June 13, 2012

Ms. Susan M. Hudson, Clerk  
Vermont Public Service Board  
112 State Street – Drawer 20  
Montpelier, VT  05620-2701

RE:  Docket Nos. 6545, 7082 and 7862

Dear Ms. Hudson:

Enclosed for filing with the Public Service Board are an original and seven copies of the Windham Regional Commission’s response to the Entergy VY Motion Pursuant to Vermont Rule of Civil Procedure 60(b) for Relief from the June 13, 2002 order in Docket 6545 and the April 26, 2006 Order and Certificate of Public Good in Docket 7082.

Please let me know if you have any questions.

Sincerely,

Chris Campany, AICP  
Executive Director

Enclosure

Cc:  Docket 7440 Service List
WINDHAM REGIONAL COMMISSION RESPONSE TO ENTERGY VY “MOTION PURSUANT TO VERMONT RULE OF CIVIL PROCEDURE 60(b) FOR RELIEF FROM THE JUNE 13, 2002 ORDER IN DOCKET 6545 AND THE APRIL 26, 2006 ORDER AND CERTIFICATE OF PUBLIC GOOD IN DOCKET 7082”

Windham Regional Commission (WRC) does not oppose the Motion for Relief sought by Entergy VY, but asks the Board to recognize the conditions included in Orders and Certificates issued in dockets 6545 and 7082 to which Entergy VY now objects are the result of a careful balancing of the evidence and facts in those dockets, and that the significant modifications being sought by Entergy VY will substantially change that balance. Therefore, WRC requests that if the Board grants the relief sought by Entergy VY, that it also rebalance all of the conditions and limitations in the associated Orders and Certificates, and that in doing so the Board provides benefits to the public comparable to those sought by Entergy VY.

WRC responds in this filing to the specific arguments within the Entergy VY Motion, and then identifies several conditions that could be added or modified to maintain the balance of the original Board decisions, that is, if the Board agrees to grant the relief sought by Entergy VY. WRC asks that any such modifications be applied retroactively so that the public will derive the benefit under existing Certificates.
Background:

WRC represents 27 towns in Southeastern Vermont and neither supports nor opposes the continued operation of the Vermont Yankee Station. We recognize many important issues in this docket, chief among them are overall reliability, prompt and complete decommissioning, reduction of density of the spent fuel pool, and critical economic impacts of plant operation and eventual closure. WRC is committed to assisting the public in understanding all the issues, and in providing the public with access to accurate information.

WRC was not a Party to docket 6545 (original CPG granted to Entergy VY in 2002), but is a Party to docket 7082 (dry fuel storage), and is also a Party to open dockets; 7600 (investigation into tritium leaks), 7440 (Entergy VY petition for extended CPG), and 7862 (Entergy VY amended petition for extended operations). WRC finds itself stretched to the limit by Entergy VY’s new reach into two formerly closed dockets, and is frustrated by a need to repeat multiple arguments that have already been litigated in other dockets. In light of the history documented below, we are also troubled by Entergy VY’s apparent resistance to the authority of the State of Vermont, and now wonder just what statutory and Board authority Entergy VY actually recognizes. It feels to us as if Entergy VY is simply seeking to exhaust other Parties resources and to drag this process out indefinitely while continuing to operate the Station without a new Certificate of Public Good.

History:

The Board issued a variety of Orders and Certificates in 2002 (docket 6545) and 2006 (docket 7082) granting Entergy VY certain permissions to operate the VY Station, with the effect of prohibiting operations beyond March 21, 2012. Entergy VY made a number of calculated business decisions in purchasing the Station, among these was accepting the possibility the Station would not be authorized to operate after March 21, 2012.

Entergy VY has petitioned for a new or amended Certificate of Public Good to allow continued operations (dockets 7440 and 7862).

On March 13, 2012 Entergy VY filed a “Motion For Declaratory Ruling Concerning 3 V.S.A. §814(b) and Chapter 157 of Title 10 of the Vermont Statutes Annotated” in docket 7440, asking the Board to find that the Station may continue to operate under the provisions of 3 V.S.A. §814(b) while its petition[s] for a new or amended Certificate of Public Good remain pending.

