

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF VERMONT**

ENTERGY NUCLEAR VERMONT YANKEE, LLC)
and ENTERGY NUCLEAR OPERATIONS, INC.)

Plaintiffs,)

v.)

Civil Action No. 11-cv-99

PETER SHUMLIN, in his official capacity as)
GOVERNOR OF THE STATE OF VERMONT;)
WILLIAM H. SORRELL, as ATTORNEY GENERAL)
OF THE STATE OF VERMONT; and JAMES VOLZ,)
JOHN BURKE, and DAVID COEN, in their official)
capacities as members of THE VERMONT PUBLIC)
SERVICE BOARD)

Defendants.)

DEFENDANTS' LEGISLATIVE HISTORY APPENDIX TO PRETRIAL BRIEF

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PREFACE

The State submits the following Appendix of legislative history in support of the State's Pre-trial Brief. Certain transcripts of the legislative history were prepared by Janice Badeau of Montpelier, Vermont. Excerpts of those transcripts were then made by the State's counsel. Omissions of material should be marked by three asterisks (***). In some instances, those omissions include testimony from multiple speakers. A few transcriptions were prepared by the State's counsel—these are noted as well. At trial, the full text of Ms. Badeau's transcriptions will be lodged with the Court (including her transcription certificates). This will include full copies of the Senate Floor debates that were recorded, as well as the full text of those portions of committee hearings that the State provided to Ms. Badeau for transcription. The House does not record any of its floor debates, and at least one Senate floor debate on Act 160 was not recorded either.

As discussed with the Court at the July 26 Conference (July 26, 2011 Tr. 45-47), the Appendix excerpts the legislative record. The State notes that the complete legislative history (bill files and audio CDs insofar as they exist) is on file with the Court, and that those materials constitute the official legislative record. The State believes that matching the bill files with each draft of the bill, along with other submissions, to the legislative hearing testimony is necessary to view the testimony in context and understand the full history of the Legislature's actions. To that effect, the Appendix includes lists of committee hearings in chronological order, along with Legislative Council's official record of testifying witnesses, among others.

The State provides this Appendix without waiving the arguments set forth in its pretrial brief regarding legislative history.

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Act 74 (2005)



3-10-05

JOHN H. HOLLAR
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Chairman Dostis,

Attached is Entergy's proposal
for dry fuel storage legislation.

Please let me know if you have
questions.

Thanks for your assistance.

John

52 STATE STREET • PO BOX 1072 • MONTPELIER, VT • 05601-1072
PHONE: 802.229.9865 • FAX: 802.223.2460

H. _____

Introduced by Committee on _____

Date:

Subject: Radioactive waste facility siting; storage of radioactive material

Statement of purpose: This bill establishes conditions under which a new facility may be constructed for the temporary storage of radioactive waste material at the Vermont Yankee nuclear power station.

AN ACT RELATING TO THE TEMPORARY STORAGE OF RADIOACTIVE MATERIAL

It is hereby enacted by the General Assembly of the State of Vermont:

Sec. 1. Definitions.

- (1) "Dry fuel storage" means a system that is approved by the Nuclear Regulatory Commission for the temporary storage of radioactive waste materials in stainless steel canisters which are placed inside steel-lined concrete casks.
- (2) "Vermont Yankee Nuclear Power Station" means a nuclear power electric generating facility located in Vernon, Vermont.

Sec. 2. Approval of Dry Fuel Storage Facility.

Notwithstanding the provisions of chapter 157 of title 10, a company may construct a dry fuel storage facility at the site of the Vermont Yankee nuclear power station subject to the following:

1. The company shall load no more than twelve dry fuel storage containers unless the public service board finds after hearing that loading a different number of containers is necessary to operate the Vermont Yankee Nuclear Power Station through its existing license from the Nuclear Regulatory Commission and to off load the station's fuel core.

2. The company shall not commence construction of any dry fuel storage facility before receiving a certificate of public good from the public service board pursuant to section 248 of title 30.

Sec. 3 Effective Date.

The bill shall become effective upon passage.



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M.S.A. § 116C.83

MINNESOTA STATUTES ANNOTATED
ENVIRONMENTAL PROTECTION
CHAPTER 116C. ENVIRONMENTAL QUALITY BOARD
RADIOACTIVE WASTE MANAGEMENT FACILITY AUTHORIZATION
→ **116C.83. Authorization for additional dry cask storage**

Subdivision 1. Authorization to end of current Prairie Island license. Subject to the dry cask storage limits of the federal license for the independent spent-fuel storage installation at Prairie Island, the public utility that owns the Prairie Island nuclear generation plant has authorization for sufficient dry cask storage capacity at that installation to allow:

- (1) the unit 1 reactor at Prairie Island to operate until the end of its current license in 2013; and
- (2) the unit 2 reactor at Prairie Island to operate until the end of its current license in 2014.

Subd. 2. Commission process for future additional authorization. Authorization of any **additional dry cask storage** other than that provided for in subdivision 1, or expansion or establishment of an independent spent-fuel storage facility at a nuclear generation facility in this state, is subject to approval of a certificate of need by the public utilities commission pursuant to section 216B.243. In any proceeding under this subdivision, the commission may make a decision that could result in a shutdown of a nuclear generating facility. In considering an application for a certificate of need pursuant to this subdivision, the commission may consider whether the public utility that owns the nuclear generation facility in the state is in compliance with section 216B.1691 and the utility's past performance under that section.

Subd. 3. Legislative review. (a) To allow opportunity for review by the legislature, a decision by the commission on an application for a certificate of need pursuant to subdivision 2 is stayed until the June 1 following the next regular annual session of the legislature that begins after the date of the commission decision. By January 15 of the year of that legislative session, the commission shall issue a report to the chairs of the house and senate committees with jurisdiction over energy and environmental policy issues, providing a summary of the commission's decision and the grounds for that decision, the alternatives considered and rejected by the commission, and the reasons for rejecting those alternatives. If the legislature does not modify or reject the commission's decision by law enacted during that regular legislative session, the commission's decision shall become effective on the expiration of the stay.

(b) The stay of a commission decision to approve an application for a certificate of need for **additional dry cask storage** under subdivision 2 does not apply to the fabrication of the spent-fuel storage casks. However, if the utility proceeds with the fabrication of casks, it does so bearing the risk of an adverse legislative decision.

Subd. 4. Other conditions. (a) The storage of spent nuclear fuel in the pool and in dry casks at a nuclear generating plant must be managed to facilitate the shipment of waste out of state to a permanent or interim storage facility as soon as feasible in a manner that allows the continued operation of the plant consistent with sections 116C.71 to 116C.83 and 216B.1645, subdivision 4.

(b) The authorization for storage capacity pursuant to this section is limited to the storage of spent nuclear fuel generated by a Minnesota nuclear generation facility and stored on the site of that facility.

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M.S.A. § 116C.83

Subd. 5. Water standards. The standards established in section 116C.76, subdivision 1, clauses (1) to (3), apply to an independent spent-fuel installation. Such an installation must be operated in accordance with those standards.

Subd. 6. Environmental review and protection. (a) The siting, construction, and operation of an independent spent-fuel storage installation located on the site of a Minnesota generation facility for dry cask storage of spent nuclear fuel generated solely by that facility is subject to all environmental review and protection provisions of this chapter and chapters 115, 115B, 116, 116B, 116D, and 216B, and rules associated with those chapters, except those statutes and rules that apply specifically to a radioactive waste management facility as defined in section 116C.71, subdivision 7.

(b) An environmental impact statement is required under chapter 116D for a proposal to construct and operate a new or expanded independent spent-fuel storage installation. The environmental quality board shall be the responsible governmental unit for the environmental impact statement. Prior to finding the statement adequate, the board must find that the applicant has demonstrated that the facility is designed to provide a reasonable expectation that the operation of the facility will not result in groundwater contamination in excess of the standards established in section 116C.76, subdivision 1, clauses (1) to (3).

Current with 2005 Regular Session laws through Chapter 2

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Wes

(dr req 05-1390 – draft 1.2)
4/11/2005 - CAB

*order #1 ok bel
#2 change -*

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1 H. Introduced by Committee on Natural Resources and Energy
2 Outline draft 2 April 15, 2005
3 A Bill concerning: **The nuclear power cycle, spent fuel storage and the**
4 **diversity and sustainability of Vermont’s future electric**
5 **power supply**

6 **Sec. 1. LEGISLATIVE FINDINGS**

7 (1) Vermont Yankee provides a very large fraction of VT’s power supply from
8 a single generating facility. Whether the plant runs to the end of its current
9 license, is relicensed, or is required to shut down on short notice, that large
10 fraction of supply will be need to be replaced with sources that are diverse,
11 reliable, economically sound and environmentally sustainable.

12
13 GOAL :future power supply, more diverse, environmentally sustainable,
14 economically sound

15
16 Mechanism: Vermont needs to plan for that future and to make investments in
17 the transition to that power supply. It’s appropriate to create a fund based on
18 the final years of the nuclear cycle to do this.

19
20 #VY provides X% of Vermont’s power supply, and is by far the largest power
21 plant operating in Vermont,

22 #power supply provided by VY is uncertain,

23 #Vermont utilities have stated that sound principles of portfolio management
24 favor a substantial reduction in the proportion of energy attributable to any
25 single source, including Vermont Yankee

26 #Need for a variety of sources

27 #Need to accelerate investment in Vermont on electricity resources that are
28 economic, environmentally sound, and can be acquired in modest increments.

29 # value of RE, CHP, and EE

30 #Need for a Clean Energy Fund to provide the resources needed to support
31 investment in those advanced resources in time to permit adequate power
32 supply diversity by 2012.

33
34 (2) Historic understandings and changes in circumstances:

35
36 Early expectations when facility initially authorized

*MSB to consider
Red placement
re: future goals*

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- 1 * low density storage
- 2 * to be shipped to NY soon for reprocessing
- 3 * state not to be a long term host
- 4 * state not reimbursed for any long term costs
- 5 * land under plant eventually is to become a Greenfield

6
7 (3) Statement of current economic uncertainties:

- 8
- 9 • The Federal government, through the Department of Energy, has a
- 10 legal obligation to take title to, and provide for the safe disposal of
- 11 nuclear spent fuel, but has not yet done so, and has been found to be
- 12 in breach of contract for its failure to do so.
- 13 • Entergy Corporation is a lead plaintiff in an ongoing lawsuit against
- 14 the Department of Energy for damages associated with the
- 15 Department's failure to take delivery of spent nuclear fuel from its
- 16 nuclear plants, including the Entergy Vermont Yankee facility.
- 17
- 18 • Upon the closure of Vermont Yankee the future use of the existing site
- 19 and transmission lines for generation using other fuels will be
- 20 restricted if spent nuclear fuel is stored on site for a long period of
- 21 time
- 22

23 **Sec. 2. Review of proposals for new storage facilities for spent nuclear fuel**

24 (a) Neither the owners of the Vermont Yankee Nuclear Power Station nor

25

26 their successors and assigns shall commence construction of any new fuel

27 storage facility for spent nuclear fuel, before receiving a certificate of public

28 good from the public service board pursuant to 30 V.S.A. § 248.

29

30 **(b) In addition to all other applicable criteria of Sec 248, before granting**

31 **approval, the PSB shall find that:**

32 1. The facility is in compliance with all other applicable environmental

33 laws and rules of the state,

34 2. The applicant has a history of compliance with state and federal laws,

① PSB could seek assurances, including from parent ~

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② at extension of license, can they request more -
ask PSB to do what it can re: ~~assurances~~ assurances from senior Co.

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- 3. Has made reliable commitments to remove all spent fuel from the state for disposal in federally-certified long-term storage facility as soon as possible, consistent with applicable federal standards
- 4. The applicant has developed, and will implement, a spent fuel management plan that will facilitate the eventual removal of those wastes.

(c) Other critical conditions:

at the same time or at different times.

- 1. The certificate of public good shall be limited to permit storage only of spent fuel that is derived from the operation of the Vermont Yankee facility, and not from any other source.
- 2. The certificate shall limit the total amount of spent fuel stored at the facility to the number of fuel assemblies necessary to operate the facility up to, but not beyond, the term of its existing operating license (that is, until date, 2012).
- 3. The requirement to obtain a certificate for this purpose applies to Vermont Yankee, regardless of who owns the facility, and the conditions of the CPG will apply to any future owner.
- 4. Complying with this act equals complying with Chapter 157
- 5. The owner of the Vermont Yankee facility must return to the legislature for a certificate of public good before filing with the PSB for any re-licensing, license extension or facility expansion beyond the terms of this act.

*advisants
presented
to PSB
1/15/05
staff*
*There's
a double charge
vs. 2012?*

*includes
fuel*

*any expansion = use beyond existing operat.
- includes act. for decommissioning*

Sec. 3. Spent fuel on-site storage charge

(a) A Spent Nuclear Fuel On-Site Storage Charge will be assessed on all spent fuel assemblies stored at the VY nuclear power plant and at any associated spent fuel storage facility, regardless of the technology employed in such storage. The fee applies whether or not the VY facility is generating, out of service, or decommissioned., so long as spent fuel assemblies are stored within the State of Vermont.

(b) Beginning January 1, 2006, the fee shall be \$ X per fuel assembly per year, paid quarterly.

Sec 4. Financial review of Storage Charge:

*- Joyce -
Fee on
all wastes*

*new fee on all
no different fee
per fee on new wastes*

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"assembly"

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(d) Advisory Committee (to be discussed)

Sec. 6. DEFINITIONS AND OTHER DETAILS

- # If anything is pre-empted, the rest stays in effect
- # This act doesn't prohibit VY owners from applying for and having the PSB grant a certificate of public good for adequate on-site storage to accommodate decommissioning the facility

this complies w ch 157.

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2 Introduced by Committee on Natural Resources and Energy

3 Date:

4 Subject: Conservation; spent nuclear fuel on-site storage charge

5 Statement of purpose: This bill proposes to establish a charge on the privilege
6 to store spent nuclear fuel on site at the state's nuclear power station, with
7 proceeds to be allocated primarily for renewable energy projects, and certain
8 combined heat and power projects.

9 AN ACT AUTHORIZING VERMONT YANKEE TO GO BEFORE THE
10 PUBLIC SERVICE BOARD TO SEEK PERMISSION FOR DRY CASK
11 STORAGE

12 It is hereby enacted by the General Assembly of the State of Vermont:

13 Sec. 1. 10 V.S.A. chapter 157, subchapter 2 is redesignated to read:

14 Subchapter 2. ~~Advisory Commission on Low-Level Radioactive Waste~~

15 Dry Cask Storage Authorization of 2005

16 Sec. 2. 10 V.S.A. §§ 6521 - 6526 are added to read:

17 § 6521. LEGISLATIVE FINDINGS

18 (a) Federal role. The general assembly finds:

19 (1) The federal government, through the Department of Energy (DOE),
20 has a legal obligation to take title to and provide for the disposal of spent

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1 nuclear fuel, but has not yet done so, and is in breach of contract for its failure
2 to do so.

3 (2) A parent corporation of Entergy Nuclear Vermont Yankee, LLC
4 ("Entergy Nuclear VY"), the current owner of the Vermont Yankee nuclear
5 power station (Vermont Yankee), is a lead plaintiff in an ongoing lawsuit
6 against the Department of Energy for damages associated with the
7 department's failure to take delivery of spent nuclear fuel from its nuclear
8 plants, including Vermont Yankee.

9 (3) Were it not for the federal government's failure to perform its
10 contractual obligations to begin removing spent fuel from Vermont Yankee in
11 1999, Entergy Nuclear VY would not require dry cask storage at Vermont
12 Yankee for an unknown and indefinite period of time.

13 (4) Payments made by Entergy Nuclear VY for the privilege of storing
14 spent nuclear fuel in Vermont are incurred because of the failure of the DOE to
15 accept title and delivery of the spent fuel as required by law, and should be
16 subject to review and recovery in a court of law for damages for breach of
17 contract.

18 (b) Intergenerational equity. The general assembly finds and determines:

19 (1) When Vermont Yankee was first proposed, Vermonters were led to
20 have positive expectations with respect to: low density storage of spent
21 nuclear fuel rods; timely shipping of spent nuclear fuel to a federal facility

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1 outside the state; a limited period of time during which the state would be the
2 host of spent nuclear fuel; and timely conversion of the plant site to a
3 greenfield. These expectations have not been fulfilled.

4 (2) Given the uncertainties incumbent in determining when the federal
5 government will be able to perform its waste management responsibilities, it
6 appears that succeeding generations of Vermonters risk being faced with an
7 electricity-related burden, in the form of stored high level nuclear waste, that
8 may be unfairly disproportionate to the benefits they are likely to receive from
9 stored, high level nuclear waste considered on its own.

10 (3) It is necessary in the interests of intergenerational equity to help
11 balance the burdens and benefits of nuclear power among succeeding
12 generations of Vermont electricity consumers.

13 (4) In that pursuit, the entity profiting from the continued operation of
14 Vermont Yankee is required by this subchapter to provide a specified degree of
15 offsetting benefit to Vermont's future electricity consumers.

16 (5) To make this equitable reallocation, this subchapter redirects a small
17 part of the revenue stream generated near the end of the nuclear system
18 operating life in order to provide succeeding generations of Vermonters with
19 an offsetting benefit in the form of assistance for varied, reliable, economic,
20 and sustainable sources of electricity for the future.

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1 (c) Power uprate. The general assembly finds and determines the
2 following:

3 (1) Entergy Nuclear VY is a limited liability corporation that, as an
4 “exempt wholesale generator,” is operated as a for-profit private enterprise and
5 not on a cost-of-service or rate-regulated utility basis.

6 (2) After purchasing Vermont Yankee, Entergy Nuclear VY applied for
7 and received conditional permission from the Vermont public service board for
8 a power uprate at the facility that would increase its output by 20 percent over
9 its remaining life. If the uprate is implemented, Entergy Nuclear VY will be
10 able to sell approximately 850,000 additional MWH per year into regional
11 power markets at competitive market prices, with additional revenues
12 estimated at more than \$35 million per year. These additional power sales are
13 not subject to rate regulation by the public service board nor are they
14 committed primarily to the benefit of Vermont utilities or ratepayers.

15 (3) As a result of the uprate, Entergy Nuclear VY will be creating
16 additional spent fuel and will run out of storage in the spent fuel pool and
17 require on-site dry cask storage earlier than previously anticipated.

18 (4) Because the federal government has not yet provided a permanent
19 solution for long-term spent fuel storage, spent fuel might be stored in
20 Vermont for many decades or perhaps much longer.

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1 (5) As a condition of granting the privilege to an independent power
2 producer to store additional spent fuel assemblies and dry casks in Vermont, it
3 is appropriate to impose a spent fuel storage charge for so long as spent nuclear
4 fuel is stored in the state.

5 (d) Diversity and clean energy development fund. The general assembly
6 further finds:

7 (1) Vermont Yankee in Vernon provides a very large fraction of the
8 state's power supply and is by far the largest power plant operating in the state.

9 (2) Although nuclear power plants often operate at high levels of
10 availability, they are, to a greater degree than other large generating stations,
11 subject to operational and regulatory conditions that can take them off line and
12 make them unavailable to provide power that is expected by the purchasing
13 utilities and customers.

14 (3) Whether the plant runs to the end of its current license, is relicensed
15 by the federal government, or is required to shut down on short notice, that
16 large fraction of the state's supply will need to be replaced.

17 (4) Vermont utilities and state power planners have stated that sound
18 principles of portfolio management favor the state as a whole undergoing a
19 substantial reduction in the proportion of energy attributable to any single
20 source, including Vermont Yankee.

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1 (5) The state's future power supply should be diverse, reliable,
2 economically sound, and environmentally sustainable.

3 (6) In order to make a smooth transition to the future, the state needs to
4 accelerate Vermont's investment in electricity resources that are economically
5 and environmentally sound and that can be acquired in modest increments.

6 (7) In making this transition, there is great value in investing in
7 renewable energy sources, in efficient, combined heat and power facilities, and
8 in energy efficiency.

9 (8) To facilitate the wise and timely allocation of funds for these
10 purposes, there is a need for a clean energy development fund that would be
11 used to provide the resources needed to support investment in those advanced
12 resources in time to permit adequate power supply diversity by 2012. The
13 general assembly intends and expects that the public service board, public
14 service department, and the state's power and efficiency utilities will actively
15 implement the authority granted in this title to acquire all reasonably available,
16 cost-effective, energy efficiency resources for the benefit of Vermont
17 ratepayers and the power system. If this is done, additional financial resources
18 should be targeted primarily at renewable energy and combined heat and
19 power projects.

