

Board OKs certificate for Vermont Yankee

Nuclear plant can continue operating through 2014

By **KYLE JARVIS**
Sentinel Staff

VERNON, Vt. — The Vermont Public Service Board issued a certificate of public good Friday to the company that owns the Vermont Yankee nuclear power plant, allowing the plant to remain open through the end of the year — but only because the plant will close at that time.

The board's decision comes after Entergy's announcement in August that it would shut the plant down at the end of 2014. The certificate of public good is required of all utilities, and must be

issued by the public service board to determine whether the facility serves the good of the state.

Vermont Yankee had been operating under an expired certificate, and the new one covers the plant's operation from March, 2012, through Dec. 31, 2014.

The certificate also covers the period "thereafter, solely for the purpose of decommissioning," public service board officials said in the order.

"We are pleased that the board issued an amended certificate of public good and that it approved

See **VERMONT** on Page **A6**

Vermont Public Service Board gives nuclear plant certificate, criticism

(Continued from Page A1)

the memorandum of understanding," said Bill Mohl, president of Entergy Wholesale Commodities, in a prepared statement Friday. "These actions are in the best interest of Vermont and all our stakeholders. Throughout the remainder of 2014, we will remain focused on the safe and reliable operation of Vermont Yankee."

Entergy officials decided to close the plant — which has been online since 1972 — last year amid financial troubles that make operating the plant unsustainable, they said. Changes in the natural gas market also made it more difficult for Vermont Yankee to compete in the power production market, of which the state is a leader.

The certificate issued by the board comes with a handful of conditions, including that Entergy comply with a memorandum of understanding between it, the Vermont Department of Public Service and the Vermont Agency of Natural Resources.

That agreement requires Entergy to pay the state of Vermont \$10 million over the next five years to promote economic development in Windham County as the plant's closure will result in the loss of hundreds of jobs, according to the order.

The agreement also requires Entergy to restore the Vermont Yankee plant site sooner than the U.S. Nuclear Regulatory Commission would normally mandate. In support of achieving that goal, Entergy must also "commit to a complete site assessment by the end of the year," and to "a process for developing the appropriate standard for site restoration that will be determined by the Board," while also establishing a separate \$25 million fund for site restoration, "supported by a guarantee by Entergy VY's parent corporation to provide

additional funds if the site restoration fund falls below \$60 million," board officials said in the order.

Entergy must also pay \$5.2 million to the Vermont Clean Energy Development Fund, "for clean energy development activities, with half of the funds to be used to benefit Windham County."

The Vermont Yankee nuclear power plant has been the subject of much debate in recent years, as anti-nuclear activists have protested against its continued operation. State officials shared many of those sentiments, and attempted to force the plant to close with legislative moves that led Entergy to sue the state in 2011.

U.S. District Court Judge J. Garvan Murtha ruled in favor of Entergy in January, 2012, saying the Vermont Legislature overstepped its bounds by attempting to regulate safety-related aspects of the plant's operation, which is solely under the jurisdiction of the NRC.

Vermont appealed that ruling, but the U.S. Court of Appeals for the Second Circuit in New York upheld the majority of Murtha's ruling last year.

Despite issuing the certificate Friday, public service board officials chastised Entergy on several levels, suggesting the board would not have granted the certificate if the original request by Entergy to operate the plant for another 20 years had stood, instead of the company's decision to shutter it.

In its order, the board said the primary question in weighing whether to grant the certificate was "whether Entergy Vermont Yankee has been, and could, going forward, be, a company that lives by its commitments, adheres to legal requirements, including statutes and rules, provides accurate and timely information, and generally is a fair partner for Vermont."

The question public

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— ORDER BY VERMONT PUBLIC SERVICE BOARD OFFICIALS, SPEAKING OF ENTERGY VERMONT YANKEE

service board officials attempted to answer in deciding whether to issue the certificate, they said, required examination of the company's performance and expectations about future activities, and its willingness to deal candidly with its regulatory stakeholders.

"In its twelve years of operating in Vermont, Entergy Vermont Yankee has failed to comply with numerous Board orders and statutory requirements," officials said in the order. "It has failed to follow procedural requirements that protect the integrity of Board proceedings. The Company has engaged in unacceptable conduct that erodes public trust and confidence in its capacity to act in good faith and to engage in fair dealing; an investigative report prepared by Vermont's Attorney General concluded that Entergy Vermont Yankee 'repeatedly misled State officials with direct misstatements and repeatedly failed to clarify misconceptions.'"

If Entergy Vermont Yankee were planning to operate the plant for another

twenty years as originally requested, its track record may well have led the board to find that ownership and operation would not promote the general good, public service board officials said.

"While its decision to cease operations by the end of next year does not excuse Entergy Vermont Yankee's past bad conduct," the decision to close the plant did alter the perspective from which the board evaluated that conduct, "given that we are no longer assessing the legal and regulatory implications of granting an operating license for the long term," officials said in the order.

Vermont Gov. Peter Shumlin issued a statement on the board's decision, saying he was pleased with the outcome and calling it "the best path forward."

"The decision provides certainty and predictability for the hard workers at the plant, over \$10,000,000 of economic development funding for the region, and lets us focus on the important work of transitioning to a future after Vermont

Yankee," he said.

The reaction from anti-nuclear groups Friday was mixed. The New England Coalition's initial reaction to the decision includes considering the option of filing either a motion to reconsider or a motion to amend in seeking a more just outcome, "one more protective of the environment and more responsive to community sentiment," New England Coalition officials said in a prepared statement.

The New England Coalition was party to the board's certificate-vetting process as legal intervenor, and opposed issuing Entergy a new certificate from the start, saying it was unsafe.

"NEC did not enter into this Amended CPG for (the) Vermont Yankee Application process two dockets, six-plus years, and more than \$200,000 ago with the understanding that a pretty-much unadorned offer of money (and little else) from the applicant to the regulators could moot the whole thing. At the least, the Vermont

Public Service Board's token administrative nod toward our Constitutionally-supported right to redress of grievances and equal-treatment-under-the law is falsely advertised. At the least, we would like our money back."

A statement by members of the Conservation Law Foundation was more forgiving, saying that it supports the board's decision "on the grounds that it offers some limited benefits that would not be available absent such approval."

Still, Conservation Law Foundation officials expressed some wariness over the issuance of the certificate, saying that "many of the provisions of the (memorandum of understanding) have limited value due to a lack of specific commitments, the difficulty of enforcement, and the failure to establish a specific timeline for decommissioning and dismantlement. Notwithstanding, (Conservation Law Foundation) argues that approval of the (agreement) is in the general good of the State."