The Board responded to the Entergy VY Motion For Declaratory Ruling in docket 7440 with an Order dated March 19, 2012 (Order Re: Entergy VY Motion for Declaratory Ruling). That detailed Order carefully dissected the conditions and approvals in dockets 6545 and 7082 which limited operations of the VY Station after March 21, 2012, finding that 3 V.S.A. §814(b) did not
apply to all of the conditions and continued operation beyond that date was not authorized, but
the Board stopped short of ordering the Station to cease operations, stating “Today’s Order does
not purport nor is intended to require that Entergy VY cease operations at Vermont Yankee. That
is not the issue that Entergy VY has brought to the Board.”

On May 25, 2012 Entergy VY filed a “Motion Pursuant to Vermont Rule of Civil Procedure
60(b) for Relief From the June 13, 2002 Order in Docket 6545 and the April 26, 2006 Order and
Certificate of Public Good in Docket 7082” (Motion for Relief). The Entergy VY Motion for
Relief argues that at the time the relevant CPG’s and Orders were issued it was unforeseen that:

(1) the Board would interpret the Orders and CPG described above to preclude
application of Section 814(b) for purposes of Entergy VY’s petition for operation
of the VY Station after March 21, 2012; and

(2) that the Vermont General Assembly would enact statutes (namely, Act 74 and
Act 160) allowing the legislature to insert itself into the CPG process (which
statutes would later be found preempted and/or enjoined by the District Court),
and would then delay exercising its new role to authorize the PSB, prior to the
expiration of the existing CPG, to issue a new or amended CPG authorizing
continued operation of the VY Station (and related SNF storage) after March 21,
2012.

The Entergy VY Motion for Relief addresses the Certificates and Orders issued by the Board in
dockets 6545 and 7082, but does not speak to the multiple underlying commitments that Entergy
VY has made in Memorandums of Understanding in dockets 6545 and 7082, and the
commitments Entergy Nuclear Corporation made in 2001 to honor all the elements agreed to by
AmerGen in docket 6300, including an MOU agreement that continued operation beyond March
2012 would be prohibited unless an application for renewal of the CPG was “made and
granted.” The Parties to these dockets and to subsequent dockets relied upon the commitments
Entergy VY made in its various contractually binding MOU’s in presenting their arguments, and
in responding to various Board Orders.

Entergy VY is now asking the Board to relieve it of commitments the company made in prior
dockets, including the commitments that Entergy VY cease operations after March 21, 2012.

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1 Order Re: Entergy VY Motion for Declaratory Ruling dated March 19, 2012, page 27
2 Curiously Entergy VY does not appear to be seeking relief from the subsequent 6545 Order Re: Motions to Alter
or Amend, and to Unseal Exhibit, dated July 11, 2002
3 Entergy VY Motion for Relief dated May 25, 2012, page 4
4 Paragraph 3 of the MOU agreed to by AmerGen in Docket 6300 and filed with the Board on November 16, 2000.
AmerGen had petitioned the Board for authorization to purchase the VY Station. On January 12, 2001 Entergy
Nuclear Corporation (“Entergy”) requested that the Board dismiss the AmerGen petition. In support of that motion,
Entergy filed a commitment to meet or exceed all elements of AmerGen’s amended proposal. The source of the
original language that limits operations after March 21, 2012 predates the existence of Entergy Nuclear Vermont
Yankee. See Board Order, Docket 6300 dated February 14, 2001, page 3
unless application for renewal of authority under the CPG to operate the VYNPS was “made and granted.”

It has been apparent for quite some time that delays in docket 7440 and the restrictions in dockets 6545 and 7082 might effectively limit operation beyond March 21, 2012, but until this point the Board and other Parties have shown restraint in not seeking a re-visitation of issues in dockets 6545 and 7082. Now that Entergy VY has drawn the Board and Parties into dockets 6545 and 7082, it appears nearly inevitable that the Board will need to return to these dockets in some form.