20 (9) The Vermont Yankee site has substantial potential value in
21 Vermont's future energy supply mix, both because of its geographic location

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1 and its location on the regional transmission grid. Upon the closure of
2 Vermont Yankee, the future use of the existing site and its substantial
3 transmission assets for a generation facility using other fuels could be
4 restricted if spent nuclear fuel is stored on site for a long period of time.

5 § 6522. PUBLIC SERVICE BOARD REVIEW OF PROPOSALS FOR NEW
6 STORAGE FACILITIES FOR SPENT NUCLEAR FUEL

7 (a) Neither the owners of Vermont Yankee nor their successors and assigns
8 shall commence construction or establishment of any new or altered storage
9 facility for spent nuclear fuel before receiving a certificate of public good from
10 the public service board pursuant to 30 V.S.A. § 248.

11 (b) In addition to all other applicable criteria of 30 V.S.A. § 248, before
12 granting a certificate of public good for a new or altered spent nuclear fuel
13 facility, the public service board shall find that:

14 (1) Adequate financial assurance exists for the management of spent
15 fuel at Vermont Yankee for a time period reasonably expected to be necessary,
16 including through decommissioning, and for as long as it is located in the state.
17 Since the existing decommissioning fund was developed with the expectation
18 that it no longer would be necessary as of 2032, a finding that adequate
19 financial assurance exists shall include adequate financial provision for the
20 eventuality that the site is not a greenfield and the radioactive materials are not
21 entirely removed by the end of that year.

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1 (2) The applicant has made commitments to remove all spent fuel from
2 the state to a federally certified long-term storage facility in a timely manner,
3 consistent with applicable federal standards.

4 (3) The applicant has developed and will implement a spent fuel
5 management plan that will facilitate the eventual removal of those wastes in an
6 efficient manner.

7 (c) In addition, the following limiting conditions shall apply:

8 (1) Any certificate of public good issued by the board shall permit
9 storage only of spent fuel that is derived from the operation of Vermont
10 Yankee, and not from any other source.

11 (2) Any certificate of public good issued by the board shall limit the
12 total amount of spent fuel stored at Vermont Yankee to the number of fuel
13 assemblies necessary to operate the facility up to, but not beyond, March 21,
14 2012, the end of the current operating license.

15 (3) The requirement to obtain a certificate of public good from the board
16 for this purpose applies to Vermont Yankee, regardless of who owns the
17 facility, and the conditions of the certificate of public good and the
18 requirements of this subchapter will apply to any future owner.

19 (4) Compliance with the provisions of this subchapter shall constitute
20 compliance with the provisions of this chapter that require that approval be
21 obtained from the general assembly before construction or establishment of a

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1 facility for the deposit or storage of spent nuclear fuel, but only to the extent
2 specified in this subchapter or authorized under this subchapter.

3 (5) Compliance with the provisions of this subchapter shall not confer
4 any expectation or entitlement to continued operation of Vermont Yankee
5 following the expiration of its current operating license on March 21, 2012. If
6 the owners of the facility wish to extend the operation of the generation facility
7 beyond that date or to extend or expand the operation of the spent fuel storage
8 or deposit facility beyond the capacity authorized in this subchapter, they must
9 first obtain the approval of the general assembly, and then obtain a certificate
10 of public good from the public service board under Title 30.

11 § 6523. SPENT NUCLEAR FUEL STORAGE CHARGE

12 (a) Effective January 1, 2006, there is assessed a charge on the privilege to
13 store spent nuclear fuel at Vermont Yankee, or in the vicinity of the station,
14 regardless of the technology employed in that storage. The charge shall be
15 calculated at the rate of one mill per kilowatt hour generated at Vermont
16 Yankee, with a minimum annual charge of \$4,000,000.00 per year. The charge
17 shall be adjusted annually to reflect changes in the consumer price index. The
18 charge shall be paid by the owner of Vermont Yankee, whether or not Vermont
19 Yankee is generating, out of service, or decommissioned, so long as spent
20 nuclear fuel from the plant is stored within the state of Vermont. The charge

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1 shall be calculated and paid quarterly into the clean energy development fund
2 established by this subchapter.

3 (b) The department of public service may develop a system that would give
4 Energy Nuclear VY a financial credit to offset any portion of the charge that
5 would be due under this section, based upon the company's investment during
6 the calendar year in new renewable energy sources, as defined under 30 V.S.A.
7 § 8002, or qualifying combined heat and power projects, that are located
8 within the state. The offset shall be based on the amount of capacity and
9 energy that the department projects will be delivered to Vermont's electric
10 system by those investments, when compared to the energy and capacity
11 otherwise expected to be delivered by the clean energy development fund.
12 Credits shall be earned at the rate of one offset unit for each two units of
13 capacity or energy reasonably projected to be delivered.

14 § 6524. GENERATION FACILITY CHARGE

15 Effective January 1, 2006, there is created a generation facility charge on all
16 electric generation facilities in the state with a nameplate generation capacity
17 in excess of 400 MW. The charge shall be \$25.00 per year for each kW of
18 installed capacity at a facility in excess of 510 MW. This charge shall be
19 calculated and paid quarterly into the clean energy development fund created
20 under section 6526 of this title. Receipts from this charge shall be used to

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1 accelerate the development of, investment in, and effective deployment of
2 clean energy resources to meet the future electric resource needs of the state.

3 § 6525. FINANCIAL REVIEW OF EFFECTS OF STORAGE AUTHORITY
4 AND OF CHARGES

5 (a) Review of financial effects of storage and spent fuel storage charge. As
6 an element in the certificate of public good review set out in this subchapter,
7 the public service board, if petitioned by the operator of Vermont Yankee,
8 shall examine the financial feasibility and consequences of the spent fuel
9 storage charge established in this subchapter.

10 (1) After considering and balancing the cost, revenue, energy diversity
11 goals, and other factors set out in subsection (b) of this section, the board shall
12 issue findings, based upon substantial evidence presented in hearings, with
13 respect to at least two issues:

14 (A) whether the payment of the spent fuel storage charge would
15 create a significant and unreasonable financial hardship for the owner of the
16 site;

17 (B) whether the authority issued under this subchapter leads to a
18 significant and excessive financial benefit for the owner of the site, in
19 comparison to the benefit flowing to the state in general.

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1 (2) The petitioner shall bear the burden of proof in this proceeding, and
2 may be required to submit in evidence the cost and revenue information
3 necessary to substantiate its claim.

4 (3) The board shall present to the committees on natural resources and
5 energy, the house committees on ways and means and on commerce, and the
6 senate committee on finance its findings together with its recommendations
7 with respect to increasing or decreasing the charge established under this
8 subchapter, or leaving the charge without amendment.

9 (b) Factors to be considered. In conducting any evaluation under this
10 section, the board shall consider: the degree to which costs incurred by the
11 owner of Vermont Yankee and the spent fuel facility may be recovered
12 through other sources, including power sales in competitive power markets;
13 any value added by the creation of air pollution and greenhouse gas
14 regulations; any value added by increased power output and lower operating
15 costs at Vermont Yankee; any tax incentives and recoveries under state and
16 federal tax laws; any cost-sharing from sources outside Vermont, including any
17 damage recoveries or settlements as a result of the failure of the federal
18 government to perform its contractual obligations under the Nuclear Waste
19 Policy Act; the costs of operating the facility; the economic value of the
20 privilege to store spent nuclear fuel at the site; the level of funding needed to

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1 support adequately an effective clean energy development fund; and such other
2 factors as the board finds relevant to the petition.

3 (c) Review of generation facility charge. Upon petition, or on its own
4 motion, the public service board may review the financial impact and
5 appropriate level of the generation facility charge. Upon a finding that the
6 financial impact of the charge unreasonably exceeds the additional revenues
7 received by the facility due to its expanded capacity and as a result of the
8 implementation of installed capacity, locational installed capacity, or other
9 capacity benefits received in regional power markets, the board may reduce the
10 level of the charge.

11 § 6526. VERMONT CLEAN ENERGY DEVELOPMENT FUND

12 (a) Creation of fund.

13 (1) There is established the Vermont clean energy development fund to
14 consist of:

15 (A) the proceeds from the spent nuclear fuel charge assessed under
16 this subchapter;

17 (B) any revenues received under the generation facility charge
18 assessed under this subchapter;

19 (C) the proceeds due the state under the terms of the memorandum of
20 understanding between the department of public service and Entergy Nuclear
21 VY and Entergy Nuclear Operations, Inc. that was entered under docket 6812;

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1 together with the proceeds due the state under the terms of any subsequent
2 memoranda of understanding entered before July 1, 2005 between the
3 department of public service and Entergy Nuclear VY; and

4 (D) any other monies that may be appropriated to or deposited into
5 the fund.

6 (2) Interest earned on the fund shall be deposited into the fund.

7 Balances in the fund shall not be funds of the state, shall not be available to
8 meet the general obligations of the government, and shall not be included in
9 the financial reports of the state.

10 (3) By January 15 of each year, commencing in 2007, the department of
11 public service shall provide to the house and senate committees on natural
12 resources and energy, the senate committee on finance, and the house
13 committee on commerce a report detailing the revenues collected and the
14 expenditures made under this subchapter, together with principles to be
15 followed in the allocation of funds and a five-year plan for future expenditures
16 from the fund.

17 (b) Definitions. For purposes of this section, the following definitions shall
18 apply:

19 (1) "Clean energy resources" means electric power supply and
20 demand-side resources that are either "combined heat and power facilities,"
21 "cost-effective energy efficiency" resources, or "renewable energy" resources.

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1 (2) “Combined heat and power (CHP) facility” means a generator that
2 sequentially produces both electric power and thermal energy from a single
3 source or fuel. In order for a fossil fuel-based CHP system to participate in the
4 clean energy program set out in this section, at least 20 percent of its fuel’s
5 total recovered energy must be thermal and at least 13 percent must be electric,
6 the design system efficiency (the sum of full load design thermal output and
7 electric output divided by the heat input) must be at least 65 percent, and it
8 must meet air quality standards established by the agency of natural resources.

9 (3) “Cost-effective energy efficiency” means those energy efficiency
10 and conservation measures that would qualify as part of a utility’s least-cost
11 integrated plan under 30 V.S.A. § 218c or that would be an eligible
12 expenditure under 30 V.S.A. § 209(d).

13 (4) “Renewable energy” has the meaning established under 30 V.S.A.
14 § 8002(2), and shall include the following: solar photovoltaic and solar
15 thermal energy; wind energy; geothermal heat pumps; farm, landfill, and sewer
16 methane recovery; low emission, advanced biomass, and combined heat and
17 power technologies using biomass fuels such as wood, agricultural or food
18 wastes, energy crops, and organic refuse-derived waste, but not municipal solid
19 waste; advanced biomass heating technologies and technologies using
20 biomass-derived fluid fuels such as biodiesel, bio-oil, and bio-gas.

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1 (c) Purposes of fund. The purposes of the fund shall be to promote the
2 development and deployment of cost-effective and environmentally sustainable
3 electric power resources for the long-term benefit of Vermont electric
4 customers, primarily with respect to renewable energy resources, and the use
5 of combined heat and power technologies. The fund shall be managed,
6 primarily, to promote:

7 (1) the increased use of renewably produced electrical and thermal
8 energy and combined heat and power technologies in the state;

9 (2) the growth of the renewable energy and the combined heat and
10 power industries in the state;

11 (3) the creation of additional employment opportunities and other
12 economic development benefits in the state through the increased use of
13 renewable energy and combined heat and power technologies; and

14 (4) the stimulation of increased public and private sector investment in
15 renewable energy and combined heat and power and related enterprises,
16 institutions, and projects in the state.

17 (d) Expenditures authorized.

18 (1) This fund shall be administered by the department of public service
19 to facilitate the development and implementation of clean energy resources.

20 (2) The department, through the appointment of a fiscal agent or acting
21 on its own behalf, shall assure accounting for all charges and any other

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1 revenues to be deposited in the clean energy development fund, and shall
2 assure an open public process in the administration of the fund for the purposes
3 established in this subchapter.

4 (3) If during a particular year, there is a lack of credible applications to
5 the department for funding for renewable energy or combined heat and power
6 technologies, as identified in the five-year plan, or as otherwise identified, the
7 department may consult with the board and shall consider transferring funds to
8 the energy efficiency fund established under the provisions of subsection
9 209(d) of this title. Such a transfer may take place only in response to an
10 opportunity for a particularly cost-effective investment in energy efficiency,
11 and only as a temporary supplement to funds collected under that subsection,
12 not as replacement funding.

13 Sec. 3. OTHER MATTERS TO BE CONSIDERED BY THE BOARD

14 To the extent that to do so is consistent with federal law, the public service
15 board will require the use of best practices for the environmental management
16 of high level nuclear waste. This shall include appropriate use of berms;
17 minimizing line-of-sight visual impacts of the facility; the location of the
18 storage facility, including the appropriate distance from the river; spacing of
19 casks; use of real-time temperature and radiation monitoring equipment; and
20 restrictions on the use of corrosive or flammable materials on or near the
21 storage facility.

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1 Sec. 4. REPORT ON LOSSES AND GAINS OF INSTALLED CAPACITY

2 The public service board and the public service department shall report to
3 the Committees on Natural Resources and Energy, the House Committees on
4 Commerce and on Ways and Means, and the Senate Committee on Finance by
5 no later than January 15, 2006 and again by no later than January 15, 2007
6 with respect to the net revenue loss and the net revenue gain to Vermont
7 ratepayers, utilities, and Vermont-based generators as a result of any tariff
8 relating to locational generation capacity; and the options available to mitigate
9 the cost impacts of any such tariff.

10 Sec. 5. IMPLEMENTATION

11 This act shall not prohibit the owners of the Vermont Yankee nuclear power
12 station from applying for, nor the public service board from granting, a
13 certificate of public good for on-site storage of spent nuclear fuel as necessary
14 in order to accommodate the decommissioning of the facility.

Act 74 of 2005

Committees Hearings (Feb.-May 2005)

House Natural Resources and Energy

- **Feb.** 15, 23; **Mar.** 18, 23 **Apr.** 7, 12-15, 18-19, 21-22, 26; **May** 5, 13, 17-18, 26-27

Senate Natural Resources and Energy

- **Feb.** 22; **Mar.** 11; **Apr.** 7, 13, 18-19, 25; **Jun.** 1

Joint Meeting of House Natural Resources and Energy and Senate Natural Resources and Energy

- **Feb.** 23; **Apr.** 7, 14

House Ways and Means

- **Mar.** 31; **Apr.** 19; **May** 18, 20, 24

Senate Finance

- **Jun.** 1, 3

House of Representatives (May 2005)

House Floor

- **May** 23-27: Introduced by House Committee on Natural Resources and Energy; referred to committees
- **May** 31: Rep. Dostis reports for House Committee on Natural Resources and Energy; Rep. Nitka reports for House Committee on Appropriations

Senate (Jun. 2005)

Senate Floor

- **Jun.** 1-2: Received; referred to committees
- **Jun.** 3: Sen. Lyons reports for Senate Committee on Natural Resources and Energy; Sen. Welch reports for Senate Committee on Finance

Enacted Jun. 21, 2005

The Vermont Legislative
Bill Tracking System

Legislative History: Committee Meetings by Bill
2005 - 2006 Legislative Session

Committee Meetings where H.0545 was considered:

Meeting Details:

Committee(s): **H Natural Resources & Energy**
Hearing Date: **02/15/2005**
Hearing Type: **Standard**
Comment: **CD SHEET PRA# LC696 SERIES 018**
Public Record ID: **LC705**

Meeting Record:

H.0545 - AUTHORIZING VERMONT YANKEE TO GO BEFORE THE PUBLIC SERVICE BOARD TO SEEK PERMISSION FOR DRY CASK STORAGE
Boright, Al, Legislative Council

H.0545 - AUTHORIZING VERMONT YANKEE TO GO BEFORE THE PUBLIC SERVICE BOARD TO SEEK PERMISSION FOR DRY CASK STORAGE
Alexander, Peter, Ex. Dir., N.E. Coalition
Shadis, Raymond, Staff Technical Advisor, N.E. Coalition
Davidson, Judy, Nuclear Free Vermont

[Complete Meeting Details](#)

Meeting Details:

Committee(s): **S Natural Resources & Energy**
Hearing Date: **02/22/2005**
Hearing Type: **Standard**
Comment: **CD SHEET PRA# LC714 SERIES 018**
Public Record ID: **LC713**

Meeting Record:

H.0545 - AUTHORIZING VERMONT YANKEE TO GO BEFORE THE PUBLIC SERVICE BOARD TO SEEK PERMISSION FOR DRY CASK STORAGE
Boright, Al, Leg. Counsel

[Complete Meeting Details](#)

Meeting Details:

Committee(s): **H Natural Resources & Energy**
Hearing Date: **02/23/2005**
Hearing Type: **Joint**
Comment: **The dry cask portion of the meeting was Joint with Senate Natural Resources & Energy Committee in Room 11. Testimony of Jay Thayer, Vice Pr. Energy, transcribed. CD SHEET PRA# LC696 SERIES 018**
Public Record ID: **LC705**

Meeting Record:

H.0545 - AUTHORIZING VERMONT YANKEE TO GO BEFORE THE PUBLIC SERVICE BOARD TO SEEK PERMISSION FOR DRY CASK STORAGE
Boright, Al, Legislative Counsel

[Complete Meeting Details](#)

Meeting Details:

Committee(s): **H Natural Resources & Energy**
Hearing Date: **02/23/2005**
Hearing Type: **Standard**
Comment: **Joint meeting with House Natural Resources. CD's are filed with HNRC CD's. Testimony of Jay Thayer is transcribed. CD SHEET PRA# LC714**

Public Record ID: 018
LC705

Meeting Record:

H.0545 - AUTHORIZING VERMONT YANKEE TO GO BEFORE THE PUBLIC SERVICE BOARD TO SEEK PERMISSION FOR DRY CASK STORAGE
Boright, Al, Leg. Counsel
O'Brien, David, Comm., Dept. of Public Service

[Complete Meeting Details](#)

Meeting Details:

Committee(s): **H Natural Resources & Energy**
Hearing Date: **02/23/2005**
Hearing Type: **Joint**
Comment: *The dry cask portion of the meeting was Joint with Senate Natural Resources & Energy Committee in Room 11. Testimony of Jay Thayer, Vice Pr. Energy, transcribed. CD SHEET PRA# LC696 SERIES 018*
Public Record ID: **LC705**

Meeting Record:

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O'Brien, David, Commissioner, Department of Public Service
Sherman, Bill, State Nuclear Engineer

[Complete Meeting Details](#)

Meeting Details:

Committee(s): **H Natural Resources & Energy**
Hearing Date: **02/23/2005**
Hearing Type: **Standard**
Comment: *Joint meeting with House Natural Resources. CD's are filed with HNRC CD's. Testimony of Jay Thayer is transcribed. CD SHEET PRA# LC714 018*
Public Record ID: **LC705**

Meeting Record:

H.0545 - AUTHORIZING VERMONT YANKEE TO GO BEFORE THE PUBLIC SERVICE BOARD TO SEEK PERMISSION FOR DRY CASK STORAGE
Sherman, Bill, State Nuclear Engineer
Lamont, Dave, Dept. of Public Service

[Complete Meeting Details](#)

Meeting Details:

Committee(s): **H Natural Resources & Energy**
Hearing Date: **02/23/2005**
Hearing Type: **Joint**
Comment: *The dry cask portion of the meeting was Joint with Senate Natural Resources & Energy Committee in Room 11. Testimony of Jay Thayer, Vice Pr. Energy, transcribed. CD SHEET PRA# LC696 SERIES 018*
Public Record ID: **LC705**

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Lamont, Dave, Power Planner, Dept. of Public Service

[Complete Meeting Details](#)

Meeting Details:

Committee(s): **H Natural Resources & Energy**
Hearing Date: **02/23/2005**
Hearing Type: **Standard**
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Hofmann, Sarah, Special Counsel, DPS

[Complete Meeting Details](#)

Meeting Details:

Committee(s): **H Natural Resources & Energy**
Hearing Date: **02/23/2005**
Hearing Type: **Joint**
Comment: *The dry cask portion of the meeting was Joint with Senate Natural Resources & Energy Committee in Room 11. Testimony of Jay Thayer, Vice Pr. Entergy, transcribed. CD SHEET PRA# LC696 SERIES 018*
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Meeting Record:

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Thayer, Jay, Entergy

[Complete Meeting Details](#)

Meeting Details:

Committee(s): **H Natural Resources & Energy**
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Meeting Record:

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Thayer, Jay, Vice President, Entergy
McElwee, David, Chief Engineer, VT Yankee

[Complete Meeting Details](#)

Meeting Details:

Committee(s): **H Natural Resources & Energy**
Hearing Date: **02/23/2005**
Hearing Type: **Standard**
Comment: *Joint meeting with House Natural Resources. CD's are filed with HNRC CD's. Testimony of Jay Thayer is transcribed. CD SHEET PRA# LC714 018*
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Meeting Record:

