for including SAMAs as license conditions should not be vague or marginal. In the December 2009 SAMA Reanalysis the benefit calculations increased many times over the initial analysis and made a number of SAMAs, for which full engineering cost analyses had not been completed, so substantially more beneficial that the record now strongly supports the State's argument that such SAMAs should be added to any extended operating license.

**2. The State of New York's Interest In This Proceeding, Its Standing And Its Unique Position As A Sovereign State Have Been Established**

As an admitted party, the State of New York has already demonstrated that it has a right to be in the proceeding, that it has a substantial interest in the proceeding and that its interest will be substantially impacted by any order entered in this proceeding. *See also* 42 U.S.C. § 2021(l) (recognizing important role of States in AEA matters). Thus, it fulfills the provisions of 10 C.F.R. §§ 2.309(c)(ii, iii, and iv). Similarly, no other party can adequately represent the interests of the State of New York, a sovereign governmental entity, particularly on the issues raised here, which issues have not been raised by any other party. Thus, the State also fulfills the provisions of 10 C.F.R. §§ 2.309(c)(v and vi).

**3. Admission Of These New Contentions Will Not Delay The Hearing And Will Assist In Developing The Record**

Contentions 12B and 16B merely reaffirm the relevance of previously admitted Contentions 12/12A and 16/16A. Their admission will not delay the hearing and will avoid any dispute over whether they are actually addressed to the SAMA analysis which is relevant to this proceeding.

Contention 35 and 36 are essentially based on legal deficiencies in the December 2009 SAMA Reanalysis.<sup>5</sup> The facts upon which they are based are taken directly from the December 2009 SAMA Reanalysis and do not necessarily depend upon expert testimony. It is the December 2009 SAMA Reanalysis that fails to complete the engineering cost analyses required by law. It is the December 2009 SAMA Reanalysis that quantifies both the percentage risk reduction and economic advantage that would be gained and thus, the substantial safety benefits that could be obtained, if certain SAMAs were implemented. It is the December 2009 SAMA Reanalysis that fails to include a commitment to implement those substantially cost-effective SAMAs and provides no rational basis for the refusal to make that commitment. Thus, these two new contentions are likely to only add additional briefing – and probably cross motions for summary disposition – to the record in the case and thus are likely to be resolved before any hearings commence.

At this point in the case, two and a half months before NRC Staff currently predicts it will publish the SEIS, the admission of new Contentions, particularly ones based primarily on non-disputed facts, are not likely to delay the commencement of the hearings. In addition, since the December 2009 SAMA Reanalysis, which Entergy filed at least in part because of several major problems it and Staff belatedly identified in the previously filed SAMA, represents “significant new circumstances or information relevant to environmental concerns and bearing on the proposed action or its impacts” within the meaning of 40 C.F.R. § 1502.9(c)(ii), NRC Staff is obligated to circulate a new DSEIS that will likely cause its current date for publishing the SEIS to slip, unless it publishes the supplemental DSEIS promptly.

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<sup>5</sup> As outlined above in Parts A and B of this motion, the State of New York carefully evaluated the December 2009 SAMA Reanalysis and several supporting documents and electronic files subsequently provided by Entergy at New York’s request.

Finally, new Contentions 35 and 36 will facilitate the development of a fuller record upon which the Board will be able to base its decision on whether certain SAMAs are cost-effective and, if so, whether they need to be added as conditions to any extended operating license. Since the obligation to analyze SAMAs is imposed by statute, case law and Commission regulation, it will be beneficial to have this fuller record in carrying out the Board's obligations under 10 C.F.R. § 2.340(a).

**E. Consultation with Parties Pursuant to 10 C.F.R. § 2.323**

The State of New York has discussed the proposed filing schedule with Entergy and NRC Staff. On Tuesday March 9, 2010, Assistant Attorney General John Sipos spoke with Kathryn Sutton and Martin O'Neill, counsel for Entergy, as well as Sherwin Turk, counsel for NRC Staff. During those conversations with counsel, Mr. Sipos summarized the four proposed contentions. The State agreed with Entergy that Entergy and Staff would have 25 days to file answers to the proposed contentions and the motion for leave. Neither Entergy nor NRC Staff took a position concerning the State's request for leave and reserved their right to respond thereto once they had received the filing.

**F. Conclusion**

For the reasons stated, the State of New York respectfully requests that the Atomic Safety and Licensing Board grant the State leave to file the four accompanying contentions.

Respectfully submitted,

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