WRC Responds to Entergy VY Arguments:

A. [Entergy VY Argument] Rule 60(b) Relief is Appropriate Because It Was Unforeseen That The Board Would Rule That Section 814(b) Does Not Apply

At the time the relevant dockets were decided it was completely foreseeable that the Station could be required to cease operations on March 21, 2012 and that Board might rule Section 814(b) does not apply. This is especially so in light of restrictions and conditions in docket 6545 that rendered such a potential ruling in the given circumstances as almost inevitable from the earliest moments of the docket.

Entergy VY was only authorized to purchase the VY Station after it agreed to meet all the commitments previously agreed to by AmerGen in docket 6300. One of those commitments was included in paragraph 3 of the docket 6300 MOU which “expressly limited” the term, establishing that the shutdown of the Station in 2012 would be the default and continued operation would only be permitted if application for renewal of the CPG “is made and granted.” This language made it clear that continued operation would not simply require a timely application supported by 3 V.S.A. §814(b), but would also require that the CPG actually be granted. Entergy VY accepted this unambiguous language and incorporated it into paragraph 12 of its own MOU in docket 6545, and then went even further to describe exactly what operations would be permitted after March 21, 2012 (“…and thereafter will authorize ENVY and ENO only to decommission the VYNPS”). If Entergy VY had simply incorporated the AmerGen language verbatim the company might have an argument that the original text wasn’t carefully considered, but the substantial changes and enhancements in the relevant paragraph in the docket 6545 MOU make clear that Entergy VY was aware of and did review the textual requirement. Entergy VY could have easily sought to adjust the MOU language to allow the application of 3 V.S.A. §814(b), but it chose not to do so.

The Board’s Decision in docket 6545 tackled the question of continued operations head-on and specifically addressed the question of whether the CPG is a “license,” stating “They [Entergy VY] have agreed to certificates of public good for terms limited to March 21, 2012. They are not seeking a license or to be relicenced, as CAN has indicated.” Although the Board has since

5 Docket 6545 Decision and Order dated June 13, 2002, page 131
determined that the CPG “constitutes a license for the purposes of Section 814(b)\(^6\)”\(^,\) the clear language used in docket 6545 should have given Entergy VY plenty of warning that 3 V.S.A. §814(b) might not apply, and ample opportunity as long ago as 2002 to clarify that possibility.

The 2002 Order granting the sale in docket 6545 also approved the filed MOU (with several non-relevant exceptions), and then added a paragraph that clearly requires a new CPG for continued operation as follows:

“8. Absent issuance of a new Certificate of Public Good or renewal of the certificate of Public Good issued today, Entergy Nuclear Vermont Yankee, LLC and Entergy Nuclear Operations, Inc. are prohibited from operating the Vermont Yankee Nuclear Power Station after March 21, 2012.”

If Entergy VY had any doubt about what was expected by the Board, this paragraph created an unambiguous requirement that in order to continue to operate after March 21, 2012 the company would need to apply for and be issued a new or renewed CPG, and would otherwise be prohibited from operating the Station.

Docket 6545 did not, however, conclude with the Order of June 13, 2002. Several Parties filed subsequent motions, including VYNPC and Entergy VY. The Board responded to these motions by amending the CPG to add:

“IT IS HEREBY CERTIFIED that the Public Service Board ("Board") of the State of Vermont on this date finds and adjudges that the issuance of a Certificate of Public Good ("Certificate") to expire on March 21, 2012, to Entergy Nuclear Vermont Yankee, LLC and Entergy Nuclear Operations, Inc., to own and operate, respectively, the Vermont Yankee Nuclear Power Station ("Vermont Yankee") will promote the general good of the State of Vermont. Entergy Nuclear Vermont Yankee, LLC and Entergy Nuclear Operations, Inc. are authorized to own and operate Vermont Yankee beyond March 21, 2012, solely for purposes of decommissioning.\(^7\)” [Emphasis in original]

