STATE OF VERMONT
PUBLIC SERVICE BOARD

Petition of Entergy Nuclear Vermont Yankee LLC and Entergy Nuclear Operations, Inc., For Amendment of their Certificates of Public Good and other approvals under 10 V.S.A. §§ 6501-6504 and 30 V.S.A. §§ 231(a), 248 & 254, for authority to continue after March 21, 2012, operation of the Vermont Yankee Nuclear Power Station, including storage of spent nuclear fuel

SWORN AFFIDAVIT OF THOMAS BUCHANAN

Thomas Buchanan, being duly sworn, states as follows:

1. My name is Thomas Buchanan
2. I reside at 2484 Middletown Road in Londonderry, Vermont.
3. In August 2005 the Londonderry Selectboard appointed me to serve as a volunteer Commissioner on the Windham Regional Commission (WRC).
4. On August 28, 2007 I was elected to serve on the Executive Board of the Windham Regional Commission by the full Commission
5. On October 9, 2007 the Executive Board asked me to Chair the Energy Committee which was then assigned responsibility for overseeing WRC involvement in the expected Entergy VY CPG application.
6. Jim Matteau served as the professional Executive Director of WRC from July 16, 1999 until July 2, 2010, and was assigned to provide staff support to the WRC Energy Committee.
7. Associate Director Susan McMahon served as the interim Executive Director from July 5, 2010 until August 8, 2010.
8. Chris Campany became the Executive Director on August 8, 2011 and remains in that position.
9. Cullen Meves was hired by WRC as a Planner on January 3, 2011 and currently provides staff support to the Energy Committee.
10. I was and am responsible for making recommendations to the WRC Energy Committee and Executive Board regarding WRC policy related to the Entergy VY CPG application.
11. I have worked closely with Jim Matteau, Susan McMahon, Chris Campany, and Cullen Meves in developing WRC policy regarding the Entergy VY CPG, and in making policy recommendations to the WRC Energy Committee and WRC Executive Board.
12. Each filing and official correspondence from WRC to the PSB in this docket has been approved by the WRC Executive Board on behalf of the Full Commission.

13. WRC has been and continues to be represented pro se in this docket.

14. On October 31, 2007 I attended a tour of the Vermont Yankee Station with members of the Energy Committee, and observed a presentation by Entergy VY about the planned relicensing and CPG application. Based on the presentation by Entergy VY it was my understanding that the CPG process would be structured around the criteria of 30 V.S.A. Section 248 and 30 V.S.A. Section 231, and would proceed on a dual-track requiring approval by both the Vermont Public Service Board and the Vermont Legislature, and I understood that Entergy VY was well aware of and accepted this process, and was raising no objections.

15. On November 8, 2007 I attended a meeting of the Energy Committee at which then WRC Executive Director Jim Matteau briefed the committee on PSB rule 5.402, the section 248 process, and the criteria in § 248(b). Mr. Matteau also briefed the committee on the concept of federal preemption by the Atomic Energy Act.

16. Throughout November and December 2007 Mr. Matteau provided me with regular briefings about negotiations he was conducting with Entergy VY, including both Dave McElwee and Mike Metell regarding the date of the prefile and the filing of the CPG application. Entergy VY was required to provide 45 days advance notice of its intent to file a CPG application to both the Regional Commission and the municipality of Vernon. Mr. Matteau briefed me that Entergy VY had advised WRC that its application would be filed no later than March 21, 2008 in order to comply with provisions of Title 30, §254(a)(1) established by Act 160 of 2006. The date of the prefile and the filing of the application were important to WRC so that WRC could hold a public hearing on the pre-application material and file comments to the Public Service Board at least 7 days before the filing of the actual CPG application. Mr. Matteau successfully negotiated a prefile date of December 7, 2007, and a public meeting to be held on December 13, 2007 which would include a presentation by Entergy VY of the prefile material. WRC committed to file our comments to the Public Service Board no later than January 21, 2008. Entergy VY advised WRC that it intended to file the actual application on January 28, 2008.