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McElwee, David, Chief Engineer, Vermont Yankee
Shadis, Raymond, NE Coalition

[Complete Meeting Details](#)

Meeting Details:

Committee(s): **H Natural Resources & Energy**
Hearing Date: **02/23/2005**
Hearing Type: **Joint**
Comment: *The dry cask portion of the meeting was Joint with Senate Natural Resources & Energy Committee in Room 11. Testimony of Jay Thayer, Vice Pr. Entergy, transcribed. CD SHEET PRA# LC696 SERIES 018*
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Shadis, Raymond, NE Coalition

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Meeting Details:

Committee(s): **H Natural Resources & Energy**
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Meeting Record:

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Gundersen, Arnie, NECANP

[Complete Meeting Details](#)

Meeting Details:

Committee(s): **H Natural Resources & Energy**
Hearing Date: **02/23/2005**
Hearing Type: **Joint**
Comment: *The dry cask portion of the meeting was Joint with Senate Natural Resources & Energy Committee in Room 11. Testimony of Jay Thayer, Vice Pr. Entergy, transcribed. CD SHEET PRA# LC696 SERIES 018*
Public Record ID: **LC705**

Meeting Record:

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Gunderson, Annie, Physics Teacher, Burlington High School

[Complete Meeting Details](#)

Meeting Details:

Committee(s): **S Natural Resources & Energy**
Hearing Date: **02/23/2005**
Hearing Type: **Standard**
Comment: *Joint meeting with House Natural Resources. CD's are filed with HNRC CD's. Testimony of Jay Thayer is transcribed. CD SHEET PRA# LC714 018*
Public Record ID: **LC705**

Meeting Record:

H.0545 - AUTHORIZING VERMONT YANKEE TO GO BEFORE THE PUBLIC SERVICE BOARD TO SEEK PERMISSION FOR DRY CASK STORAGE
Boright, Al, Leg. Counsel
O'Brien, David, Comm., Dept. of Public Service

Sherman, Bill, State Nuclear Engineer
Lamont, Dave, Dept. of Public Service
Hofmann, Sarah, Special Counsel, DPS
Thayer, Jay, Entergy
McElwee, David, Chief Engineer, Vermont Yankee
Shadis, Raymond, NE Coalition
Gundersen, Arnie, NECANP

Complete Meeting Details

Meeting Details:

Committee(s): **S Natural Resources & Energy**
Hearing Date: **03/11/2005**
Hearing Type: **Standard**
Comment: **CD SHEET PRA# LC714 SERIES 018**
Public Record ID: **LC713**

Meeting Record:

H.0545 - AUTHORIZING VERMONT YANKEE TO GO BEFORE THE PUBLIC SERVICE BOARD TO SEEK PERMISSION FOR DRY CASK STORAGE
Cowart, Richard, Director, Regulatory Assistance Project

Complete Meeting Details

Meeting Details:

Committee(s): **H Natural Resources & Energy**
Hearing Date: **03/18/2005**
Hearing Type: **Standard**
Comment: **CD SHEET PRA# LC696 SERIES 018**
Public Record ID: **LC706**

Meeting Record:

H.0545 - AUTHORIZING VERMONT YANKEE TO GO BEFORE THE PUBLIC SERVICE BOARD TO SEEK PERMISSION FOR DRY CASK STORAGE
Cosgrove, Brian, Vermont Yankee
Hollar, John, Lobbyist, Entergy
McElwee, David, Sr. Liaison Engineer, VT Yankee

Complete Meeting Details

Meeting Details:

Committee(s): **H Natural Resources & Energy**
Hearing Date: **03/23/2005**
Hearing Type: **Standard**
Comment: **CD SHEET PRA# LC696 SERIES 018**
Public Record ID: **LC706**

Meeting Record:

H.0545 - AUTHORIZING VERMONT YANKEE TO GO BEFORE THE PUBLIC SERVICE BOARD TO SEEK PERMISSION FOR DRY CASK STORAGE
Andrews, Sen. Ellen, Chair, Senate Energy Jobs Committee, Minnesota

Complete Meeting Details

Meeting Details:

Committee(s): **H Ways & Means**
Hearing Date: **03/31/2005**
Hearing Type: **Standard**
Comment: **Michael McGlynn by phone, 456-7479. CD SHEET PRA# LC696 SERIES 018**
Public Record ID: **LC708**

Meeting Record:

H.0545 - AUTHORIZING VERMONT YANKEE TO GO BEFORE THE PUBLIC SERVICE BOARD TO SEEK PERMISSION FOR DRY CASK STORAGE

Boright, Al, Legislative Council
Dostis, Rep, Chair, Natural Resources & Energy Committee
Sherman, Bill, State Nuclear Engineer

[Complete Meeting Details](#)

Meeting Details:

Committee(s): **H Natural Resources & Energy**
Hearing Date: **04/07/2005**
Hearing Type: **Standard**
Comment: **CD SHEET PRA# LC696 SERIES 018**
Public Record ID: **LC706**

Meeting Record:

H.0545 - AUTHORIZING VERMONT YANKEE TO GO BEFORE THE PUBLIC SERVICE BOARD TO SEEK PERMISSION FOR DRY CASK STORAGE

Sherman, Bill, Department of Public Service
McElwee, David, Sr. Liason Engineer, EN/VT
Hollar, John, Lobbyist, Entergy
Hoffman, John, VT Yankee Project Manager, Dry Fuel Storage

[Complete Meeting Details](#)

Meeting Details:

Committee(s): **S Natural Resources & Energy**
Hearing Date: **04/07/2005**
Hearing Type: **Public**
Comment: **The hearing was joint with House Natural Resources and Energy Committee CD SHEET PRA# LC714 SERIES 018**
Public Record ID: **LC713**

Meeting Record:

H.0545 - AUTHORIZING VERMONT YANKEE TO GO BEFORE THE PUBLIC SERVICE BOARD TO SEEK PERMISSION FOR DRY CASK STORAGE

Zelkin, Maya, Marlboro
Shaffer, Howard, Nuclear Engineer
Bussino, Melinda, Putney
Lintilhac, Crea, Shelburne
Caval-Holme, Franklin, Cuttingsville
Brigham, Dick, Shrewsbury
Bonafine, Julia, Shrewsbury

[Complete Meeting Details](#)

Meeting Details:

Committee(s): **S Natural Resources & Energy**
Hearing Date: **04/07/2005**
Hearing Type: **Standard**
Comment: **CD SHEET PRA# LC714 SERIES 018**
Public Record ID: **LC713**

Meeting Record:

H.0545 - AUTHORIZING VERMONT YANKEE TO GO BEFORE THE PUBLIC SERVICE BOARD TO SEEK PERMISSION FOR DRY CASK STORAGE

Boright, Al, Leg. Counsel

[Complete Meeting Details](#)

Meeting Details:

Committee(s): **S Natural Resources & Energy**
Hearing Date: **04/07/2005**
Hearing Type: **Public**
Comment: **The hearing was joint with House Natural Resources and Energy Committee CD SHEET PRA# LC714 SERIES 018**

Public Record ID: LC713

Meeting Record:

H.0545 - AUTHORIZING VERMONT YANKEE TO GO BEFORE THE PUBLIC SERVICE BOARD TO SEEK PERMISSION FOR DRY CASK STORAGE

Sayre, William, Bristol
Bousquet, Paul, West Townshend
Alexander, Peter, Putney
McKim, Bill, Dummerston
Daniels, Corey, New Hampshire
Newton, Pete, Windham
Brigham, George, Shrewsbury
Blazej, Colin
Turnbull, Clay, NECANP
Neddo, Nick
Bernstein, Barry, East Calais
McNulty, Joy, Williamstown, MA
Shollenberger, Amy, Johnson
Rice, Nancy, Randolph Center
Landers, Dexter, Northfield
Tracy, Indra, Putney
Carlson, LeRoy, Middlesex
Wagner, Rick, Waitsfield
Wood, Lisa, Montpelier
Fishman, Jonathan, Essex Junction
Olson, Andrew, White River Junction
Gandley, Chris, Burlington
Gandley, Cecilia, Burlington
Black, Laura, Shrewsbury
Newton, Amos, Jamaica
Johnson, Cynthia, East Calais

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Meeting Details:

Committee(s): **H Natural Resources & Energy**
Hearing Date: **04/12/2005**
Hearing Type: **Standard**
Comment: **CD SHEET PRA# LC696 SERIES 018**
Public Record ID: **LC706**

Meeting Record:

H.0545 - AUTHORIZING VERMONT YANKEE TO GO BEFORE THE PUBLIC SERVICE BOARD TO SEEK PERMISSION FOR DRY CASK STORAGE

Cowart, Rich, Regulatory Assistance Project

H.0545 - AUTHORIZING VERMONT YANKEE TO GO BEFORE THE PUBLIC SERVICE BOARD TO SEEK PERMISSION FOR DRY CASK STORAGE

Hoff, Phil, Former Governor

[Complete Meeting Details](#)

Meeting Details:

Committee(s): **H Natural Resources & Energy**
Hearing Date: **04/13/2005**
Hearing Type: **Standard**
Comment: **CD SHEET PRA# LC696 SERIES 018**
Public Record ID: **LC706**

Meeting Record:

H.0545 - AUTHORIZING VERMONT YANKEE TO GO BEFORE THE PUBLIC SERVICE BOARD TO SEEK PERMISSION FOR DRY CASK STORAGE

Perchlik, Andy, Renewable Energy Vermont
Hill, David, VT Energy Investment Corp/ VPREV
Mott, Lawrence, Northern Power Systems

H.0545 - AUTHORIZING VERMONT YANKEE TO GO BEFORE THE PUBLIC SERVICE BOARD TO SEEK PERMISSION FOR DRY CASK STORAGE

Cowart, Richard, Regulatory Assistance Project
Sherman, Bill, Dept. of Public Service

Complete Meeting Details

Meeting Details:

Committee(s): **H Ways & Means**
Hearing Date: **04/13/2005**
Hearing Type: **Standard**
Comment: **CD SHEET PRA# LC696 SERIES 018**
Public Record ID: **LC708**

Meeting Record:

H.0545 - AUTHORIZING VERMONT YANKEE TO GO BEFORE THE PUBLIC SERVICE BOARD TO SEEK PERMISSION FOR DRY CASK STORAGE
Dostis, Rep. Chair, Natural Resources Committee
Morris, Gerry, Entergy Vermont Yankee
Sherman, Bill, State Nuclear Engineer, Dept of Public Safety
O'Brien, David, Commissioner, Dept Public Service

Complete Meeting Details

Meeting Details:

Committee(s): **H Natural Resources & Energy**
Hearing Date: **04/14/2005**
Hearing Type: **Standard**
Comment: **CD SHEET PRA# LC696 SERIES 018**
Public Record ID: **LC706**

Meeting Record:

H.0545 - AUTHORIZING VERMONT YANKEE TO GO BEFORE THE PUBLIC SERVICE BOARD TO SEEK PERMISSION FOR DRY CASK STORAGE
Allen, Riley, Dept. of Public Service
Sherman, Bill, Dept. of Public Service
Voltz, Jim, Chair, Public Service Board

Complete Meeting Details

Meeting Details:

Committee(s): **S Natural Resources & Energy**
Hearing Date: **04/14/2005**
Hearing Type: **Public**
Comment: **Joint Hearing with House Natural Resources and Energy Committee CD SHEET PRA# LC714 SERIES 018**
Public Record ID: **LC713**

Meeting Record:

H.0545 - AUTHORIZING VERMONT YANKEE TO GO BEFORE THE PUBLIC SERVICE BOARD TO SEEK PERMISSION FOR DRY CASK STORAGE
Melvin, Jeff, Vermont Yankee
Drer, Richard
Shoufler, John
Parker, Scudder, Vt. Bus. for Social Responsibility
Shoufler, Crystal, Lamoille County
Bodette, Tom, Dummerston
Buteau, Bernard
Matteau, Jim, Windham Reg. Planning Commission
Brede, Greg
Williams, Chris, Hancock
Naech, Stephen, Windham County
Blanche, Paul, Hartford, Ct.
Cota, Ellen, Windham County
Sachs, Gary, Brattleboro
Maguire, Bill, Plant Mgr., Vt. Yankee
Fanto, Claudia, Brattleboro
Desilets, Mike
Mitchell, John
Everett, Dan, Brattleboro
Keller, Nina

Volaitis, Magdaline
 LaFrancois, Mark, Vermont Yankee
 Kaye, Ellen, Brattleboro
 Sprague, Edward
 Eaton, Milton, Brattleboro
 Harvey, George
 Smaga, Mike, Vermont Yankee Engineer
 Weiss, Sally, Northampton, MA
 O'Connor, Jim
 Williams, Mary Jane, MA (NECANP)
 Steckler, Phil, VEP
 Shey, Debra, Westerfield, MA
 Fairman, Howard, Vernon
 Condesta, Guido, Winchester, NH
 Farabaugh, Ken, Vernon
 Olson, Pearl
 Zalusni, Walter, Vernon
 Meyer, Alicia
 Fales, Neil, Vermont Yankee
 Bousquet, Paul
 Fletcher, Douglas, Chair, Vernon Selectboard
 McCallister, John, Northern Vermont
 Katz, Deb, Citizens Awareness Network
 McCallister, Laura
 McArthur, Dan, Marlboro Emergency Mgt.
 Koehler, Christa, City Planner, Keene, NH
 Unsicker, Jeff, Dummerston
 Pond, Gary
 Nadeau, Mike
 LaPorte, Mike
 Nughi, Sunny
 Davidson, Judy, Dummerston
 Cappelletti, Tony
 Mark, Jonathan
 Castronova, Mark
 O'Brien, Mike, Chesterfield, NH
 Salmon, Gov. Tom, Rockingham
 Boulter, Crispin
 Parker, Ann
 Tietze, Brian, Vermont Yankee
 Parker, James
 Stankewicz, Gail, Brookline
 Bradeen, Harold
 Zaluzny, Mike, Vernon
 Kowal, Chris, Vermont Yankee
 Provost, Dylan
 Bales, Bart, Gill, MA
 Almann, Doriann, Hinsdale, NH
 Greenbaum, Art, Brattleboro
 Anthes, Ed
 Murphy, Tom
 Davis, Andrew

[Complete Meeting Details](#)

Meeting Details:

Committee(s): **H Natural Resources & Energy**
 Hearing Date: **04/15/2005**
 Hearing Type: **Standard**
 Comment: **CD SHEET PRA# LC696 SERIES 018**
 Public Record ID: **LC706**

Meeting Record:

H.0545 - AUTHORIZING VERMONT YANKEE TO GO BEFORE THE PUBLIC SERVICE BOARD TO SEEK PERMISSION FOR DRY CASK STORAGE
 Allen, Riley, Utility Planning Director, Public Service Department
 Sherman, William, Nuclear Engineer, Public Service Department
 Cowart, Richard, Regulatory Assistance Project

[Complete Meeting Details](#)

Meeting Details:

Committee(s): **H Natural Resources & Energy**
Hearing Date: **04/18/2005**
Hearing Type: **Standard**
Comment: **CD SHEET PRA# LC696 SERIES 018**
Public Record ID: **LC706**

Meeting Record:

H.0545 - AUTHORIZING VERMONT YANKEE TO GO BEFORE THE PUBLIC SERVICE BOARD TO SEEK PERMISSION FOR DRY CASK STORAGE
Coward, Richard, Regulatory Assistance Program
Sherman, Bill, Nuclear Energy, Public Service Department

[Complete Meeting Details](#)

Meeting Details:

Committee(s): **H Natural Resources & Energy**
Hearing Date: **04/19/2005**
Hearing Type: **Standard**
Comment: **CD SHEET PRA# LC696 SERIES 018**
Public Record ID: **LC706**

Meeting Record:

H.0545 - AUTHORIZING VERMONT YANKEE TO GO BEFORE THE PUBLIC SERVICE BOARD TO SEEK PERMISSION FOR DRY CASK STORAGE
Alexander, Peter, Ex. Director, NE Coalition
Voltz, Jim, Chair, Public Service Board
Sherman, Bill, Nuclear Engineer, Dept. of Public Service

H.0545 - AUTHORIZING VERMONT YANKEE TO GO BEFORE THE PUBLIC SERVICE BOARD TO SEEK PERMISSION FOR DRY CASK STORAGE
Coward, Rich, Regulatory Assistance Project
Sherman, Bill, Nuclear Engineer

[Complete Meeting Details](#)

Meeting Details:

Committee(s): **H Ways & Means**
Hearing Date: **04/19/2005**
Hearing Type: **Standard**
Comment: **CD SHEET PRA# LC696 SERIES 018**
Public Record ID: **LC708**

Meeting Record:

H.0545 - AUTHORIZING VERMONT YANKEE TO GO BEFORE THE PUBLIC SERVICE BOARD TO SEEK PERMISSION FOR DRY CASK STORAGE
Clain, George, President, IBEW
Daniels, Corey, Unit Chair, Vermont Yankee, IBEW

H.0545 - AUTHORIZING VERMONT YANKEE TO GO BEFORE THE PUBLIC SERVICE BOARD TO SEEK PERMISSION FOR DRY CASK STORAGE
Volz, James, Chair, Public Service Board

H.0545 - AUTHORIZING VERMONT YANKEE TO GO BEFORE THE PUBLIC SERVICE BOARD TO SEEK PERMISSION FOR DRY CASK STORAGE
Coward, Richard, Director, Regulatory Assistance Project
Sherman, Bill, State Nuclear Engineer, Dept Public Service

H.0545 - AUTHORIZING VERMONT YANKEE TO GO BEFORE THE PUBLIC SERVICE BOARD TO SEEK PERMISSION FOR DRY CASK STORAGE
Phillips, George, Tax Dept
Bachman, Molly, Gen Counsel, Tax Dept

[Complete Meeting Details](#)

Meeting Details:

Committee(s): **H Natural Resources & Energy**

Hearing Date: 04/21/2005
Hearing Type: Standard
Comment: CD SHEET PRA# LC696 SERIES 018
Public Record ID: LC706

Meeting Record:

H.0545 - AUTHORIZING VERMONT YANKEE TO GO BEFORE THE PUBLIC SERVICE BOARD TO SEEK PERMISSION FOR DRY CASK STORAGE
Boright, Al, Legislative Counsel
Hoffman, Sarah, Department of Public Service

[Complete Meeting Details](#)

Meeting Details:

Committee(s): H Natural Resources & Energy
Hearing Date: 04/22/2005
Hearing Type: Standard
Comment: CD SHEET PRA# LC696 SERIES 018
Public Record ID: LC706

Meeting Record:

H.0545 - AUTHORIZING VERMONT YANKEE TO GO BEFORE THE PUBLIC SERVICE BOARD TO SEEK PERMISSION FOR DRY CASK STORAGE
Boright, Al, Legislative Counsel
Hoffman, Sarah, Director, Public Advocacy, Public Service Department
Cowart, Richard, Regulatory Assistance Project

[Complete Meeting Details](#)

Meeting Details:

Committee(s): H Natural Resources & Energy
Hearing Date: 04/26/2005
Hearing Type: Standard
Comment: CD SHEET PRA# LC696 SERIES 018
Public Record ID: LC706

Meeting Record:

H.0545 - AUTHORIZING VERMONT YANKEE TO GO BEFORE THE PUBLIC SERVICE BOARD TO SEEK PERMISSION FOR DRY CASK STORAGE
Thievolde, Kenneth, Government Affairs Rep., Entergy
O'Brien, David, Commissioner, Public Service Department
Cowart, Richard, Regulatory Assistance Project

[Complete Meeting Details](#)

Meeting Details:

Committee(s): H Natural Resources & Energy
Hearing Date: 05/13/2005
Hearing Type: Standard
Comment: CD SHEET PRA# LC696 SERIES 018
Public Record ID: LC706

Meeting Record:

H.0545 - AUTHORIZING VERMONT YANKEE TO GO BEFORE THE PUBLIC SERVICE BOARD TO SEEK PERMISSION FOR DRY CASK STORAGE
Boright, Al, Legislative Counsel
Cowart, Richard, Regulatory Assistance Project

[Complete Meeting Details](#)

Meeting Details:

Committee(s): H Natural Resources & Energy
Hearing Date: 05/17/2005

Hearing Type: **Standard**
Comment: **CD SHEET PRA# LC696 SERIES 018**
Public Record ID: **LC706**

Meeting Record:

H.0545 - AUTHORIZING VERMONT YANKEE TO GO BEFORE THE PUBLIC SERVICE BOARD TO SEEK PERMISSION FOR DRY CASK STORAGE

Boright, Al, Legislative Counsel
Smith, Richard, Deputy Comm., Public Service Department
Sherman, Bill, Department of Public Service
Hoffman, Sarah, Director of Public Advocacy, Public Service Department
Coward, Richard, Regulatory Assistance Project
Volz, Jim, Chair, Public Service Board
Alexander, Peter, New England Coalition
Moore, James, VPIRG
Lentilac, Crea, Citizen

[Complete Meeting Details](#)

Meeting Details:

Committee(s): **H Natural Resources & Energy**
Hearing Date: **05/18/2005**
Hearing Type: **Standard**
Comment: **CD SHEET PRA# LC696 SERIES 018**
Public Record ID: **LC706**

Meeting Record:

H.0545 - AUTHORIZING VERMONT YANKEE TO GO BEFORE THE PUBLIC SERVICE BOARD TO SEEK PERMISSION FOR DRY CASK STORAGE

Boright, Al, Legislative Counsle
Coward, Richard, Regulatory Assistance Project
Sherman, Bill, Nuclear Engineer, Public Service Department
Hoffman, Sarah, Director of Public Advocacy, Dept. of Publicl Service
Smith, Richard, Deputy Comm., Publicl Service Department
Moore, James, VPRIG

[Complete Meeting Details](#)

Meeting Details:

Committee(s): **H Ways & Means**
Hearing Date: **05/18/2005**
Hearing Type: **Standard**
Comment: **CD SHEET PRA# LC696 SERIES 018**
Public Record ID: **LC708**

Meeting Record:

H.0545 - AUTHORIZING VERMONT YANKEE TO GO BEFORE THE PUBLIC SERVICE BOARD TO SEEK PERMISSION FOR DRY CASK STORAGE

Dostis, Rep, Chair, Natural Resources & Energy Committee
Coward, Richard, Regulatory Assistance Project
O'Brien, David, Commissioner, Dept of Public Service
Sherman, Bill, State Nuclear Engineer
Theobolds, Ken, Regional Dir, Government Operations, Entergy Nuclear Northeast
Alexander, Peter, Exec Dir, New England Coalition
Moore, James, Vermont Public Interest Research Group

[Complete Meeting Details](#)

Meeting Details:

Committee(s): **S Natural Resources & Energy**
Hearing Date: **05/18/2005**
Hearing Type: **Standard**
Comment: **CD SHEET PRA# LC714 SERIES 018**
Public Record ID: **LC713**

Meeting Record:

H.0545 - AUTHORIZING VERMONT YANKEE TO GO BEFORE THE PUBLIC SERVICE BOARD TO SEEK PERMISSION FOR DRY CASK STORAGE
Hofmann, Sarah, Public Service Dept.