The Board also responded to a Motion to Reconsider from NECNP, joined by CAN\(^8\). This motion raised the specter of an Entergy VY preemption challenge, or an attempt by Entergy VY to deny Board authority with regard to restrictions on continued operations beyond March 21, 2012. The Board responded to these concerns by stating:

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\(^6\) Order Re: Entergy VY Motion for Declaratory Ruling, March 19, 2012, Page 15
\(^7\) Order Re Motions to Alter Or Amend, And To Unseal Exhibit, dated July 11, 2002, page 17. Entergy VY listed the relief it is seeking in dockets 6545 and 7082 on page 5 of its May 25, 2012 Motion For Relief, but does not appear to be seeking relief from this amended language. Absent specific relief, this docket 6545 language alone might thwart operations after March 21, 2012.
\(^8\) NECNP is the New England Coalition on Nuclear Pollution which is referenced in current dockets as New England Coalition (NEC). CAN is the Citizens Awareness Network.
“Neither the MOU's statement that the CPG would have a limited term nor Entergy's commitment that it would seek an extension or renewal of its Certificate if it sought to operate after March 21, 2012, altered existing state law – the Board had full authority to limit the term of the Certificate under Section 231, and Entergy could not validly operate under Vermont law after March 21, 2012, without obtaining an extension of its CPG from this Board. Our Order concluded that Entergy's commitment to these MOU terms provided valuable enhancements because they removed possible uncertainty in the future as to whether Entergy could raise legal claims to remove the Board's state law jurisdiction. Through its contractual commitments with the Department in the MOU (which is enforceable by this Board), Entergy has effectively waived any legal claims that the Board is preempted by federal law from exercising its authority.9”

The concerns expressed by NECNP and CAN in 2002 and addressed by the Board in its July 11, 2002 Order are not precisely identical to the issues raised in the dockets today, but they are a close enough cousin to make it clear that Entergy VY could have foreseen the conflict in which it now finds itself.

Finally, we conclude this abbreviated overview of Entergy VY's claim that the inapplicability of 3 V.S.A. §814(b) was unforeseeable by turning to condition 7 in the Order issued in docket 7082 which yet again prohibited operations after March 21, 2012, stating:

7. “Compliance with the provisions of the Certificate of Public Good and this Order shall not confer any expectation or entitlement to continued operation of Vermont Yankee following the expiration of its current operating license on March 21, 2012. Before Entergy VY, its successors or assigns, may operate the facility beyond that date, the owners must first obtain a Certificate of Public Good from the Board under Title 30.”

The restriction did not simply require the owner to apply for a Certificate which would have allowed the application of 3 V.S.A. §814(b), but specifically required that the Certificate be “obtained.”

In short, the existing record makes it abundantly clear that Entergy VY could have and should have anticipated that continued operation might not be permitted after March 21, 2012 unless it applied for and was granted a new CPG. Entergy VY could have and should have been aware that 3 V.S.A. §814(b) might not save its application if a CPG had not yet been granted on March 21, 2012, and thus the situation in which Entergy VY now finds itself could have been foreseen. Further, based on record evidence, the Board's denial of applicability of 3 V.S.A. §814(b) is neither unfair nor unjust as Entergy VY suggests, but is instead exactly what Entergy VY agreed to as early as 2002.

9 Order Re Motions to Alter Or Amend, And To Unseal Exhibit, dated July 11, 2002, page 22.
B. [Entergy VY Argument] Rule 60(b) Relief Is Further Warranted Because It Was Unforeseen that The Board Could Not And Would Not Rule On Entergy VY’s Petition In A Timely Manner

Entergy VY argues that the changes brought about by the Vermont Legislature with Act 74 of 2005 and Act 160 of 2006 were not foreseeable, and that the changes brought about by these Acts caused an unanticipated delay that Entergy VY could do nothing to prevent, abridge, or otherwise control or modify.

WRC concedes that Entergy VY could not have foreseen the specific effects of Acts 74 or 160 when the company purchased the Station in 2002. However, even at this early date Entergy VY knew full well that the Board and the legislature could act in any number of ways and might change the conditions under which the Station would be operated and decommissioned.