17. Mr. Matteau confirmed the negotiated schedule in a November 15, 2007 letter to Dave McElwee of Entergy VY.

18. On December 13, 2007 I met briefly with Mr. Matteau before the scheduled Entergy VY presentation. We discussed the structure of the planned meeting, and reviewed the requirement for legislative approval of the CPG. We had each read §248(e)(2) and determined that an affirmative vote of the legislature was necessary for the release of the final CPG.
19. Entergy VY made their presentation on the evening of December 13, 2007. Entergy VY was represented by Dave McElwee (Liaison Engineer), Mike Metell (License Renewal Project Manager), and outside legal counsel Peter Van Oot. Much of the presentation was structured around the criteria of 30 V.S.A. §248. One of the Entergy VY slides said that legislative approval was “needed.” I asked Mr. McElwee what would happen if the legislature failed to vote, and he stated it would be the same as a “no” vote. I asked what would happen then, and he made a statement to the effect that if the legislature failed to vote the Station would be required to cease operations on March 21, 2012. That response was consistent with the independent readings of the statute by both Mr. Matteau and me. The presentation satisfied me that the CPG process would proceed upon a foundation of 30 V.S.A. §§248 and 231, and on a dual track with approvals needed by both the legislature and the Public Service Board, and that Entergy VY had no objection to that process.

20. On March 20, 2008 Entergy VY representatives Dave McElwee, Mike Metell, Larry Smith, Rob Willimas, Peter VanOot, and Richard Heaps attended a public meeting of the WRC Energy Committee at which they presented an overview of the petition that Entergy VY had filed with the Public Service Board, and discussed that petition with the committee and the public.

21. Throughout the profile process and continuing through the filing of the CPG application and subsequent review of the application by WRC, Entergy VY discussed Acts 74 and 160, and statutes precipitated by those Acts, but to the best of my recollection Entergy VY did not raise preemption objections to the Acts, statutes, or legislative requirements, nor did Entergy VY make any claim of current or future preemption to the legislative or regulatory process while communicating with WRC.

22. Entergy VY’s acceptance of Orders, Certificates, and conditions in dockets 6545 and 7082, as well as the docket 7440 presentations and filings made by Entergy VY in 2007 and early 2008 left no doubt in my mind as to the legitimacy of the Section 248 CPG process, Entergy VY’s acceptance of that process, Entergy VY’s acceptance of the role of the Public Service Board including its authority to deny a CPG for continued operation, Entergy VY’s acceptance of the role of the Vermont Legislature to approve, disprove, or fail to act upon the release of a new CPG by the Board, and Entergy VY’s acceptance of legislative authority with regard to CPG approval.

23. I have reviewed all filings in this docket (7440), and all related presentations and material submitted to WRC by Entergy VY.

24. It was my responsibility as the Chair of the WRC Energy Committee and as a member of the Executive Board to recommend policy regarding WRC participation in the CPG docket, and to oversee WRC involvement in the docket.

25. Throughout the participation of WRC in this docket I have recommended that the WRC Executive Board pursue a policy of active engagement. My policy recommendations have
been based on an assurance of process, which has itself been based on a preponderance of the assertions and filings of Entergy VY.

26. If Entergy VY had expressed reservations about the CPG process or the authority of the Board or the legislature to act, or decline to act, at any time during the review of pre-application material or the initial review of the application that would become docket 7440, I would have recommended to the WRC Executive Board that WRC bring these concerns to the attention of the Public Service Board in our filings labeled as WRC-TB-2 and WRC-TB-3, which are responsive to Board Rule 5.402 and 30 V.S.A. § 248(f).

27. If at any time prior to the natural conclusion of WRC participation in this docket on August 7, 2009 Entergy VY had raised significant concerns or objections to the CPG process, or to the Acts or statutes under which the process was proceeding, I would have immediately sought clarification, and would have advised the WRC Energy Committee and Executive Board of the ambiguity.

28. If at any time in prior to the natural conclusion of WRC participation in this docket on August 7, 2009 Entergy VY had raised significant concerns or objections to the CPG process or the Acts or statutes under which the process would proceed, I would have recommended that the Energy Committee and Executive Board seek clarity of process and reduce our direct involvement until such time as the process had become clearer.

Thomas Buchanan

State of Vermont
County of Windham

Subscribed and sworn to before me this 11th day of April 2012.

Notary Public

My commission expires 2/10/15