[Complete Meeting Details](#)

Meeting Details:

Committee(s): **H Natural Resources & Energy**
Hearing Date: **05/19/2005**
Hearing Type: **Standard**
Comment: **CD SHEET PRA# LC696 SERIES 018**
Public Record ID: **LC706**

Meeting Record:

H.0545 - AUTHORIZING VERMONT YANKEE TO GO BEFORE THE PUBLIC SERVICE BOARD TO SEEK PERMISSION FOR DRY CASK STORAGE
Smith, Richard, Deputy Comm., Dept. of Public Service
Cowart, Rich, Regulatory Assistance Project
Lamont, Dave, Planning Engineer, Dept. of Public Service
Hoffman, Sarah, Legal Counsel, Dept. of Public Service
Committee Discussion

[Complete Meeting Details](#)

Meeting Details:

Committee(s): **H Ways & Means**
Hearing Date: **05/20/2005**
Hearing Type: **Standard**
Comment: **CD SHEET PRA# LC696 SERIES 018**
Public Record ID: **LC708**

Meeting Record:

H.0545 - AUTHORIZING VERMONT YANKEE TO GO BEFORE THE PUBLIC SERVICE BOARD TO SEEK PERMISSION FOR DRY CASK STORAGE
Dostis, Rep. Chair, Natural Resources & Energy Committee
Cowart, Rich, Regulatory Assistance Project
Klein, Rep
Cosgrove, Brian, ENTERGY
Kimball, Steve, Green Mountain Power
Johnson, Kerrick, GMP

[Complete Meeting Details](#)

Meeting Details:

Committee(s): **H Ways & Means**
Hearing Date: **05/24/2005**
Hearing Type: **Standard**
Comment: **CD SHEET PRA# LC696 SERIES 018**
Public Record ID: **LC708**

Meeting Record:

H.0545 - AUTHORIZING VERMONT YANKEE TO GO BEFORE THE PUBLIC SERVICE BOARD TO SEEK PERMISSION FOR DRY CASK STORAGE
Russell, Bill, Legislative Council
Cowart, Rich, Regulatory Assistance Project
Boright, Al, Legislative Council
Klein, Rep. Natural Resources & Energy Committee
Smith, Richard, Deputy Commissioner, Dept of Public Service
Teachout, Sara, Joint Fiscal Office
Cosgrove, Brian, Entergy
Teachout, Sara, Joint Fiscal Office

[Complete Meeting Details](#)

Meeting Details:

Committee(s): **S Natural Resources & Energy**
Hearing Date: **05/25/2005**
Hearing Type: **Standard**
Comment: **CD SHEET PRA# LC714 SERIES 018**
Public Record ID: **LC713**

Meeting Record:

H.0545 - AUTHORIZING VERMONT YANKEE TO GO BEFORE THE PUBLIC SERVICE BOARD TO SEEK PERMISSION FOR DRY CASK STORAGE
Boright, Al, Leg. Counsel

[Complete Meeting Details](#)

Meeting Details:

Committee(s): **H Natural Resources & Energy**
Hearing Date: **05/26/2005**
Hearing Type: **Standard**
Comment: **CD SHEET PRA# LC696 SERIES 018**
Public Record ID: **LC706**

Meeting Record:

H.0545 - AUTHORIZING VERMONT YANKEE TO GO BEFORE THE PUBLIC SERVICE BOARD TO SEEK PERMISSION FOR DRY CASK STORAGE
Committee Discussion
Smith, Richard, Deputy Comm., Dept. of Public Safety

[Complete Meeting Details](#)

Meeting Details:

Committee(s): **H Natural Resources & Energy**
Hearing Date: **05/27/2005**
Hearing Type: **Standard**
Comment: **CD SHEET PRA# LC696 SERIES 018**
Public Record ID: **LC706**

Meeting Record:

H.0545 - AUTHORIZING VERMONT YANKEE TO GO BEFORE THE PUBLIC SERVICE BOARD TO SEEK PERMISSION FOR DRY CASK STORAGE
Smith, Richard, Deputy Comm., Dept. of Public Service
Cowart, Richard, Regulatory Assistance Project
Sherman, Bill, Nuclear Engineer, Dept. of Public Service

[Complete Meeting Details](#)

Meeting Details:

Committee(s): **S Finance**
Hearing Date: **06/01/2005**
Hearing Type: **Standard**
Comment: **CD SHEET PRA# LC714 SERIES 018**
Public Record ID: **LC711**

Meeting Record:

H.0545 - AUTHORIZING VERMONT YANKEE TO GO BEFORE THE PUBLIC SERVICE BOARD TO SEEK PERMISSION FOR DRY CASK STORAGE
Cowart, Rich, Regulatory Assistance Project

H.0545 - AUTHORIZING VERMONT YANKEE TO GO BEFORE THE PUBLIC SERVICE BOARD TO SEEK PERMISSION FOR DRY CASK STORAGE
Cowart, Rich, Regulatory Assistance Project

[Complete Meeting Details](#)

Meeting Details:

Committee(s): S Natural Resources & Energy
Hearing Date: 06/01/2005
Hearing Type: Standard
Comment: CD SHEET PRA# LC714 SERIES 018
Public Record ID: LC713

Meeting Record:

H.0545 - AUTHORIZING VERMONT YANKEE TO GO BEFORE THE PUBLIC SERVICE BOARD TO SEEK PERMISSION FOR DRY CASK STORAGE
Boright, Al, Leg. Counsel
Cowart, Richard, Regulatory Assistance Project

[Complete Meeting Details](#)

Meeting Details:

Committee(s): S Finance
Hearing Date: 06/02/2005
Hearing Type: Standard
Comment: CD SHEET PRA# LC714 SERIES 018
Public Record ID: LC711

Meeting Record:

H.0545 - AUTHORIZING VERMONT YANKEE TO GO BEFORE THE PUBLIC SERVICE BOARD TO SEEK PERMISSION FOR DRY CASK STORAGE
Cosgrove, Brian, Entergy Nuclear Vermont Yankee
McElwee, David, Senior Liaison Engineer, Entergy Nuclear Vermont Yankee
O'Brien, David, Commissioner, Department of Public Service
Sherman, Bill, Nuclear Engineer, Department of Public Service
Hofmann, Sarah, Public Advocate, Department of Public Service
Alexander, Peter, Director, New England Coalition
Gundersen, Arnold, Nuclear Engineer, Burlington - via telephone
Moore, James, Vermont Public Interest Research Group
White, Jeanette, Senator, Windham County

[Complete Meeting Details](#)

Meeting Details:

Committee(s): S Natural Resources & Energy
Hearing Date: 06/02/2005
Hearing Type: Standard
Comment: CD SHEET PRA# LC714 SERIES 018 (NO CD SHEETS FOR THIS MEETING)
Public Record ID: LC713

Meeting Record:

H.0545 - AUTHORIZING VERMONT YANKEE TO GO BEFORE THE PUBLIC SERVICE BOARD TO SEEK PERMISSION FOR DRY CASK STORAGE
Dostis, Rep. Robert, House NR Committee
Hofmann, Sarah, Dept. of Public Service
Sherman, Bill, Dept. of Public Service
Klein, Rep. Tony, House NR Committee
Smith, Rich. Dep. Comm., DPS
Alexander, Peter, N.E. Coalition Against Nuclear Pollution
Shand, Rep. Ernie, Windsor, VT
Boright, Al, Leg. Counsel
White, Sen. Jeannette, Windham Co.

[Complete Meeting Details](#)

Meeting Details:

Committee(s): S Finance
Hearing Date: 06/03/2005
Hearing Type: Standard
Comment: CD SHEET PRA# LC714 SERIES 018
Public Record ID: LC711

Meeting Record:

H.0545 - AUTHORIZING VERMONT YANKEE TO GO BEFORE THE PUBLIC SERVICE BOARD TO SEEK PERMISSION FOR DRY CASK STORAGE

Nulty, Tim, Member, Vermont State Nuclear Advisory Panel - via telephone (2:15 p.m.)

Thompson, Gordon, Ph.D., Institute for Resource and Security Studies, Cambridge, MA - via telephone (2:30 p.m.)

Boright, Al, Legislative Counsel

Resnikoff, Marvin, Ph.D., Partical Physics, Lead Scientist, Nuclear Waste Management Associates - via telephone (3:00 p.m.)

Shadis, Ray, Staff Technical Advisor, New England Coalition - via telephone (3:30 p.m.)

Hofmann, Sarah, Public Advocate, Department of Public Service

Dostis, Robert, Chair, House Natural Resources and Energy Committee: Representative, Waterbury Center

O'Brien, David, Chair, Vermont State Nuclear Advisory Panel

Sherman, Bill, Nuclear Engineer, Department of Public Service

Cowart, Richard, Director, Regulatory Assistance Project

[Complete Meeting Details](#)

Vermont State Senate - Act 74 of 2005

As recorded on June 3, 2005

Janice D. Badeau
17 Beacon Street
Barre, Vermont 05641
janicebadeau@charter.net
(802)476-6281

1 this state. This rush to pass this bill, I believe,
2 disrespects the work of those who put in a tremendous
3 amount of work in the House. I believe it disrespects
4 the role of the Senate. And there are 180 bodies --
5 people in these two bodies and good legislation requires
6 the best effort of every single one of us. And I would
7 ask you to support my objection to moving forward the
8 bill in advance stages and those are my reasons why.
9 Thank you.

10 PRESIDENT: Thank you, Senator.
11 Senator from Chittenden District.

12 SENATOR FROM CHITTENDEN: Mr.
13 President, I am going to also go against the suspension
14 of the rules. Even if this were not a very, very
15 serious matter, I would be extremely offended at the
16 company here, the petitioner, who is asking the
17 legislature for permission, which they are required to
18 receive before they move ahead with the process of
19 creating and using a dry cask.

20 In Section 6502 of the Vermont
21 Statute, it -- it says, Title 10, § 6502, it says that
22 the legislature has to give its approval. And it goes
23 on to say that, first, the petitioner, here, the owner
24 of Vermont Yankee, has to submit to the Speaker of the
25 House and the President of the Senate their petition for

1 approval by the legislature and has to refer their
2 petition to the Joint Energy Committee. I do not
3 believe they did that.

4 It goes on to say that that committee
5 must hold public hearings on each petition and it shall
6 give notice through publication and newspapers in the
7 area that the facility, here Windham County, is going to
8 be built. And that publication and notice has to occur
9 at least 12 days before the hearing. It also requires
10 that the committee, that is, the Joint Energy Committee,
11 shall be authorized to examine all records and
12 information relevant to the petition in possession of
13 the petitioner or the State. Now, that's not normally
14 the kind of information that the legislature, which is
15 the only body that is one committee in the house, has
16 access to. In fact, they don't. But according to law,
17 we were allowed to have access to that information. But
18 because Entergy never followed the petition, presumably,
19 the Joint Energy Committee in charge of this process
20 wasn't even aware of their desire to get approval from
21 the legislature.

22 Section (c), then, requires that the
23 chairman of the Public Service Board be given notice by
24 the chairman of the Joint Energy Commission. It
25 requires the chairman of the Joint Energy Commission to

1 also give notice to the Secretary of the Agency of
2 Natural Resources and the Attorney General. And that
3 each one of these public officials so notified and prior
4 to the public hearing shall submit to the committee his
5 agency's evaluation of the impact of the facility on the
6 State and any other information deemed relevant to the
7 petition. Neither the chairman of the Public Service
8 Board nor the Commissioner of Health, which I didn't
9 mention, nor the Secretary of the Agency of Natural
10 Resources, nor the Attorney General was given that
11 notice and nor have we been benefited by their advice
12 and by their study, which is required by law. So again,
13 Mr. President, even if this were not such a serious
14 matter, this would be offensive to the State of Vermont.
15 It would be offensive to the legislature. It would be
16 offensive to the citizens of Vermont that this company,
17 Entergy, would snub their noses in our faces. Thank
18 you.

19 PRESIDENT: Thank you, Senator.
20 Senator from Windham District.

21 SENATOR FROM WINDHAM: Mr. President,
22 I just want to -- first, it's nice to be with you, I
23 guess. And I want to congratulate Jeanette on her
24 presentation of the rules, why she opposes the rules
25 suspension.

1 What's this bill about? This bill is
2 not about cask storage, except tangentially. That's not
3 -- that's not what it's about. That's what's in the
4 language and so on. This bill is about the uprate.
5 It's about relicensing. It's about the whole ball of
6 wax.

7 I've followed this for three years and
8 during that time, it's very interesting. Two years ago,
9 when they announced they were making a 60 million dollar
10 investment in -- in -- well, I'm sorry, prior to that,
11 two years ago -- yeah, they were going to make an
12 investment in a -- in an uprate of 60 million dollars, I
13 said, "If you're investing 60 million dollars in an
14 uprate, you must be fairly confident you're going to be
15 relicensed." Seemed sensible to me. You don't spent 60
16 million dollars if you're out of business in 2012. And
17 they said, "Oh, no. Even if we don't get relicensed,
18 this is a favorable financial deal, this uprate, and we
19 will make it all back and more during that period of
20 time between now and 2012 when, indeed, we may not be
21 relicensed. That was two and a half years ago.

22 This time -- I don't like bullies.
23 This time around we hear in the public prints and I've
24 heard it from enough sources to absolutely be certain
25 that the company talked about early decommissioning,

1 selling out, etcetera and so on, leaving Vermont. And
2 it was a threat. Originally, four and a half million
3 dollars or four million. There is some discrepancy
4 between the four and the four and a half. Eventually,
5 we got two and a half million. But the perception, if
6 you read the public prints, this is all about money.
7 It's about renewable energy is a good thing. I've been
8 for it for God-knows how long. And 15 million dollars
9 is a nice piece of change. It's not going to make a
10 hell of a lot of difference, frankly, in the renewable
11 energy business. It really doesn't. It's -- it's not
12 enough money to be that advantageous. But it's not
13 about money. I mean, you know, this company has a
14 performing asset, a performing asset that is being a
15 high rate of return, a good rate of return. And four
16 million dollars, what is this, a five billion dollar
17 company? I can't remember how many billion dollars it
18 is. I mean, that can disappear in a crack in the floor,
19 four million dollars. It doesn't mean a damn thing,
20 four million dollars. And they go around threatening
21 us. You know, they threaten the legislature. This is
22 when I got mad. I went home. They were threatening the
23 legislature on a false basis. And now they have the
24 effrontery, the effrontery to say they never said that.
25 They never said that. All the newspapers in this state

1 got it wrong. "Oh, no, we never said -- we never
2 threatened to -- to close early or -- or sell or
3 anything like that. We didn't say that." Nonsense. I
4 know several people they said it to. I mean, that's --
5 that's just -- you know, you can describe those as
6 tactics. They kind of remind me of the way they wrote
7 the energy bill down in Washington. Most Democrats
8 thought that wasn't a very open process.

9 So don't make any mistake. I -- I
10 know when, as a friend of mine used to say, "Win a few,
11 lose a few, lose a few, lose a few, lose a few." I know
12 how this is going to go and, as far as that's concerned.
13 But this is not about -- I am in favor of hard cask
14 storage and I am -- because it is a better method of
15 storage than -- not only that, but that in order to
16 operate until 2012, they must have it. They absolutely
17 must. I am in favor of hard cast storage. I am against
18 this bill. I will come back at any time, anywhere and
19 vote for hard cast storage when it's presented in an
20 appropriate way. This is not presented in an
21 appropriate way whatsoever.

22 And I know, you know, they say -- I
23 don't know, Jeanette, you get this or not. Those
24 crazies down in the Southeast corner of Vermont, you
25 know, they're all crazy down there. Well, you know,

1 that's not where I come from. The problem has been from
2 the beginning that both sides have said, you know, are
3 so passionate that there's no middle ground. Well,
4 there is middle ground. Before I ever ran for the
5 senate, I decided to lay out all my platform for the
6 voters to see before -- before I had to, including
7 Vermont Entergy. There was no question of upgrade at
8 that time. And I said, "I don't want this plant to
9 close before 2012 and we've only got eight years. For
10 God sakes, let's get busy. Do not relicense this plant.
11 Do not relicense this plant. Do not close it before
12 2012. Get workers training so that the job front
13 would," -- you know. We did nothing. Nothing. You
14 know. And time passes and here we are again.

15 Entergy from the beginning has said
16 there -- internally, basically -- I can't remember the
17 exact words, but there were three big things to -- you
18 got to get. You know? And -- and you get them by going
19 down them piecemeal. That's why this is not about cask
20 storage. It's about the three things. It's about the
21 uprate. It's about the relicensing. And -- and the
22 third I've honest-to-God forgotten. But nevertheless,
23 it's just picking these things off one-by-one. It gets
24 easier and easier as you go along. I don't think
25 there's anybody in this room who thinks that somehow

1 this place isn't going to be relicensed now. I think
2 it's a mistake. I think it's a dreadful mistake as far
3 as that's concerned, but I come at this not because of,
4 you know, as -- as many of the advocates who also do not
5 want to relicense. I don't come at it from that point
6 of view. I come at it from the fact that I believe that
7 this plant was built with a certain life expectancy and
8 that 2012 was a reasonable life expectancy for this
9 plant. This plant could not be built in a day,
10 according to these specifications. They've moved far
11 beyond that. (Inaudible) built with these
12 specifications.

13 So, you know, and I'm not -- and I'm
14 not here because I've got two granddaughters seven miles
15 upstream and one six miles downstream, either. And I'm
16 not here because I think that black helicopters are
17 going to come around and a bunch of terrorists are going
18 to take over the plant or something like that. I'm
19 coming because this long-range is a terrible policy, a
20 terrible policy.

21 The best estimate we have about
22 storage -- the rosier estimate we have about how long
23 this will be on the banks of the Connecticut, the
24 rosier thing we heard today was that, if everything
25 went right, (inaudible) forget it. It's never going to

1 happen. We all know that. And they found a -- they
2 found a different repository -- depository for this
3 stuff. If everything went right, if -- if Entergy moved
4 us to the head of the queue, they've got a bunch of
5 plants. Are we going to be in the head of the queue or
6 in the back of the queue, as far as offloading this dry
7 cask stuff? If we're in the back of the queue, it's not
8 going to happen. The best estimate is a minimum of 40
9 years. A minimum of 40 years. I happen to think that's
10 a very rosy estimate. I don't think 40 years begins to
11 cover the situation as far as that's concerned.