Act 74 (and later Act 160) were not unanticipated. In 2004 Entergy VY requested and was granted approval for a power uprate that would increase the amount of fuel consumed. The increased fuel consumption would in turn accelerate the point at which existing space for the storage of spent fuel would be exhausted. To alleviate the lack of storage space Entergy VY sought permission to construct a dry-cask storage facility, but under Vermont law construction of such a facility required legislative and Board approval. The enactment of Act 74 was not unforeseen by Entergy VY, and was instead initiated at its behest to allow for the storage of additional spent nuclear fuel which has enabled the Station to continue to operate. The Board described this relationship quite nicely as follows:

“Entergy VY worked with the legislature to secure adoption of Act 74 (2005). The Primary effect of this Act was not to increase regulation of Vermont Yankee, but to remove the long-standing prohibition against construction of a spent-fuel storage facility, subject to certain conditions.”

In requesting approval for the storage of additional spent nuclear fuel Entergy VY recognized that it required space for approximately 5-6 dry casks to hold all the additional fuel expected to be consumed up until the expiration of its then current NRC license and Vermont CPG on March 21, 2012, but instead sought approval for the construction of a much larger dry fuel storage facility to accommodate all the additional fuel expected to be consumed through an extended license period. The agreement to allow the construction of a dry fuel storage facility to accommodate 36 casks rather than just 5-6 casks was negotiated to allow Entergy VY the efficient construction of a single expanded dry fuel storage pad, but in exchange for this

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10 As an example, see Article VI, paragraph 6.19 on page 65 of the Vermont Yankee Nuclear Power Station Purchase and Sale Agreement dated August 15, 2001 and entered into docket 6545. This agreement requires Entergy VY to decommission the Station “...in accordance with all applicable laws and requirements, including those of the NRC, the Environmental Protection Agency and the State of Vermont as may be in effect as of the date that the Facility is proposed to be declared to be fully decommissioned.” [Emphasis added]
11 Docket 6812
12 Docket 7440 Order Re: Entergy VY Motion for Declaratory Ruling, March 19, 2012, Page 6
efficiency and the construction of the excess space Entergy VY agreed to grant the Vermont Legislature the right to approve the storage of spent fuel after March 21, 2012. The requirement for legislative approval for the storage of spent nuclear fuel was not a matter of the legislature inserting itself into the process as Entergy VY states, but rather was done in consultation with Entergy VY, which sought and received a very tangible benefit in the form of a much expanded spent fuel storage facility.

On the same day the Governor of Vermont signed Act 74, Entergy VY signed an MOU to “…facilitate the enactment of legislation by the General Assembly authorizing the Company’s petition to the Board under 30 V.S.A. §248…”. Entergy VY was a willing and active partner and beneficiary in the development of Act 74, and its effects, including the potential for delay in securing legislative and Board approval for spent fuel storage, were clearly not unforeseen.

If Entergy VY had any concerns about the role of the legislature or the possibility of delay, it could have and should have raised those concerns with the Public Service Board in docket 7082. Act 74, which included the requirement for affirmative legislative approval of storage of spent nuclear fuel derived from operations after March 21, 2012, was signed into law on June 21, 2005. This restriction and its potential to cause delay were known to all Parties throughout the litigation of docket 7082, and any Party could have raised concerns about this restriction or the applicability of 3 V.S.A §814(b) with the Board at any of a multitude of places within the docket. The potential for legislative delay under Acts 160 was similar to the potential for delay under Act 74. The applicability of 3 V.S.A. §814(b) upon a potential delay could have and should have been resolved while docket 7082 was originally before the Board.

Entergy VY had ample opportunity to raise these issues and to seek clarification or modification of terms from the legislature or the Board, but did not do so until very late in the docket 7440 process. WRC does not wish to belabor the multitude of ways that Entergy VY could have and should have addressed these concerns, and thus we ask the Board to review the additional detail contained in the “WRC Motion for Reimbursement of Expenses” filed in docket 7440 on April 13, 2012.

In summary, the delays Entergy VY has experienced in securing an extended CPG are not unforeseen, and have not been entirely beyond the control of Entergy VY. While Entergy VY had every reason to believe that it could file a petition for continued operation in a timely manner, it was never assured that the petition would be adjudicated quickly, or that the petition would even be approved at all. Likewise, access to the protection of 3 V.S.A. §814(b) was never assured. There has always been considerable uncertainty regarding the continued operation of the Station after March 21, 2012, and Entergy VY is due no special favor simply because the Board has not granted the Certificate that Entergy VY desires.

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13 Preliminary Statement of MOU dated June 21, 2005 and entered into docket 7082
14 The Petition that would become docket 7082 was filed on June 22, 2005.
15 WRC offers another example of uncertainty; when Entergy VY purchased the Station in 2002 the spent fuel storage pool had a limited capacity. Even before the power uprate approved in docket 6812, the continued operation of the Station was dependent on the construction of a dry fuel storage facility or an alternative storage option,
WRC Requests for Reconsideration

The Motion for Relief filed by Entergy VY seeks substantial changes that will significantly alter the balance of the Public Good achieved by the Board in the Decisions, Certificates, and Orders in dockets 6545 and 7082. WRC does not oppose the changes sought by Entergy VY, but asks that if the Board grants the relief requested by Entergy VY, that it also seek additional briefing and then carefully rebalance other factors in these dockets to maintain equilibrium within the Public Good. WRC will not use this reply to the Entergy VY Motion for Relief to offer extended arguments regarding what elements should be rebalanced, but will instead await a decision from the Board as to how it intends to rule on the Entergy VY Motion. If the Board wishes to grant the relief sought by Entergy VY, or if Entergy VY wishes to negotiate a new MOU for Board consideration that addresses Party concerns, WRC recommends that the following issues, among many others, are worthy of reconsideration:

1) Require that Entergy Corporation, Entergy Nuclear Vermont Yankee (ENVY), and Entergy Nuclear Operations (ENO) be jointly and severally responsible for all decommissioning costs and liabilities.
2) Require the immediate and full funding of the Decommissioning Fund, or require that Entergy Corporation be responsible for all decommissioning costs upon cessation of operations.
3) Require the prompt and complete decommissioning of the VY Station immediately upon shutdown and prohibit the use of SAFSTOR.
4) Require the prompt reduction in the density of the above ground spent fuel pool by compelling Entergy VY to use its commercial best efforts to transfer at least half of the spent fuel to dry casks as expeditiously as possible.
5) Require that upon cessation of operations Entergy VY will transfer all the spent fuel from the above ground spent fuel pool to dry casks, and do so as quickly as possible while respecting the legitimate requirements for thermal cooling.
6) Require Entergy VY to meet its docket 6545 MOU obligation for the “removal of all structures,” rather than remove the non-radiologically contaminated structures to three

without which the Station might have been required to cease operations well before March 21, 2012, and would not have been able to operate beyond that date (see Board Decision, docket 6812, finding 82-83 and 88-90). Thus, Entergy VY faced considerable legislative and regulatory uncertainty regarding long term operations from the very first moments of Entergy VY’s ownership, and operations beyond March 21, 2012 were never assured.

WRC calls attention to page 8 of the May 25, 2012 Entergy VY Motion for Relief in which Entergy VY stated the Board recognized in docket 7082 the possibility that Entergy VY would seek extension of the operating license, and as an example cited a requirement in the docket 7082 April 26, 2006 Order that “…if Entergy VY requests an extension of its CPG beyond March 21, 2012, the amended Spent Fuel Management Plan must address the possibility of reducing the number of fuel rods stored in the spent fuel pool.” WRC is curious as to why Entergy VY highlighted this unfulfilled requirement in its Motion, and wonders if the new legal teams representing Entergy VY are aware of the arguments WRC made in the docket 7440 Reply Brief regarding reduced pool density (page 6), and filings by WRC on this topic in dockets 7082 and 7440 dated April 1, 2011 and May 6, 2011.