12 So, and these tanks, by the way, are,
13 some experts have said, and I -- these are not the
14 advocates, that they are biodegradable and -- and should
15 be relicensed every 20 years. So we got 40 years down
16 here. Well, you decommission, leave the stuff there,
17 Entergy walks away, the State takes over.

18 Anyway, the reason, and I'm sorry to
19 be so long-winded, but you got to admit you haven't had
20 to spend a lot of time listening to me this -- this
21 term. So you've been in luck. Now you're paying the
22 penalty.

23 The -- I just want to emphasize the
24 seriousness of this situation. The perception out there
25 amongst many people is really sad. That's the only way

1 the bill.

2 UNIDENTIFIED MALE SPEAKER: H.545, an
3 act authorizing Vermont Yankee to go before the Public
4 Service Board to seek permission for dry cask storage.

5 PRESIDENT: Chair would like to
6 recognize the Senator from Chittenden, Senator Lyons'
7 report, Committee of Natural Resources and Energy.

8 SENATOR FROM CHITTENDEN: Thank you,
9 Mr. President. May I speak to the amendment as well as
10 the underlying bill?

11 PRESIDENT: Proceed, Senator.

12 SENATOR FROM CHITTENDEN: Thank you.
13 Mr. President, we've already heard discussion tonight
14 about process and I would like to begin by talking about
15 processes that have occurred in my committee and then
16 with respect to what was accomplished in the house. As
17 you have heard from the President Pro Tem, our -- our
18 committee was engaged in a discussion about how to deal
19 with dry cask and the decision was made that it would be
20 placed in -- that topic would be in the Committee on
21 Natural Resources and Energy, and then subsequently in
22 the Finance Committee.

23 We began our -- our meetings on that
24 topic on February 22nd. We held several other meetings.
25 We held a joint public hearing with House Natural

1 Resources in the well of the House. We held -- at which
2 there were over 50 people who testified and many more
3 were present. Held a joint public hearing with House
4 Natural Resources at the Brattleboro High School at
5 which I believe there were estimates of 700 people
6 attending and approximately 80 folks were able to
7 testify and I have three folders of letters and
8 additional testimony from folks who were not able to
9 provide testimony orally at that meeting. We
10 subsequently have met on the dry cask issue and -- and
11 having received the bill from the House, continued our
12 deliberations on the specific bill we have received.

13 During the process in the course of
14 the House deliberations, there were two other iterations
15 of their bill that we received and -- and had for
16 review.

17 The witnesses that we had on dry cask
18 include Albo Wright, legislative counsel; David O'Brien,
19 Commissioner, Department of Public Service; Bill
20 Sherman, State nuclear engineer; Dave Lamotte,
21 Department of Public Service; Sarah Hoffman, special
22 counsel to the Department; Jay Thayer of Entergy; David
23 McElwee, Chief Engineer of Vermont Yankee; Raymond
24 Shadis, New England Coalition; Arnie Gundersen, New
25 England Coalition; Richard Cowart; Representatives

1 Dostis and Klein; Rich Smith, Department of Public
2 Service; Peter Alexander of the New England Coalition;
3 Representative Ernest Shand from Windsor; Senator
4 Jeanette White from Windham; via memo, Ray Colliander of
5 the Regulatory Assistance Project. We had also a policy
6 paper from the Rockefeller Center at Dartmouth College
7 by Dr. Patrick Hurley and his students on dry cask
8 storage. And in addition, the members of the public who
9 testified at the -- the public hearings that we held.

10 Mr. President, this is a very
11 difficult topic for all of us. None of us wants to have
12 nuclear waste stored on the soil of Vermont. The
13 reality is, Mr. President, is that we have a nuclear
14 power plant on our soil. The reality is that that plant
15 will require some temporary storage, which is different
16 from the (inaudible) storage in order to insure safety
17 for our environment.

18 The bill before us has three main
19 elements. It allows Entergy to seek permission from the
20 Public Service Board for authorization for dry cask
21 storage of spent nuclear fuel at the Vermont Yankee
22 Power Plant in Vernon.

23 Secondly, it ratifies a set of
24 commitments to environmental standards for dry cask
25 management, including some standards that other nuclear

1 plant operators might well claim are preempted, states
2 are preempted from enforcing. This gives our -- us
3 greater authority than other states.

4 It creates a Clean Energy Fund to
5 which Entergy will contribute based on two memoranda of
6 understanding between the Department of Public Service
7 and Entergy and it allocates the funds received for
8 renewable energy projects and certain combined heat and
9 power projects. It is a step in the direct, Mr.
10 President, to replacing the energy from VY when it is
11 decommissioned.

12 The Natural Resources and Energy's
13 recommendation is -- is to allow Entergy to apply to
14 this Public Service Board for a certification of public
15 good for temporary cask storage at Entergy nuclear power
16 plant. This is based on our background research, on
17 testimony and on committee deliberations.

18 As a -- as a brief history and
19 summary, Vermont Yankee went on-line in 1972. When the
20 plant was originally approved, it was believed that the
21 federal government, through the Department of Energy
22 would provide a place to send nuclear waste for
23 reprocessing and that it would then be reused for other
24 purposes. Mr. President, the federal government has let
25 us down.

1 In the interim, the plan for the --
2 was for the spent fuel, nuclear fuel rods to be
3 temporarily stored at the VY pool, in a pool of water
4 within the reactor building. The pool was originally
5 designed for low-capacity storage. However, the federal
6 government did not follow through with reprocessing,
7 mainly because it was not economical. As a result, the
8 original pool was changed to accommodate more storage.
9 In fact, what was originally designed to be a low-
10 density storage pool is now packed to capacity because,
11 through no fault of the plant's owner, they still have
12 all the nuclear waste they produced from day one.

13 When the reprocessing plan did not
14 occur the federal government looked for another
15 solution. They searched for places in the US to store
16 the waste. And after much searching and money spent,
17 they landed at Yucca Mountain in Nevada. To pay for the
18 preparation of this site, all nuclear power plants are
19 charged one mil per kilowatt hour which it paid for by
20 the rate payer. Rate payers have spent over 13 billion
21 dollars to prepare Yucca Mountain to accept nuclear
22 waste. But because of problems at the site, politics,
23 and the fact that Nevada does not want our waste, the
24 mountain remains unavailable and we don't know when and
25 if it will be ever available.

1 Because of the federal government's
2 breach of contract in providing for the storage of
3 nuclear waste, a parent corporation of Entergy Nuclear
4 Yankee Facility is a lead plaintiff in ongoing -- in an
5 ongoing lawsuit against the Department of Energy for
6 damages associated with the Department's failure to take
7 delivery of spent nuclear fuel from their nuclear
8 plants.

9 We would not be faced with a problem
10 of storing highly radioactive nuclear waste in the first
11 place if the federal government was living up to its
12 legal obligation to provide for the disposal of spent
13 nuclear fuel. But the reality is we're in this
14 predicament. And even though it's not because of the
15 legislature's doing, nor has the situation been caused
16 by the nuclear power plant's owners, the fact of the
17 matter is, we're in the predicament of having to store
18 spent nuclear waste for an unspecified amount of time.

19 It's now the legislature's
20 responsibility to resolve the storage issue, not just
21 for today, but for future generations of Vermonters.

22 Why use dry cask storage? Dry cask
23 storage is a relatively new technology. It's been
24 developed 15 to 20 years ago and it's currently the only
25 realistic storage alternative to the spent fuel pool at

1 operating power plants.

2 One important development that has
3 influenced the committee's thinking is a recent National
4 Academy of Sciences study on spent fuel storage,
5 including a comparison between the risks of spent fuel
6 pools and the dry cask alternative. Many people used to
7 assume that dry cask storage was riskier than pool
8 storage. But after September 11th, 2001, the debate has
9 become more complicated. Many experts now believe that
10 properly managed casks will be the better option.

11 Whether or not to allow dry cask
12 storage is actually moot because we find ourselves in a
13 Catch-22. In order to allow Entergy to remain open, at
14 least until the current contract expires in 2012, we
15 must allow them to have dry cask storage in Vermont
16 because there's no alternative repository. If we do not
17 allow dry cask storage in Vermont, Entergy would be
18 forced to close sometime in 2008. This date would be
19 accelerated to sometime in 2007 if Entergy receives
20 approval for the 20 percent increase in power production
21 that it has requested. And if Entergy closes, the
22 nuclear fuel rods will have to be put into dry cask
23 storage. And in the absence of a federal deposit site,
24 that dry cask storage, Mr. President, will have to be in
25 Vermont.

1 Simply put, Vermont is in the position
2 of having to store highly radioactive nuclear waste and
3 dry casks one way or another.

4 Closing the plant prior to 2012 would
5 likely create an adverse economic for Vermont in two
6 ways. First, Vermont utilities have a contract between
7 now and 2012 for about one-third of our power from
8 Yankee at rates that are fairly low compared to today's
9 power market prices. This advantage would be lost if
10 the plant closed.

11 Second Vermont Yankee is a major
12 employer and economic participant in Windham County.
13 While decommissioning would employ quite a number of
14 people over a number of years, they would not
15 necessarily be the same employees who are working at the
16 plant today.

17 It's a finding of the Natural
18 Resources Committee, Mr. President, that early closure -
19 - early closure due solely to a lack of storage space
20 would not be in the best interests of Vermont. We are,
21 therefore, proposing to allow Entergy Vermont Yankee to
22 go before the Public Service Board to ask permission for
23 dry cask storage. At the same time, we also find that
24 it is not in the best interests of Vermont to continue
25 to be so heavily dependent on the power output of one

1 nuclear plant. So we must begin in earnest now to
2 create a portfolio of resources that cuts the dependence
3 and builds our own set of diverse and sustainable power
4 sources.

5 To this end, this bill creates the
6 Clean Energy Fund. The fund will be used to assist in
7 promoting the development of cost effective and
8 environmentally sustainable electric power resources for
9 the long-term benefit of Vermont electric customers.

10 It's up to this legislative body to
11 decide the course of Vermont's energy future. H.545
12 allows Entergy to seek permission from the Public
13 Service Board for dry cask storage under appropriate
14 conditions and it helps to promote a more diverse and
15 sustainable electric power portfolio for Vermont's
16 future.

17 Section one of the bill has changes
18 relating to subchapter two to read dry cask storage
19 authorization of 2005.

20 Section two, section 6521 outlines the
21 key legislative findings in H.545. Section two also
22 contains a review of proposals for new storage
23 facilities at spent -- for spend nuclear fuel. A
24 certificate of public good from the Public Service Board
25 is required for construction of any new or altered

1 storage facility for spent nuclear fuel.

2 The statutory requirement for
3 legislative authorization to seek that approval goes
4 along with the passage of this bill. In other words,
5 Mr. President, should any additional nuclear storage --
6 dry cask storage be required at VY for any reason, VY
7 would come back to the legislature and ask for
8 permission to go to the Public Service Board.

9 Before the Public Service Board can
10 grand a certificate of public good, it must find, and
11 these are conditions within the bill, that the
12 decommissioning fund is adequate to manage the storage
13 facility for as long as nuclear waste is in Vermont.

14 Secondly, that the waste will be
15 removed as soon as possible.

16 Thirdly, that there is a plan to move
17 the waste.

18 Fourthly, that the applicant must also
19 demonstrate that its in conformance with the MOU that is
20 being signed with the Department of -- and negotiated
21 with the Department of Public Service and with all other
22 MOUs that Entergy has previously signed with the State.

23 The bill also sets additional
24 conditions. Waste can only come from Vermont Yankee,
25 not from out-of-state. Storage capacity is limited to

1 keep the plant in operation until 2012. Period. These
2 requirements apply to whoever owns the plant.

3 Operation of Entergy VY is authorized
4 only to 2012, should dry cask storage be granted.

5 The legislation codifies a requirement
6 that Entergy must apply to the Public Service Board for
7 a certificate to operate after 2012, if they seek to
8 relicense the facility. In addition, permission to
9 store additional fuel derived from operations after that
10 date must be given by the legislature.

11 Section two of the bill also
12 establishes the Vermont Clean Energy Development Fund.
13 And the amendment that's before you is -- is a
14 clarification of that fund from the Natural Resources
15 and Energy Committee. And it includes definitions of
16 clean energy sources and the process whereby Department
17 of Public Service will act as administrator of the fund
18 and the responsibilities through the Department of
19 Public Service.

20 Mr. President, the bill references the
21 MOU that has been developed through the very hard work
22 of members of the House Natural Resources and Energy
23 Committee. Their efforts with legislative counsel
24 assistance from Richard Cowart have -- have been
25 exceptional, Mr. President.

1 Vermont, with the passage of this
2 will, gains control over those things which would
3 ordinarily not be allowed for states to control. With
4 the passage of this bill, we continue our legislative
5 regulation over dry cask storage in the State of
6 Vermont.

7 Our goal in Natural Resources and
8 Energy was to review and provide the safest possible
9 storage for spent fuel rods while they're in Vermont.
10 The -- the National Academy of Sciences recent article
11 indicates to us, as do others, that dry cask is the
12 safest. Oh, yes, dry cask may well have its defects,
13 but the alternatives are worse, Mr. President.

14 As I said in the beginning, no one
15 wants to have spent fuel, nuclear fuel waste in the
16 State of Vermont. But we have protected ourselves as
17 best we can as Entergy goes forward and we will have dry
18 cask in this state, as you have heard.

19 Mr. President, I encourage this body
20 to vote favorably on this bill. Thank you very much.

21 PRESIDENT: Thank you, Senator. The
22 chair would like to recognize the Senator from Windsor
23 District.

24 SENATOR FROM WINDSOR: I'd like to
25 take a one-minute recess to invite the other senators to

1 know, it's a bad idea. One of the things that's
2 terrific in the legislation is that we've retained, made
3 absolutely clear that dry cask is good only through the
4 existing license. And the testimony, as the Senator
5 from Washington indicated, is that the Entergy, or if
6 there's a new owner, has no legal authority to continue
7 operation unless this legislature extends dry cask
8 permission. So something of enormous concern to many
9 Vermonters, particularly many Vermonters in the southern
10 part of the state, this question of relicensing. We
11 have retained -- we, the General Assembly, have retained
12 full authority to essentially grant or withhold dry cask
13 permission. And without the capacity to store the fuel
14 residue that is generated, they can't operate. So
15 that's an immense level of -- of control at the -- that
16 -- that we retain in the General Assembly.

17 PRESIDENT: Senator from Addison.

18 SENATOR FROM ADDISON: Thank you, Mr.
19 President. This -- this was the subject, in general, of
20 a lot of discussion this afternoon, and there were a lot
21 of ways we could look at it and there are a number of
22 moving parts to the whole process. I would vote against
23 this in favor of getting right to it in January and
24 straightening this out. My big concern, and I'm
25 guessing that Senator White shares this at least in

1 part, is that, after all the other business is done,
2 then -- then Entergy would come to us, or whoever holds
3 -- holds the property then, it's the last thing to ask
4 for permission to -- for dry cask storage. And we'd be
5 in a -- in a position where it's hard to take time to
6 deliberate. We would have an awful lot of pressure and
7 I would rather -- I'd like to see that change, but I'd
8 rather take my time and do this right in January.

9 PRESIDENT: Thank you, Senator. Are
10 you ready for the question?

11 UNIDENTIFIED MALE SPEAKER: Roll call.

12 PRESIDENT: It's been asked that the
13 vote be conducted by a call of the roll. The question
14 is shall the amendment as proposed by Senator White be
15 adopted. I'd like to ask the Secretary to please call
16 the roll at this time.

17 SECRETARY: Senator Ayer.

18 SENATOR AYER: No.

19 SECRETARY: Senator Bartlett.

20 SENATOR BARTLETT: No.

21 SECRETARY: Senator Campbell.

22 SENATOR CAMPBELL: No.

23 SECRETARY: Senator Collins.

24 SENATOR COLLINS: (No verbal

25 response.)

1 recognize the Senator from Windham District.

2 SENATOR FROM WINDHAM: Thank you for
3 indulging me and this is the last time I believe I will
4 speak. And I do want to express my appreciation to the
5 committees that took that testimony and angsted a lot on
6 this issue. It's not an easy issue to deal with and I
7 know that the emotions run very high on all sides.
8 Excuse me. And I do understand the need to -- to have
9 negotiated this issue behind closed doors, as we say.

10 This bill is simply giving the VY the
11 authority to go to the Public Service Board to apply for
12 dry cask storage. It is not giving them the authority.
13 I realize that. And it's only for fuel-generated -- it
14 goes up to -- to 2012. In -- it also addresses the
15 issue of coming back to us for additional storage for
16 any fuel generated after 2012. However, this bill goes
17 hand-in-hand with an MOU that deals with safety. Safety
18 is the jurisdiction of the Nuclear Regulatory
19 Commission. We have no authority to deal with safety.
20 So the MOU is a very important part of this bill and
21 they go hand-in-hand. There are upsides and downsides
22 to the MOU. There -- there are both upsides and
23 downsides, I admit it. Most of the upsides were things
24 that I believe Vermont Yankee would have done as a
25 matter of safe operations. They are not trying to blow

1 up Southern Vermont. We know that. So they would have
2 done these things anyway, as a matter of safe
3 operations.

4 One of the things -- one of the
5 upsides that comes with this MOU is the -- that VY has
6 given up their right to go to federal preemption on the
7 issues that are addressed in the MOU. And the -- an
8 upside clearly is the Energy Development Fund that's set
9 up. However, the downsides are the Energy Development
10 Fund because it, in this case, it's linked to the
11 upgrade. It is not simply a contribution from Entergy,
12 nor is it connected to the waste itself. It's a -- it's
13 a revenue sharing connected to the uprate itself. So,
14 in fact, it seems that we are endorsing the uprate
15 because, without the uprate, we get no money.

16 We also gave up the right to have any
17 say in relicensing, not that we necessarily had any say
18 before. But in this, we have given it up.

19 Would we be in better shape in January
20 if we waited? I am not sure we would, but we -- do we
21 all feel that we've made a vote on this very important
22 issue, that we have done it to the best of our ability?
23 I would guess that most of us have not read the entire
24 bill. We have the amendment before us that was offered
25 by Natural Resources on the fund itself. My guess is,

Vermont Act 74 of 2005

H.545

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1 March 18, 2005

2 (Begin Recording.)

3 HNR CD #05-106/Track 1

4 (Transcriber note: There were several parties present
5 at these meetings. Speakers' names were used whenever
6 possible, but in the instances where they were not
7 identified or could not be discerned by the transcriber,
8 generic terms were used.)

9 Begin Minute 00:00

10 UNIDENTIFIED FEMALE SPEAKER: Friday,
11 March 18th, Natural Resources and Energy.

12 ***

13 BRIAN COSGROVE: Thank you, Mr.
14 Chairman, and thank you for the opportunity to testify
15 today. I would just like to make a brief opening
16 statement and then turn it over to John Hollar who will
17 talk a little bit about the language that we submitted
18 to you a week or so ago, as a place to begin. And also
19 today, McElwee (phonetic) who can talk about some of the
20 engineering issues around dry fuel storage if, in fact,
21 folks have questions about those.

22 But really, I just wanted to recap
23 sort of where we are. Obviously, we are here to move
24 forward with a petition for dry fuel storage at Vermont
25 Yankee. We want to provide safe, secure storage to

1 allow us to operate through the end of our current
2 license in 2012. And that's really the time horizon
3 we're working on here. That will allow us to fulfill
4 our current obligation to provide one-third of Vermont's
5 baseload electricity supply and to fulfill the terms of
6 the power purchase agreement that we signed at the time
7 of the purchase of Vermont Yankee with Vermont utilities
8 which is projected to save Vermont customers 250 million
9 dollars through 2012 in reduced electricity prices.
10 Since 2002, it has already saved about 40 million
11 dollars. So these are real dollars.

12 And also, to get dry fuel storage in
13 place so that we will be prepared for all future
14 contingencies, including license renewal, if that is
15 approved, or decommissioning the plant in 2012, if that
16 proves to be what the outcome is.

17 I think that there's been a lot of
18 talk about license renewal and what affect this might
19 have on that and I'd just like to clarify that now. The
20 current issue does not go beyond 2012. We're simply
21 looking for what we need to be able to operate the plant
22 through 2012.

23 The renewal application, any renewal
24 application for Vermont Yankee will require a
25 certificate of public good to be issued by the Vermont

1 Public Service Board. It will also require a license
2 renewal to be issued by the Nuclear Regulatory
3 Commission. Both of these bodies have a complex and
4 thorough process for looking at issues like this and
5 that will be what we will go through.