Docket 6545 MOU, paragraph 3
feet below the surface as it has planned and budgeted in its Decommissioning Cost Analysis dated January 2007\(^\text{18}\) and updated in January 2012.

7) Require that Entergy VY demonstrate how it has complied with the docket 6545 MOU agreement to “use its commercial best efforts to assure that the spent fuel is removed from VYNPS site in a reasonable manner and as quickly as possible rather than stored at VYNPS.”\(^\text{19}\) WRC is aware that the NRC has authorized the transfer of spent nuclear fuel from research and industrial reactors, and that Entergy Corporation has an ownership interest in numerous other sites that are fully licensed to store spent nuclear fuel. In light of the continuing failure of DOE to meet its contractual obligation to remove the spent fuel and the recent abandonment of the Yucca Mountain storage option, Entergy VY could be compelled to explain what steps it has taken to shift the spent fuel stored at VYNPS to its other facilities, and be required to actually transfer all the spent fuel if permitted to do so by the NRC.

**Conclusion:**

Throughout the long history of dockets 6545 and 7082 conditions were crafted that prohibited operation of the VY Station after March 21, 2012. These conditions were carefully established in Decisions, Orders, and Certificates using language that survives a challenge under 3 V.S.A. §814(b). Entergy VY sought a contrary ruling from the Board in docket 7440 but instead received a clearly articulated reasoning as to why 3 V.S.A. §814(b) did not apply to specific components of the Orders and Certificates, however the Board declined to order the shutdown of the Station because at that time such a request was not properly before it. In its May 25, 2012 Motion for Relief Entergy VY has turned the mythical key to open a Pandora’s Box, and issues and conflicts once resolved and securely contained are back in the open for the Board and all Parties to reconsider\(^\text{20}\). Parties which have previously declined to seek the immediate shutdown of the VY Station based upon Orders and Certificates in dockets 6545 and 7082 may now be prompted to seek such a resolution. WRC repeats here that we neither support nor oppose continued operation of the VY Station, but we recognize that as a result of the Entergy VY Motion for Relief the question may be ripe for consideration under dockets 6545 and 7082, and it may now be raised by other Parties.

WRC does not oppose granting Entergy VY the relief it seeks, but we ask that the Board carefully review all the underlying issues that were balanced against the firm deadline of a shutdown on March 21, 2012. If the Board does grant the relief sought by Entergy VY, fairness

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\(^{18}\) Docket 7440, EN-TLG-2
\(^{19}\) Docket 6545 MOU, paragraph 11
\(^{20}\) In one version of this classic Greek myth Zeus gave Pandora a locked box and extracted a promise from her never to open it, and he gave the key to Epimetheus, Pandora’s husband. One day while Epimetheus lay sleeping a curious Pandora took the key and unlocked the box, releasing terrible things into the world. She quickly slammed the lid closed, but it was too late and only Hope remained trapped in the box. When Epimetheus awoke Pandora opened the box a second time to show him what she had done, thus releasing Hope. WRC recognizes that reopening dockets 6545 and 7082 as Entergy VY has requested will add extraordinary complexity and is fraught with uncertainty. We also recognize a potential for public benefit in doing so, and thus we do not oppose the Entergy VY Motion as long as all the underlying issues are reevaluated and rebalanced.
and justice will only be served if the Board seeks additional briefing and then modifies and rebalances the underlying issues. We also ask that since Entergy VY is requesting a retroactive change to dockets 6545 and 7082, if the Board rebalances the remaining conditions it also does so retroactively such that Entergy VY will be compelled to meet the new standards, for it is Entergy VY that has sought to reopen two long-closed dockets.

Dated at Brattleboro, Vermont this 13th day of June, 2012.

Windham Regional Commission

By: [Signature]

Christopher Campany
Executive Director
CERTIFICATE OF SERVICE

I, Ashley Collins, hereby certify that on the 13th day of June 2012, a copy of the attached filing regarding PSB Docket No. 7082, PSB Docket No. 7862, and PSB Docket 6545 was sent via U.S. Mail, postage prepaid, to the following:

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