6 If either one is not granted,
7 obviously, Vermont Yankee will close at the end of its
8 current license in 2012, regardless of what is decided
9 in this dry -- in this dry fuel application.

10 The renewal application must stand or
11 fall on its own merits. There is no precedence being
12 set here.

13 Vermont Yankee has a 33 year record of
14 safe, reliable operation and as a producer of reliable
15 and affordable baseload power. Our goal is to retain
16 those benefits through 2012 and that's why we're here
17 today.

18 One other thing, there had been a
19 request for information, a series of questions from the
20 Committee. We have written responses to those that I
21 would like to submit to you today.

22 UNIDENTIFIED MALE SPEAKER: A question
23 I have. The 250 million dollar savings, that's between
24 what timeframe?

25 BRIAN COSGROVE: That is the full 10-

1 year --

2 UNIDENTIFIED MALE SPEAKER: So from
3 '03?

4 BRIAN COSGROVE: It's from 2002 to
5 2012.

6 UNIDENTIFIED MALE SPEAKER: 2002.

7 BRIAN COSGROVE: Those are based on
8 Department of Public Service projections of market
9 prices, not -- not, as has sometimes been stated, spot
10 market prices or day ahead prices, but those are the
11 comprehensive prices that the utilities would actually
12 have to pay, which would include short-term contracts,
13 any kind of hedging that they do. So that's a real
14 number. It's not just a spot market number.

15 CHAIRMAN: Any questions?

16 BRIAN COSGROVE: Okay.

17 UNIDENTIFIED MALE SPEAKER: I have a
18 lot of questions. I am not sure who I should be asking.

19 CHAIRMAN: Well, what I'll do is we'll
20 have John Hollar come up, go through the language, and
21 then we'll entertain all questions. And then if --
22 we'll point them to the right person.

23 BRIAN COSGROVE: Certainly.

24 CHAIRMAN: And you'll be here, right,
25 sir?

1 BRIAN COSGROVE: Yes. Thank you.

2 CHAIRMAN: Okay.

3 JOHN HOLLAR: Good morning.

4 CHAIRMAN: Good morning, John.

5 JOHN HOLLAR: Thank you for the
6 opportunity to be here today. My name is John Hollar
7 and I'm an attorney with Downs Rachlin and Martin and we
8 represent Entergy Vermont Yankee.

9 So, I wanted to talk briefly about the
10 proposed legislation that we submitted to the committee
11 last week. Excuse me. The issue facing Entergy Vermont
12 Yankee I think is clear to the Committee, and that is
13 that the plant will run out of storage space at its
14 existing plant by as early as 2007, unless an action is
15 taken to create additional facilities.

16 We've proposed the construction of a
17 dry fuel storage facility at the site to create the
18 capacity that would be needed to operate the plant
19 through 2012. The current Vermont law is clear that we
20 needed legislative authority to do so. I say it's
21 clear. That's probably not a -- I don't -- let me back
22 up. There is some, and I think it's important to lay
23 the -- the context for the proposal that's here. The
24 statute contains an exemption for Vermont Yankee, as the
25 Committee, I think, is aware. There has been some

1 disagreement as to the scope of that exemption. Our
2 view was -- has been that that exemption encompasses the
3 site itself, including the new ownership of Entergy
4 Vermont Yankee at the site. There's been some
5 disagreement about that. The Attorney General issued an
6 opinion saying that the exemption only applied to the
7 prior owner, Vermont Yankee. So we have come to the
8 legislature and actually proposed a change last year and
9 -- and made, through discussions with the Committee,
10 proposed a legislation earlier this year to clarify the
11 exemption that's contained in Chapter 157. To clarify
12 our view that the -- that the intent of that statute was
13 always to apply to the site itself, not the corporate
14 ownership. Through discussions with the Committee, it
15 became clear that the Committee was not inclined to
16 clarify that exemption and that we should submit a
17 different kind of proposal. So we've done that. We've
18 drafted a proposal that we hope addresses the interest
19 of the Committee, in the sense that we are not seeking
20 to simply clarify the exemption, but to -- but to offer
21 a different -- a different route. And I'll walk through
22 the Committee just briefly, and it's not a lengthy
23 proposal.

24 ***

25 JOHN HOLLAR: The first section of

1 this proposal contains two definitions; one is for dry
2 fuel storage. And we've referenced the definition -- or
3 the -- the system as approved by the Nuclear Regulatory
4 Commission. Also defined the Vermont nuclear -- Vermont
5 Yankee nuclear power station as a nuclear power
6 generating facility in Vernon. I think that's -- those
7 definitions are clear.

8 We then say that notwithstanding the
9 provisions of Chapter 157, a company can proceed with
10 the construction of a dry fuel facility subject to two
11 conditions. So this statute would not amend -- amend
12 Chapter 157. It simply says that notwithstanding the
13 provisions of that act, the company could go forward
14 with the construction of a facility, a dry fuel storage
15 facility, subject to two conditions. The first
16 clarifies that we would construct no more than 12
17 containers for the storage of radioactive waste
18 material. That number consists of two components, and
19 these are -- these are estimates and we do have a
20 provision which would allow the Public Service Board to
21 modify those as necessary, but we estimate that there
22 are six containers that would be necessary to continue
23 to operate through the life of the current license
24 through 2012. If the plant's license is not renewed at
25 2012 and the plan -- and decommissioning was necessary,

1 there would be a need for an additional six containers
2 to start that decommissioning process. To off-load the
3 core, the fuel core. And so that's where the number 12
4 is derived.

5 And again, we've made it clear that
6 the Public Service Board could modify that number
7 through their proceedings to determine the amount that
8 would be necessary to operate through 2012 and, if
9 necessary, to decommission the plant.

10 The second condition would clarify
11 that -- that the company could not commence any
12 construction of a dry fuel storage facility prior to
13 receiving a certificate of public good from the Public
14 Service Board under current Vermont law, under Section
15 238 -- 248 of Title 30.

16 So those are the -- the provisions of
17 the proposal that are before you and we appreciate the
18 opportunity to -- for you to consider that.

19 ***

20 End Minute 10:02

21

22

23

24

25

-The following three pages were transcribed by the Vermont Attorney General's Office- John Hollar and Dave McElwee, Entergy, before joint hearing March 18, 2005, transcribed from Vermont Legislative Council audio CD recording no. 2005-106, Track 2

1 [Disk 106 at Track 2,]

2 JOHN HOLLAR: This proposal before you does nothing to, ah, minimize any control that
3 the Legislature might have with respect to license renewal. This only addresses the
4 issue that faces us right now with respect to Chapter 157, and our need to site, ah,
5 dry-fuel storage containers necessary to get us through that license period. It
6 doesn't do anything to minimize any legislative role, ah, any role the Legislature has
7 within current law, or that might have in the future with respect to license renewal.
8 Does that help? Is that clear?

9 [Dave McElwee?]: I, actually, I don't understand the connection between that and
10 another repository opening up. Can you - do you want to touch on that? That's how
11 you started, talking about.

12 [Male legislator, Tony Klein?]: Well, if, if the storage is not going to be on-site,
13 okay, but it is in a dry cask, they could, you could, I could see a scenario, unless
14 I'm scientifically way off-base, that you have that reusable container that, that they
15 put it in a wet pool, and they transfer it to either a truck or a train, at what
16 point, and it's transferred into another cask, and it's gone. Okay? Which one is,
17 which one is the - is the cask that we've given permission for? The one that's reused
18 within the plant, or the one that's being shipped off, off-site? That's my, that's my
19 question.

20 [Male legislator]: To follow up on what Tony's saying, I think it's maybe taking
21 ourselves out of the loop of approving further - being able to address further dry-
22 cask storage, ah, for any possibility of relicensing, that they can start transferring
23 stuff off-site, to a secondary repository. And I have some other questions.

24 DAVE MCELWEE: Do you want to address that? Or do you believe it's adequately
25 addressed? Do you understand the concern? I understand the concern. You haven't had
26 [inaudible] but now I understand.

27 JOHN HOLLAR: Ah, yeah, I don't have anything else to say, other than, this - this
28 proposal doesn't change the *status quo*. To the extent that the legislature has

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1 control, they would retain that in any scenario relating to license renewal. This
2 doesn't alter that.

3 [Male voice]: Does the Legislature have control over casks that come out of the plant
4 and then are immediately sent to another place?

5 **JOHN HOLLAR:** Um, well that would, I don't think so. I think if they were immediately
6 shipped out of state, it wouldn't be - we wouldn't be siting a facility that would be
7 subject to Chapter 157, so I -

8 **DAVE MCELWEE:** [Inaudible.] It would be similar to the way that we currently handle
9 low-level waste. It would be simply loaded and transferred out, in, and if the DOE is
10 taking the fuel at that time, it would be, the DOE would take title to it as it leaves
11 the plant, probably.

12 **AL BORIGHT:** Um, I don't disagree with that. Your jurisdiction under Chapter 157
13 talks about storage, construction of storage facilities. And if they just truck it
14 away, um -

15 **JOHN HOLLAR:** And of course we -

16 **AL BORIGHT:** I'd have to look at jurisdiction under the transportation law.

17 **JOHN HOLLAR:** And of course we view that as a positive thing. If a company is working
18 hard to, ah, support a permanent location repository for this waste, so, we'll
19 continue to do that.

20 [Unknown male representative]: Um, well, to clarify, this is just a clarification. I
21 have, as I'm sure a lot of representatives do, there's a, there's a, percentage of the
22 population that would like to see this plant shut down now. Okay? And, um, for
23 whatever - I'm not going to go to the merits of it. But there's a percentage of the
24 population that would like to see this plant shut down now. And, politically, we have
25 been able to um, get them somewhat on board because we have a limit to 2012. Okay?
26 They, this, this is really paranoid, but this - . If we did not give you permission
27 to operate the dry-cask storage now, aside from the lawsuits, and the end-runs you
28 could, you know, let's assume we were the ultimate authority. We had the opportunity

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1 to shut you down in 2008. Okay? And then, and based on what I'm trying to get to
2 with the future oversight of this, if 2012 comes along, and a repository is open, and
3 you get your license extension, and we will have no say in that. We missed - we
4 missed an opportunity to shut the plant down.

5 JOHN HOLLAR: Well, I guess what I'd, I mean, certainly the legislature is in a
6 critical role right now. We need you to act by the end of this session on the
7 proposal or something close to what we've offered. Um, in our view the legislature
8 needs to be involved in that future decision about Vermont's energy mix and that's
9 going to involve a whole range of questions about emissions, about global warming, ah,
10 the price of power, and there's going to be an ample opportunity for that legislative
11 involvement. We don't think that this is - that this is not, ah, the last say by any
12 stretch of the imagination. The legislature needs to be part of that discussion. We
13 just don't feel that this is the vehicle to do that. There's, it involves, you know,
14 it's going to be exhaustive discussion with the public, and, and legislators, about
15 what we want, after this plant, ah, after the plant's license expires in 2012. So, we
16 certainly, we don't view - . This does not, either legally or, in our view, in any
17 kind of policy manner, preclude that kind of legislative involvement in the future.

1 HNR CD#05-106/Track 2

2 Begin Minute 12:00

3 UNIDENTIFIED MALE SPEAKER: I think
4 your question relates to the license -- the question of
5 a license renewal, and, you know, I guess we could -- we
6 could talk about that separately. In our view, this is
7 not -- this -- this proposal deals with the need -- what
8 the plant needs in order to continue operating through
9 its operating life. There will be ample opportunity for
10 the legislature to determine its role in any renewal of
11 the plan, license renewal between now and whenever that
12 license renewal process occurs. But our view is that
13 this is a separate issue. This doesn't relate to
14 license renewal and really is premature to talk about
15 those kinds of scenarios where we're talking about what
16 might happen 2012 and beyond.

17 UNIDENTIFIED MALE SPEAKER: I just
18 want -- state --

19 UNIDENTIFIED MALE SPEAKER: Could you
20 just state what your problem -- what the issue is?

21 UNIDENTIFIED MALE SPEAKER: My -- I
22 don't want to unknowingly, okay, because I don't want to
23 give a false impression to the public at large that I
24 represent, okay, I don't want to unknowingly relinquish
25 oversight of future storage situations, if the plant

1 were to operate beyond 2012. I mean, because I can
2 muster support for what we're -- for what we're
3 attempting to do because we're talking through 2012 and
4 I want to make sure that people understand that -- that
5 I have at least investigated thorough enough for my own
6 comfort that, and I'm not suggesting that anybody is
7 doing it consciously, but that there isn't -- you got
8 caught in a loophole by your lawyers not seeing it
9 correctly the first time through. So I don't want us to
10 -- I don't want us to relinquish anything by a loophole
11 that we are not aware of.

12 JOHN HOLLAR: Okay. Well, let me --
13 maybe I can --

14 UNIDENTIFIED MALE SPEAKER: That's my
15 concern.

16 JOHN HOLLAR: -- try to be clear on
17 it. This proposal before you does nothing to minimize
18 any control that the legislature might have with respect
19 to license renewal. This only addresses the issue that
20 faces us right now with respect to Chapter 157 and our
21 need to site dry fuel storage containers necessary to
22 get us through that license period.

23 UNIDENTIFIED MALE SPEAKER: Okay.

24 JOHN HOLLAR: It doesn't do anything
25 to minimize any legislative role -- any role the

1 legislature has with -- in current law or might have in
2 the future with respect to license renewal. Does that
3 help? Is that clear?

4 UNIDENTIFIED MALE SPEAKER: I hope so.

5 UNIDENTIFIED MALE SPEAKER: Actually,
6 I don't understand the connection between that and
7 another repository opening up or (inaudible). Do you
8 want to touch that or should I -- do you want to move
9 on? That's how you started talking about --

10 UNIDENTIFIED MALE SPEAKER: Well,
11 we -- if -- if the storage is not going to be onsite,
12 okay?

13 UNIDENTIFIED MALE SPEAKER: Um hum?

14 UNIDENTIFIED MALE SPEAKER: But it is
15 in a dry cask, they could -- you could -- you could see
16 -- I could see a scenario, unless I'm scientifically way
17 off base, okay, that you have that -- you have that
18 reusable container that -- that the put it in, in the
19 wet pool, and they transfer it to either a truck or a
20 train at one point and it's transferred into another
21 cask and it's gone.

22 End Minute 15:06

23

24 February 23, 2005

25 HNR & SNRC CD #05-76/Track 1

1 Begin Minute 00:00

2 BRIAN COSGROVE*: -- which have been
3 required to be backfit at nuclear plants since the --
4 the tragic events of 9/11. And also the decommissioning
5 risk. I mentioned a few minutes ago that the
6 decommissioning risk, if there were savings to be had at
7 the end and there was extra money leftover, that Vermont
8 ratepayers would share in that -- in that -- those
9 leftover funds. That's been formularized and
10 memorialized in -- in -- during the sale in the board
11 order.

12 But also, we have to look at the other
13 side. If decommissioning costs more than what was
14 estimated by Entergy and by Vermont Yankee Nuclear Power
15 Corporation at the time of the sale, that risk is born
16 by Entergy in its entirety.

17 Let me talk a little bit more about
18 why we're here today. I have some handouts that I'd
19 like to share with the board.

20 UNIDENTIFIED FEMALE SPEAKER: You just
21 promoted us. We're actually just two Committees.

22 UNIDENTIFIED MALE SPEAKER: You said
23 the board.

24 UNIDENTIFIED FEMALE SPEAKER: We
25 haven't made it to board status yet.

* Note: speaker in this discussion is actually Jay Thayer

1 BRIAN COSGROVE: I'm sorry. That's --

2 UNIDENTIFIED FEMALE SPEAKER: It's
3 okay.

4 BRIAN COSGROVE: I shouldn't talk and
5 reach at the same time.

6 UNIDENTIFIED FEMALE SPEAKER: Oh, we
7 were complimented.

8 BRIAN COSGROVE: First of all, the
9 first page is an aerial view of Vermont Yankee just to
10 orient you as far as the site. This is a very compact
11 site. It resides directly on the -- on the shore of the
12 Connecticut River in Vernon, Vermont. And I -- I would
13 like to thank again the members of the House who came
14 down and visited the site, get a first-hand view.

15 The second page, which I'd like to
16 move onto, is something that was mentioned, but it's
17 something that is -- it bears a reminder. One-third of
18 the State's electricity on a daily basis is provided by
19 Entergy Vermont Yankee. That represents about 34
20 percent of the power on a daily basis. And that's the
21 green -- green segment of the circle graph on the second
22 page. And we consider that to be an in-state resource.

23 If you look down at the lower left
24 hand side, there's a blue quadrant and that's another 33
25 percent of the state's daily electricity. Is everybody

1 -- everybody on this chart? I'm sorry. Okay. Page
2 three. And that represents the contribution on a daily
3 basis from Hydro Quebec. Both of those sources are a
4 very large percentage of the state's electricity supply
5 and both of those sources are what we call, what we
6 refer to as baseload continuous.

7 As an example, I'm here before you
8 today. Vermont Yankee operates at 100 percent power
9 this morning, 513 megawatts net to the electric grid in
10 -- in Eastern New England. The plant has been on-line
11 continuously at or near 100 percent power for 231 days,
12 as I speak. So I -- I -- when I say it's a reliable
13 continuous baseload source of generation, those are --
14 that's why I'm confident in saying that.

15 We believe our plant is in good shape
16 to operate between now and 2012. And the first reason I
17 say that, because our operation of Vermont Yankee is
18 founded I safety. If we were not -- if we were not
19 confident in the safe operation of that plant, I
20 wouldn't be here speaking about it today. But we're
21 confident between now and 2012 that the current
22 operation of the plant, previous operation of the plant,
23 the plant investments that we'll make in that plant
24 between now and 2012, that we can safely and reliably
25 operate that plant and serve out the term of this

1 purchase power agreement.

2 Other benefits that will accrue
3 between now and 2012. I mentioned the clean air benefit
4 before. Vermont Yankee is what we consider to be a
5 clean air plant. It provides -- it produces no
6 greenhouse gas emissions.

7 I'd like you to move -- I'd like to
8 move to another slide in the package, and it's -- I
9 think it's two slides behind the one I just spoke from,
10 and it's this graph here. It's called Vermont's
11 consumer savings. Okay? Let me just take you through
12 this. It looks a little complex on the outset. On the
13 left-hand side is the price of power. And here it's
14 expressed in dollars per megawatt; 45, 35. That can
15 also be converted to cents a kilowatt. This three and a
16 half cents, four and a half cents. It's just shifting
17 three places. So and here I'll talk about dollars per
18 megawatt.

19 You can see what -- what the purchase
20 power agreement is, is the orange line on this curve.
21 It's the bottom line and it's what we call the purchase
22 power agreement prices. It's what Commissioner O'Brien
23 called the fixed prices. Those prices between now and
24 2012 are all laid out. They're all specified in a chart
25 in the purchase power agreement.

1 In 2003, that price was \$42 a
2 megawatt. In 2004, it was \$42.80 a megawatt. And then
3 in 2005, it stepped down to the current \$39.50 per
4 megawatt. That step down was predicated on Entergy
5 receiving approval for its power uprate and having a
6 larger base of generation upon which to spread its
7 costs. That did not happen. The uprate has not been
8 approved yet, as we talked about a minute ago. However,
9 the purchase power agreement price did step down and the
10 distribution companies are realizing the benefits of the
11 lower prices.

12 If we look at what's happened since
13 2002, the red line, which kind of spikes up and goes
14 down and spikes up again, that's indicative of the
15 average monthly prices of energy at the Vermont node,
16 which is the Southern Vermont price node which Vermont
17 Yankee sells into, which Entergy sells its power into or
18 which -- but, in our case, since it's a fixed price, we
19 put out power into that node at a fixed price, but that
20 the price at that node fluctuates fairly -- fairly
21 widely.

22 What the purchase power agreement has
23 done, therefore, is insulate Vermont ratepayers from
24 that wide fluctuation and that fluctuation can be based
25 on availability of generation, weather, price of natural

1 gas, price of petroleum. There are many drivers and
2 it's a complex occasion to figure out why does New
3 England power prices swing around so much. But the
4 point here is that Vermont ratepayers have been
5 insulated from these swings.

6 And the dark green area under that red
7 curve is, basically, the savings to the distribution
8 companies and their ratepayers since the inception of
9 the purchase power agreement in mid-2002. And as you
10 can see in the words below, the cumulative savings to
11 date are 39 million dollars. That's not a promise
12 number, that's a delivered number.

13 If we look forward, as far as what
14 prices might do in the future and where might prices go
15 and how much might ratepayers save with this agreement
16 in place, that's the light green area to the right of
17 the Year 2005. And we estimate a total savings,
18 including the -- so far -- we estimate a total savings
19 of around 250 million dollars to Vermont ratepayers.

20 So subtracting out the current
21 savings, we project savings in the future of
22 approximately 210 million dollars.

23 And again, the -- these are based on
24 prices that the Department of Public Service has
25 projected forward as probable prices for the future.

1 And I agree with Commissioner O'Brien
2 when he says that price prediction is -- is uncertain.
3 Every time -- I know every time my company provides a
4 price prediction forward, prices seem to go up. And I
5 think the Department has had the same experience over
6 the last several years.

7 In addition to the purchase power
8 agreement, there are other benefits that I'd like to
9 draw your attention to. As I had said before, there are
10 approximately \$650 jobs onsite. People reporting,
11 working at the site everyday.

12 There's approximately -- if you take
13 those jobs and you roll up the salaries and the taxes
14 and the direct benefits to Windham County, it's
15 approximately 100 million dollars paid out over the
16 course of a single year. You could take those, as
17 economists do, and you say what impact does that have on
18 a regional economy? Economists I talk to say anywhere
19 between two and five multiplier on the initial dollars
20 that flow into an economy. I used two and a half for --
21 for reasoning purposes. So that would mean, on an
22 annual basis, Vermont Yankee provides a regional
23 benefit, goods, services and secondary affects of
24 approximately 250 million dollars.

25 It's a large in-state source of

1 electricity in an uncertain future market. As
2 Commissioner O'Brien said, it provides a source of
3 stability, the in-state generation. From the standpoint
4 of events occurring outside of New England, such as the
5 blackouts, such as the weather events in -- in -- in
6 Canada. It provides an insulator to Vermont customers
7 and New England customers from certain events.

8 And it also, the engineers look -- who
9 look at grids and who look at grid stability tell me
10 that the -- the -- it provides actually a quantifiable
11 stability factor on the New England grid to have a large
12 source of generation in Vermont within the state
13 boundaries.

14 The legislature faces an important
15 decision regarding Vermont's energy future, and I am
16 sure that you realize that. My -- my -- the sense I
17 want to pass onto you is a sense of urgency that action
18 now preserves the benefits that I've been talking about
19 over the last few minutes.

20 We need dry fuel storage approval from
21 the State of Vermont this year. The reason for that is
22 we will run out of storage space in the pool between
23 2007 and 2008, and a project of this magnitude, which
24 Mr. McElwee and Mr. Hoffman will talk to you about in a
25 few minutes, the technical details, but a project of

1 this magnitude needs to be planned and executed several
2 years before it's actually ready to accept the dry
3 casks. As a matter of fact, there's a significant
4 engineering effort going on right now. Question?

5 UNIDENTIFIED MALE SPEAKER: Yes. And
6 you may not be able to answer it, but you -- knowing the
7 plant and when it was built, but I'm -- I'm struck by
8 the plant began operating in '72 or around then.

9 BRIAN COSGROVE: '72.

10 UNIDENTIFIED MALE SPEAKER: And was
11 licensed to operate to -- to go to 2012, and yet we're
12 going to run out of space for wet pool storage in 2008.
13 Where -- was there a design flaw or was it -- what was
14 the -- why didn't they build enough wet pool storage?
15 Do you know the answer to that?

16 BRIAN COSGROVE: That's a good
17 question. Actually, in 1973, commercial United States
18 power reactors were shipping their fuel for
19 reprocessing. During the Carter Administration, there
20 was a decision made about nuclear proliferation or the
21 potential for nuclear proliferation in the United States
22 that we would stop reprocessing fuel from commercial
23 reactors and we would store it onsite. So the design of
24 Vermont Yankee, and I believe every other plant in the
25 country, contemplated storing fuel in the -- in the pool

1 only as long as it took to refuel the plant, let the
2 fuel cool down and then it was routinely shipped to
3 reprocessing sites. There was one in Kentucky, there
4 was one in upstate New York and there was one in -- I
5 believe in Illinois. But that was the -- the routine
6 procedure. So the designers at that time relied on
7 shipping the fuel away from the reactor and only having
8 enough storage for temporary storage. That was, just to
9 expand on that a little bit, that's why we got into the
10 difference between low density spent fuel racks, which
11 was the original design, and then we knew we would have
12 to be, after 1972, we would have to be storing more of
13 this fuel, we went to high density to put more fuel
14 assemblies in the same physical area and that's why,
15 today, we -- we now are at our limit from a high-density
16 storage rack standpoint. Excellent question.

17 UNIDENTIFIED MALE SPEAKER: How much
18 did the knowledge of having a national store house,
19 Yucca Mountain, add into the equation, or did it, in
20 terms of building the storage capacity internally?

21 BRIAN COSGROVE: It didn't. What
22 happened was, when the -- when reprocessing stopped, the
23 discussion became about where it should be stored. In
24 1982, the High Level Waste Policy Act was passed
25 which -- which then said we're going to have a national

1 repository. We're going to solve this problem with what
2 was then two locations which evolved to a single
3 location for a national repository. And that's also at
4 the same time that all the operating companies entered
5 into the contract with the Department of Energy whereby
6 we would start collecting money to build the repository
7 and to operate the repository. We collected, starting
8 in 1982. And as you may recall, that same contract was
9 the one that called for the Department of Energy to
10 begin accepting fuel from the power reactors on January
11 31st of 1998. They did not deliver on their promise.
12 We and the other power reactors in the country and
13 Vermont Yankee Nuclear Power Corporation before us paid
14 the money into the waste fund so the -- the national
15 repository was explored. The science has been
16 discussed. Yucca Mountain exists in its current state
17 and that's where we are from the standpoint of a
18 national repository. But it really didn't factor into
19 the design of any of these -- of these plants.

20 UNIDENTIFIED MALE SPEAKER: Did I hear
21 -- I think we heard testimony that -- that there was a
22 lawsuit from all the nuclear companies I guess to the
23 feds or DOE because they didn't deliver on their
24 promise?

25 BRIAN COSGROVE: That's correct.

1 UNIDENTIFIED MALE SPEAKER: And what
2 was the outcome of that?

3 BRIAN COSGROVE: The -- not all, some
4 of the nuclear power companies in the United States have
5 sued the Department of Energy. Entergy is a party in
6 one of those lawsuits, as is Vermont Yankee Nuclear
7 Power Corporation to collect for damages incurred from
8 1998 forward for this anticipated storage shortfall and
9 not -- the Department not delivering on their contract.
10 Those suits have been going for several years. There is
11 no outcome. The Entergy suit is not even being
12 entertained at this time, so I can't -- I can't -- there
13 is no outcome.

14 UNIDENTIFIED MALE SPEAKER: Um hum.

15 BRIAN COSGROVE: So there is no -- and
16 there's no way I can predict even when that suit will be
17 -- will be active again. It's -- it's an extremely
18 lengthy process.

19 UNIDENTIFIED MALE SPEAKER: So we
20 heard testimony, it may have been inaccurate, then,
21 saying that the suit was settled and any costs incurred
22 for storing nuclear waste until the repository is open
23 would be paid for by DOE.

24 BRIAN COSGROVE: No. That is not
25 true. And I'd be -- I'd be glad to get you more

1 information on that.

2 UNIDENTIFIED MALE SPEAKER: Um hum.

3 BRIAN COSGROVE: That is an open-ended
4 suit. And like I said, right now, it is -- it is not
5 active.

6 UNIDENTIFIED FEMALE SPEAKER: If you
7 could get us a one-page summary of that. Or, it doesn't
8 have to be one page, but a summary of that issue --

9 BRIAN COSGROVE: Sure.

10 UNIDENTIFIED FEMALE SPEAKER: -- that
11 would be -- from your perspective.

12 BRIAN COSGROVE: I can provide that to
13 the Committees.

14 UNIDENTIFIED FEMALE SPEAKER: Can you
15 show us on this picture where the dry cask storage would
16 be -- would be?

17 BRIAN COSGROVE: Surely.

18 UNIDENTIFIED FEMALE SPEAKER: And then
19 just in terms of the size of the storage area.

20 UNIDENTIFIED MALE SPEAKER: Actually,
21 I have some pictures of that.

22 BRIAN COSGROVE: If you want to relate
23 it to this picture, okay, I've drawn a black -- you can
24 relate that to your picture. Black square.

25 UNIDENTIFIED MALE SPEAKER: It doesn't

1 show it.

2 BRIAN COSGROVE: Yes. It doesn't show
3 where it is on the site. It's on what we call the north
4 side of the site. And more importantly, it's within the
5 high security area, the protected area, as we refer to
6 it. Is that clear?

7 UNIDENTIFIED FEMALE SPEAKER: I'm
8 sorry, go ahead. Senator Kittell has --

9 SENATOR KITTELL: And I'm sorry, I
10 might have missed the answer. But has the science
11 changed in the safety of storage or uranium or the spent
12 fuel? Has the science changed since the Seventies?

13 BRIAN COSGROVE: The --

14 SENATOR KITTELL: Or how is it
15 changed?

16 BRIAN COSGROVE: -- science being?

17 SENATOR KITTELL: The safety of
18 storage. I mean, I always remember --

19 UNIDENTIFIED MALE SPEAKER: The cask.

20 SENATOR KITTELL: -- my first
21 understanding of storage of nuclear waste, you needed
22 100 miles of cement.

23 BRIAN COSGROVE: Um hum.

24 SENATOR KITTELL: I mean, the Three
25 Mile Island accident, I remember listening to Helen

1 Caldicott and that whole issue and --

2 BRIAN COSGROVE: The -- actually --

3 SENATOR KITTELL: -- that's what they
4 were saying then.

5 BRIAN COSGROVE: And -- and I don't
6 know about that particular claim, but from the
7 standpoint, the science hasn't changed. It's still the
8 same science of radiation, radiation protection and
9 shielding. What has changed is that a significant
10 amount of analysis has been performed, as was mentioned
11 previously by Mr. Sherman, to analyze the safety of both
12 dry storage and wet storage. Is the -- the safety of
13 in-pool storage has been analyzed as the rack designs
14 changed, as -- but at no time was it -- was it shown to
15 be any particular concern for that initial design that
16 was put in at Vermont Yankee.

17 What happened during the -- the early
18 Eighties when the dry storage first started to be looked
19 at and this idea that you could store fuel dry in an
20 inert gas, in a large shielded container and -- and cool
21 it with air without any active pumps or motors or fans,
22 that idea came into consideration. And subsequent to
23 that, there's been a significant amount of analysis to
24 evaluate that, the science of storing fuel dry, to prove
25 continuously that that was, indeed, a safe concept.

1 There have been several designs, how
2 many designs have been licensed?

3 UNIDENTIFIED MALE SPEAKER: Four or
4 five different --

5 BRIAN COSGROVE: Four or five
6 different companies in the United States have licensed
7 designs all pretty much the same, using a container,
8 dry, leak tight, inert gas surrounded by a large
9 shielded envelope. And as the Commissioner testified,
10 those systems have been deployed at approximately 25
11 sites in the United States. Two of those sites are
12 owned by Entergy. This system -- as a matter of fact,
13 the exact same system that Mr. McElwee will talk about
14 was deployed at our Oswego, New York, facility and our
15 facility in Arkansas.

16 SENATOR KITTELL: Thank you.

17 UNIDENTIFIED FEMALE SPEAKER: It might
18 be helpful if you could discuss and share with us
19 exactly what this area will hold and are you getting
20 into that testimony?

21 BRIAN COSGROVE: Mr. McElwee will show
22 you --

23 UNIDENTIFIED FEMALE SPEAKER: Okay.

24 BRIAN COSGROVE: -- pictures and he
25 has an actual scale model --

1 UNIDENTIFIED FEMALE SPEAKER: Okay.

2 BRIAN COSGROVE: -- that will give you
3 a good mental view.

4 UNIDENTIFIED FEMALE SPEAKER: I think
5 it was the -- the federal nuclear waste fund that was
6 established that has 17 billion dollars collected for
7 building the onsite --

8 UNIDENTIFIED MALE SPEAKER: Not
9 onsite. That's the ---

10 UNIDENTIFIED FEMALE SPEAKER: Or --

11 UNIDENTIFIED MALE SPEAKER: -- Yucca
12 Mountain or federal repository.

13 UNIDENTIFIED FEMALE SPEAKER: Okay.
14 But wasn't -- I think that's where we got the idea that,
15 as they resolved a settlement. But wasn't some of that
16 going to the places for onsite dry cask?

17 BRIAN COSGROVE: No.

18 UNIDENTIFIED FEMALE SPEAKER: No.

19 BRIAN COSGROVE: First of all --

20 UNIDENTIFIED FEMALE SPEAKER: Okay.

21 BRIAN COSGROVE: -- as I mentioned
22 before, I'll get you the -- the status, but we have no
23 settlement with the Department of Energy.

24 UNIDENTIFIED FEMALE SPEAKER: Okay.

25 No.

1 BRIAN COSGROVE: I think you're -- the
2 17 billion that you referred to was collected from the
3 nuclear plants to construct the federal repository.

4 UNIDENTIFIED FEMALE SPEAKER: Oh,
5 okay. Okay.

6 BRIAN COSGROVE: And it was not
7 envisioned at all to reimburse power reactors for their
8 costs. As a matter of fact, that's the center of the
9 debate around the lawsuit.

10 UNIDENTIFIED FEMALE SPEAKER: Okay.

11 BRIAN COSGROVE: It was really
12 designed to solve a problem, but solve the problem by
13 1998, which, of course, was not done.

14 UNIDENTIFIED FEMALE SPEAKER: So,
15 essentially, you have all been paying into this? That's
16 where the 17 billion dollars came from?

17 BRIAN COSGROVE: Right. And when you
18 -- we pay -- it's one mil per kilowatt hour.

19 UNIDENTIFIED FEMALE SPEAKER: Um hum.

20 BRIAN COSGROVE: That we sell. Every
21 nuclear plant in the country pays that and that we pay
22 that -- we pay that every year and it's part of what all
23 104 operating nuclear plants pay in. So the fund is --
24 is continued to be paid into. But again, it's to --
25 it's to design, construct --

1 UNIDENTIFIED FEMALE SPEAKER: Um hum.

2 BRIAN COSGROVE: -- and operate a
3 federal repository.

4 UNIDENTIFIED FEMALE SPEAKER: Okay.
5 Thank you.

6 BRIAN COSGROVE: Thank you.

7 UNIDENTIFIED MALE SPEAKER: When you
8 say we pay into it, is that a charge to all ratepayers,
9 then?

10 BRIAN COSGROVE: It's a cost of -- in
11 -- in the Entergy business environment, it's a cost
12 of -- it's a cost to us. It is, if you will, included
13 in the 3.9 cents per kilowatt hour. But if it went to
14 two mils a kilowatt hour, we would absorb that in our --
15 in our business costs. So, from that standpoint, it's a
16 small piece of the power that we sell, but it's another
17 one of the business regulatory risks that we assumed
18 when we purchased the site.

19 UNIDENTIFIED FEMALE SPEAKER: What
20 percentage of energy production do you sell in Vermont
21 and what percentage goes out of state?

22 BRIAN COSGROVE: The percentage split
23 in Vermont is 55 percent. Green Mountain Power is 20
24 percent of our energy and Central Vermont Public Service
25 is 35 percent of our energy. Those are the same

1 percentages that Vermont Yankee Nuclear Power
2 Corporation used to provide because it was based on
3 ownership share. So the remainder of the 45 percent is
4 purchased by the -- some of the original owners of
5 Vermont Yankee out of state.

6 UNIDENTIFIED FEMALE SPEAKER: And how
7 many -- how many -- how much is that total?

8 BRIAN COSGROVE: How much --

9 UNIDENTIFIED FEMALE SPEAKER: Total --
10 total watt -- megawatts.

11 BRIAN COSGROVE: Megawatts. As I said
12 before, we are generating 513 megawatts today onto the
13 grid. So on a day-to-day basis, just under 300
14 megawatts would be going into the Vermont grid.

15 UNIDENTIFIED FEMALE SPEAKER: Okay.
16 Is that a contract -- if I might, Madam Chair?

17 CHAIRMAN: Yes. Yes.

18 UNIDENTIFIED FEMALE SPEAKER: A
19 contract until 2012?

20 BRIAN COSGROVE: Yes. It is.

21 UNIDENTIFIED FEMALE SPEAKER: All
22 right.

23 BRIAN COSGROVE: That's what I call
24 the power purchase agreement before. That contract is
25 price, but it's also for supply.

1 Now, the thing -- the one thing that's
2 noteworthy is this contract is what's known as a unit-
3 contingent contract. With the exception of the
4 ratepayer protection from the uprate provisions which
5 Mr. O'Brien explained to you in detail, the -- if the
6 power is there, it's provided at those prices and it's
7 provided in those quantities. If Vermont Yankee were to
8 shut down prematurely, for example, the power would not
9 be provided. We would not have to make that up from
10 another source, which is the -- hence, the term, it's a
11 unit contingent contract, which is one of the forms of
12 energy contracts today.

13 UNIDENTIFIED FEMALE SPEAKER: Do you
14 have any -- if you did get the uprate and don't get
15 decommissioned in 2012, do we have any -- is there any
16 language for us to get a good power price after 2012, or
17 does is just --

18 BRIAN COSGROVE: There actually --

19 UNIDENTIFIED FEMALE SPEAKER: --
20 dissolve?

21 BRIAN COSGROVE: No. There -- there
22 actually is in the existing power purchase agreement,
23 which was approved by the Board, there is a revenue
24 sharing agreement with the Vermont distribution
25 companies which is in place, if the plant operates

1 beyond 2012, and it's in place whether or not those
2 companies are buying power from us at this point in
3 time. It's a rather unique provision. It's to -- it's
4 a sharing revenue provision above a certain price and
5 it's formularized and memorialized in that power
6 purchase agreement.

7 The important point here is that, if
8 we talk about operation beyond 2012, Commissioner
9 O'Brien mentioned that we made a commitment to come back
10 to the Public Service Board, receive -- or apply for and
11 defend a certificate of public good. And during those
12 discussions, we would be outlining the benefits to the
13 State of Vermont which we considered meet the test of
14 public good and one of those would, obviously, be
15 economics. And we would -- there's a discussion that's
16 not ripe yet, but we would be talking to Vermont
17 distribution companies about power contracts after 2012.
18 And like I said, we haven't had those discussions, but
19 there's no prohibition whatsoever.

20 UNIDENTIFIED FEMALE SPEAKER: Okay.
21 Mary.

22 UNIDENTIFIED FEMALE SPEAKER: Just so
23 I understand the process. What comes first or how does
24 it work? Do you get the approval from the Public
25 Service Board for the uprate or do you get your -- the

1 type of operating license you have from the NRC first to
2 say how much dry cask storage you can have and then you
3 get the uprate? Just so I can understand how -- what's
4 -- what's the capacity for the number of casks? Because
5 if you -- if you have a limited licensing, that would
6 only require the amount that's in the spent fuel pool,
7 versus, if you get the uprate, then you would have a
8 license for a larger amount.

9 CHAIRMAN: Maybe we should move into
10 the dry cask discussion.

11 UNIDENTIFIED FEMALE SPEAKER: Okay.

12 CHAIRMAN: I think, you know, some of
13 that --

14 UNIDENTIFIED MALE SPEAKER: I can try
15 to answer that.

16 CHAIRMAN: Yes. Okay.

17 BRIAN COSGROVE: Wait.

18 CHAIRMAN: Representative (inaudible).

19 UNIDENTIFIED FEMALE SPEAKER: I would
20 like to ask some questions of Mr. Thayer, since he's the
21 only one representing Entergy. One of the questions we
22 submitted was what about the alternatives and I asked
23 for dry cask storage. And I ask that because, in your
24 filing with the Windham Regional Commission, you
25 mentioned that, until they can be delivered by truck or

1 rail to, you know, Yucca, or you mentioned a privately
2 operated storage facility, and I note that Entergy is
3 one of eight nuclear companies that's formed private
4 fuel storage LLC's which people can find at
5 www.privatefuelstorage.com, and private fuel storage is
6 at the end of a seven-year process of siting 4,000 dry
7 cask storage facility on an Indian reservation, the
8 Goshen Indian reservation in Utah. It's a band of I
9 believe just over 100 Indians.

10 BRIAN COSGROVE: Um hum.

11 UNIDENTIFIED MALE SPEAKER: And I
12 quote from their website, the private fuel storage
13 website says:

14 "Private fuel storage and many
15 companies believe it makes much better
16 sense to provide temporary storage site
17 that could be used by many utilities.
18 It would save a great deal of money and
19 be easier to monitor and protect."

20 And they say that they're going to -- it looks like
21 they're going to get approval for this, this year. Why
22 not ship to -- to this facility, or when would you be
23 shipping to this facility?

24 BRIAN COSGROVE: The Entergy pursued
25 private fuel storage for exactly the reasons that you

1 just read; the uncertainty about fuel storage. We
2 wanted to -- to have an outlet for temporary storage if
3 and when we ran out of space at Vermont Yankee or if and
4 when we ceased operations at Vermont Yankee and we wanted
5 to remove the fuel from the site totally. We entered
6 into that arrangement several years ago. I am not
7 exactly sure of the year.

8 But the -- the problem is, and you
9 cited, it was a seven-year licensing process. I think
10 the optimistic anticipation is that the licensing
11 process will conclude this year. And I say optimistic
12 and I mean optimistic.

13 The other issue with private fuel
14 storage, and it's the same issue that exists with Yucca
15 Mountain, there still is a transportation question that
16 needs to be answered about our country's interstate rail
17 system.

18 And the third issue is the same issue
19 that we face, and it's the sense of urgency that I
20 talked about initially, is they have not turned a
21 shovelful of dirt at private fuel storage. So they have
22 a construction infrastructure build-out time and I am
23 not sure, exactly sure what that was, but I would guess
24 that would be several years, even after the approval of
25 their license.

1 So the issue here is timing and the --
2 the -- when we actually run out of space at Vermont
3 Yankee in our pool and that particular option won't be
4 satisfied in time to eliminate dry fuel storage.

5 UNIDENTIFIED MALE SPEAKER: Utah has
6 fought it all the way, but private fuel storage has
7 gotten court ruling that federal law preempts the state
8 law. And I agree that some of what Utah did was a
9 little capricious, like making it illegal for
10 individuals, businesses or local governments to provide
11 goods or services to private fuel storage. But you also
12 -- they also preempted a lot more serious laws. Are you
13 considering using federal preemption here, if you don't
14 get what you want out of the legislature?

15 BRIAN COSGROVE: I think you and I
16 have had this conversation before and I don't mean to be
17 trite, but I haven't spent any time looking into federal
18 preemption. When we came to the state as Entergy, when
19 we worked through the certificate of public good for the
20 sale, we committed at that time, and it's been stated
21 before, that we would continue to use state processes.
22 And that's one of the reasons I'm here before you today,
23 is we are -- we believe in -- in pursuing state
24 processes and we will pursue the process with the
25 legislature to, hopefully, get this turned over to the

1 Public Service Board where we can pursue the process of
2 the certificate of public good and meet the test of the
3 11 criteria under Section 248. So it is my -- I want to
4 make sure that everybody is clear that we intend to
5 pursue state processes.

6 UNIDENTIFIED MALE SPEAKER: Well, you
7 said here before the legislature you just want the one
8 word change. I am sure your lobbyists have told you
9 that that's not about to happen, which means you need to
10 file a petition with the Speaker of the House -- Senate
11 -- President of the Speaker -- President of the Senate.
12 Are we going to be getting that petition?

13 BRIAN COSGROVE: The -- I think what
14 we seek is a clarification of the exemption that was
15 read to you this morning and that that be continued to
16 the site and the facility and not just the particular
17 company that's in ownership. So it's really a
18 clarification of an existing exemption.

19 As far as the legal ramifications of
20 that, I'm sorry, I don't have my attorney with me this
21 morning. And pursuing the actual process to the
22 legislature, I am not prepared to talk about that this
23 morning.

24 UNIDENTIFIED MALE SPEAKER: When it
25 becomes clear that you're not going to get the one-word

1 change, will you then be filing a petition?

2 BRIAN COSGROVE: I am not clear

3 what -- you mean a --

4 UNIDENTIFIED MALE SPEAKER: When --

5 BRIAN COSGROVE: -- petition to pursue

6 this under --

7 UNIDENTIFIED MALE SPEAKER: To --

8 BRIAN COSGROVE: -- Chapter 157?

9 UNIDENTIFIED MALE SPEAKER: The

10 petition to the Speaker of the House and the President

11 of the Senate.

12 BRIAN COSGROVE: I can't answer that

13 this morning. It's a -- I'm not an attorney. I'm an

14 engineer by training and I -- I need advice of counsel

15 exactly what the step-by-step process is. My

16 understanding as a layman of the legal issue is, like I

17 said before, to seek clarification of the exemption that

18 was issued for what we believe to be the site from

19 Section 159.

20 UNIDENTIFIED MALE SPEAKER: That's

21 what you're asking for.

22 BRIAN COSGROVE: That's correct.

23 UNIDENTIFIED MALE SPEAKER: And when

24 it becomes clear to you that that's not what you're

25 going to get from the legislature, will you then be

1 petitioning for the larger change? File petitions with
2 the Speaker of the House and the Senate -- Speaker --
3 and the Senate Pro Tem?

4 UNIDENTIFIED MALE SPEAKER: Can I -- I
5 may be able to clarify this.

6 BRIAN COSGROVE: Yes.

7 UNIDENTIFIED MALE SPEAKER: Al read
8 the statute this morning and that's what I asked, when I
9 asked him to clarify what the position -- what the
10 petitioning process was for dry land storage and I think
11 that is what Representative Barrows is referring to.
12 Whether do you -- do you foresee initiating that
13 process.

14 BRIAN COSGROVE: Let me -- with all
15 due respect, I do not. Let me be clear on that. What
16 I -- what I kept going back to is we seek a
17 clarification on the exemption from that process. And
18 what struck me when I read the process, the 157 process
19 and the considerations that are taken up under the 157
20 process, they parallel exactly the -- the provisions
21 under Section 248 which the Public Service reviews. The
22 environmental, the aesthetics, the -- I can't even
23 rattle them off, but there was a -- there was an
24 extremely good agreement between the two processes. And
25 to be quite frank with you and, again, with all due

1 respect to these committees, to run through a -- a 157
2 review process as it's described in -- for the petition,
3 and then to -- to initiate a review for a certificate of
4 public good, we're simply out of time. We're simply out
5 of time. And again, the -- there seems to be very, very
6 close agreement between the -- the intent of the two
7 investigations from the standpoint of my opinion,
8 protecting the good of the people of the State of
9 Vermont.

10 UNIDENTIFIED MALE SPEAKER:

11 Clarification on the same subject (inaudible). I think
12 in -- in layman's terms, you're correct, that the
13 processes are nearly identical. The difference is, as
14 we understand it, is whether or not you're simply asking
15 for a clarification or whether you're asking for
16 permission of the General Assembly. And that's the
17 issue to us. The -- I don't think the process, from out
18 standpoint, need take anymore time to do the work that
19 we would do to offer permission. As the -- as the
20 statute says, (inaudible) together a clarification of
21 the language.

22 BRIAN COSGROVE: Um hum.

23 UNIDENTIFIED MALE SPEAKER: It's
24 basically what we're talking about, is our -- our rules
25 and responsibilities as a General Assembly.

1 BRIAN COSGROVE: I understand.

2 UNIDENTIFIED MALE SPEAKER: Time is
3 not the issue. I just make that clarification for
4 the -- for your sake, sir.

5 CHAIRMAN: Can you respond to that
6 question?

7 BRIAN COSGROVE: Well, first of all, I
8 don't have any experience as far as what the 157
9 petition process would consist of. I have a little bit
10 more experience of the 248. It being a -- kind of an
11 adjudicatory process where all parties can come to --
12 come in and provide testimony to the Public Service
13 Board in their deliberations. And I know that process
14 is typically, oh, it takes, for a large case like this,
15 between 10 and 12 months. And that's why my, not
16 knowing the petition process and, like I said, with all
17 due respect to these committees, I'm just not familiar
18 with what the -- the 157 process would entail, as I
19 believe it's never been -- never been tested before.

20 CHAIRMAN: Okay.

21 UNIDENTIFIED FEMALE SPEAKER: Back --
22 just backing up a minute. This is at least the third
23 presentation from Entergy to the House -- to this House
24 Committee and this is the first I've heard about dry
25 storage -- private dry storage. And I would hope that

1 witnesses who come before our Committees will volunteer
2 all relevant information, even if we don't ask the
3 specific question. So, I don't have a question, but I
4 have a comment that I feel that information to this
5 committee has been managed. And I -- and I don't like
6 information being managed. I hope you will tell us
7 what's relevant.

8 BRIAN COSGROVE: I take your comment
9 very seriously and I -- and again, with all due respect,
10 Chairman Dostis forwarded a list of questions to Entergy
11 and, until I got the question a minute ago, I was
12 prepared to offer, we could go down through and answer
13 those questions, because I knew they were a concern to
14 his committee. I -- I -- I tell you with all sincerity
15 that there is no attempt on my behalf or my company's
16 behalf to manage information to this committee.
17 Anything you want to know that I know, I will share with
18 you.

19 Would it be productive to move into
20 the mechanical discussion, or -- and I know you had some
21 questions from -- that you might need to go through at
22 some point?

23 CHAIRMAN: You know, I think, given
24 the time, that we should move onto the --

25 BRIAN COSGROVE: Okay.

1 CHAIRMAN: -- mechanical. This is the
2 beginning of a process for us and understanding dry cask
3 storage issues. So I think we need to get a broader
4 overview and there are other -- other folks on the --

5 BRIAN COSGROVE: Okay.

6 CHAIRMAN: -- list this morning.

7 UNIDENTIFIED MALE SPEAKER: And maybe
8 we can have those in writing.

9 CHAIRMAN: Right.

10 BRIAN COSGROVE: That would be fine.

11 UNIDENTIFIED MALE SPEAKER: Okay.

12 Have it in writing.

13 MR. MCELWEE: For the record, my name
14 is David McElwee. I'm senior liaison engineer at
15 Vermont Yankee and I've worked at Vermont Yankee for 24
16 years. And I'd like to very briefly describe to you
17 what nuclear fuel is and the concept behind the dry fuel
18 storage system.

19 Spent fuel at Vermont Yankee, to give
20 you an idea of the size of the fuel bundles themselves,
21 are about six inches square and about 12 feet long. So
22 if you could just envision six inches square, 12 feet
23 long, that represents one fuel bundle.

24 End Minute 39:20

25

1 February 15, 2005

2 HNR CD #05-61/Track 2

3 Begin Minute 00:00

4 ***

5 MR. KLEIN: So it's fair to say that
6 there's one school of thought that says that Vermont
7 Yankee could live out its license with no extra
8 additional storage necessary.

9 MR. SHADIS: Yes. Well, we're --
10 we're convinced of that. And but --

11 MR. KLEIN: Okay.

12 MR. SHADIS: -- part of it -- part of
13 that issue revolves around whether or not there would
14 be, ultimately, there would be full core discharge area
15 reserved and/or, we're not -- we're not certain about
16 whether or not we would need to get into cask lay-down
17 area or whether or not the company would be willing to
18 engage in a re-racking. I think if the company were
19 looking at a target date of 2012 and not 2032, that I
20 think they could see their way clear to making that kind
21 of a temporary arrangement.

22 MR. KLEIN: Because it would be
23 cheaper.

24 MR. SHADIS: It would be a lot
25 cheaper. At Maine Yankee, the -- the question came up

1 as to whether or not to, after the plant was shut down
2 and no longer making money, as to whether or not to
3 maintain the spent fuel or go to dry cask storage. And
4 the financial fall line there came at 10 years. The --
5 the idea being that, if the Department of Energy could
6 be expected to come within 10 years and begin removing
7 fuel, it would be cheaper to stay with the spent fuel
8 pool. If it looked like it was going to be longer than
9 10 years, they would go to dry cask. So Maine Yankee
10 voted with its, with its money and with the dry casks
11 on confidence that DOE would ever show up.

12 MR. KLEIN: Thank you.

13 CHAIRMAN: Continue, please.

14 MR. SHADIS: I think finally, I just
15 would -- I just would like to say, in any case, no
16 matter whether there's agreement or disagreement on
17 storage until 2012, storage capability until 2012, we do
18 not see any physical or financial reason why a decision
19 has to be cast before the next refueling outage because
20 there -- there appears to be plenty of time. I know the
21 companies like to have, you know, financial certainty
22 and planning certainty, but the fact is that they have
23 proposed this dry cask storage as if they were
24 definitely going to get an uprate and as if they were
25 definitely going to get a license extension. And that

1 is for sure an uncertainty at this point. So, you know,
2 what -- what we are suggesting here as strongly as we
3 can is that the legislature and the people of Vermont
4 take an adequate amount of time to thoroughly
5 investigate whether this particular (inaudible) is the
6 best arrangement that could be made, if these are the
7 best casks that are available. If the whole regimen for
8 placing the fuel in casks is going to be done in the
9 best possible manner to protect the casks, to protect
10 the people and the environment from the casks.

11 And by way of example, in terms of --
12 of adjustments or protections or conditions that might
13 be established, according to the plans that Vermont
14 Yankee submitted to the Windham Regional Commission,
15 these casks are going to be set out in a solid block
16 array of 40 casks with -- essentially, with room for a
17 person to walk between the casks so they can go around
18 and check on them from time-to-time. We looked at that
19 arrangement, which is the same arrangement they have at
20 the Palisades Nuclear Plant in Michigan. We visited
21 there and looked at that arrangement and it occurred to
22 us that, if the casks got into trouble, if it began to
23 leak and the temperature in the cask began to rise, or
24 if it were leaking radioactivity, in order for the
25 company to work on it, to retrieve that cask and get

1 equipment around it to cover it, seal it, to reseal it,
2 whatever they needed to do, they would have to begin
3 jacking up other casks and these things are in the 300
4 ton range, they would have to begin jacking them up and
5 moving them.

6 When they were placing the casks in
7 place for a 200 yard run from the plant, it took them
8 all day to move the cask, one cask from the plant out
9 onto the pad. So we thought that was an unconscionably
10 long delay, a long period of time to be moving casks.
11 And we negotiated with Maine Yankee. We pointed out
12 this problem. Maine Yankee accommodated our concern by
13 arranging the casks in modules of six with enough room
14 to get a crane or a service vehicle or a truck in
15 between those modules of six and, thereby, they could
16 approach any cask in the entire array of 64 casks and
17 work on it individually or remove it individually
18 without having to move -- shuffle other casks. This is
19 one very, very simple kind of condition that we were
20 able to affect here.

21 Another is that we pointed out to
22 Maine Yankee that the casks were visible from the
23 shoreline, from the river which runs in front of the
24 plant. That the casks were vulnerable to impact from
25 aircraft. That the casks were vulnerable to line of

1 sight ballistics, that would be shoulder-launch missiles
2 or high-powered rifles. And that they ought to be
3 protected. Eventually, Maine Yankee bought into our
4 point of view to the extent that, on three sides of that
5 installation, they built an earthen berm which rises
6 fully beyond two-thirds of the height of the casks. And
7 it effectively masks the casks. It cuts down on
8 radiation shine. And it does provide some protection
9 from aircraft impact.

10 On the fourth side, a good deal of the
11 space on the open side is taken up by the auxiliary
12 building that supports that spent fuel installation.

13 So, you know, there's two examples
14 where we looked at the situation, we applied common
15 sense, we were able to reason and negotiate with the
16 company and we were able to affect these, we think,
17 improved conditions.

18 CHAIRMAN: Ray -- Ray, we have --

19 MR. SHADIS: And that's the kind of
20 thing that we are suggesting Vermont allow itself time
21 to do.

22 CHAIRMAN: Great. Ray, we have
23 another question.

24 MR. SHADIS: Yes.

25 MR. KLEIN: Ray, Tony Klein again. It

1 seems to me that what you negotiated were safety
2 conditions.

3 MR. SHADIS: That's correct.

4 MR. KLEIN: Okay. What is -- what's
5 -- what I'm wondering, what I'm wondering about is where
6 is the NRC in all of these discussions? I thought they
7 were the trump card when it came to safety.

8 MR. SHADIS: NRC is -- NRC holds
9 federal preemption. You cannot, I -- I believe, I'm not
10 an attorney by any means, but my reading of the law is
11 that you cannot legislate these conditions. However,
12 you are in a place now where you can legislate other
13 conditions, non-safety conditions. You can attach user
14 fees. You can attach taxes.

15 MR. KLEIN: Excuse me, I -- I -- Ray?

16 MR. SHADIS: You can deal with those
17 aesthetic conditions, environment conditions that are
18 listed in -- in the 248 provisions in your statutes and
19 it is Entergy that has, in essence, now come to the
20 legislature to convince you to step back and allow them
21 to do whatever it is they want to do. So you have --

22 MR. KLEIN: Ray?

23 MR. SHADIS: -- you know, some cards
24 to play. You have the power of persuasion, and I think
25 that, you know, if they stipulated to these things,

1 there's not an issue.

2 MR. KLEIN: Ray, I understand what the
3 Vermont legislature can do.

4 MR. SHADIS: I'm sorry. I didn't --

5 MR. KLEIN: That's okay.

6 MR. SHADIS: I didn't mean to instruct
7 you on what you could do. I mean --

8 MR. KLEIN: My question to you was,
9 when you negotiated with this Michigan plan, the
10 reconfiguration, it -- it appeared to me that what you
11 were talking about were safety issues.

12 MR. SHADIS: Yes.

13 MR. KLEIN: And my question was where
14 was the NRC in these -- at this discussion.

15 MR. SHADIS: You mean where is
16 (inaudible).

17 MR. KLEIN: Did they not think -- did
18 they not think the original configuration was unsafe? I
19 mean, I thought that the NRC was responsible for the
20 safety of these plants?

21 ***

22 End Minute 30:51

23

24 April 7, 2005

25 HNR CD# 05-143/Track 1

1 Begin Minute 13:00

2 UNIDENTIFIED MALE SPEAKER: -- is the
3 -- the theoretical idea of an unlimited amount of dry
4 cask being recommended that could extend into a new
5 license period.

6 UNIDENTIFIED MALE SPEAKER: That was
7 what my next sentence was going to be. I -- I lost
8 track.

9 UNIDENTIFIED MALE SPEAKER: Yes.

10 UNIDENTIFIED MALE SPEAKER: We feel --
11 it -- it would be our position at the Department of
12 Public Service that we have sufficient control over the
13 -- the use of the reactor and the creation of additional
14 spent fuel for license renewal. Specifically, the
15 nuclear plant is fully committed to come to the Public
16 Service Board in order to get -- to -- to operate beyond
17 its current license. We feel that -- that license
18 renewal is a very technical issue and it's exactly the
19 kind of thing that the Public Service Board was created
20 for, to be able to handle and to -- to go through
21 technical issues with loads and loads of things.

22 UNIDENTIFIED MALE SPEAKER: Um hum.

23 UNIDENTIFIED MALE SPEAKER: So we feel
24 that -- that the advisability of -- of creating more
25 spent fuel and operating beyond the current license is

1 something that is captured and can and will be reviewed
2 in this State.

3 End Minute 14:18

4

5 April 7, 2005

6 HNR CD#05-144/Track 2

7 Begin Minute 4:10

8 UNIDENTIFIED MALE SPEAKER: -- that
9 are licensed today that have any type of a walls and
10 roof built over them. They -- they are all -- whether
11 they're horizontal or vertical storage systems, they are
12 all outside, free standing, air cooled systems.

13 UNIDENTIFIED MALE SPEAKER: And we're
14 -- I mean, we're very cognizant that, when it comes to
15 issues of safety, we are preempted by the federal
16 government. A lot of these questions have to do with
17 just the aesthetics of these casks. You know --

18 UNIDENTIFIED MALE SPEAKER: Um hum.

19 UNIDENTIFIED MALE SPEAKER: -- how
20 will they be viewed by the public. You know, what
21 impact will the presence of these casks have on tourism,
22 for example.

23 UNIDENTIFIED MALE SPEAKER: Um hum.

24 UNIDENTIFIED MALE SPEAKER: Are a very
25 important economic driver for the State of Vermont.

1 UNIDENTIFIED MALE SPEAKER: And -- and
2 that's -- that's certainly a very important question and
3 one that -- that we actually -- is one of the criteria
4 for the Section 248 process that we go through is the
5 environment aesthetic impact that it has and we are
6 putting together testimony now that will -- that will
7 detail specifically that. But in a nutshell, I can
8 explain to you that the -- the location of the cask pad
9 where -- where you saw it will be is not visible from
10 The Governor Hunt Road, the main road that goes through
11 Vernon. The -- the only visible side is -- is from a
12 distinct portion of the river on the east side of the
13 property.

14 I had -- I had some -- I believe I had
15 drawings at one of our previous meetings that
16 illustrated a -- a picture of what those canisters would
17 look like from the New Hampshire side of the river. And
18 in response to how it compares to the other buildings
19 that are on the -- on the property, it -- it blends in.
20 It does not stick out, very visible at all.

21 CHAIRMAN: Did you have something,
22 Sarah?

23 UNIDENTIFIED FEMALE SPEAKER: Yeah.
24 Because, obviously, I was trying to fit in what NRC was
25 going to require for safety and how that fits into the

1 aesthetics in -- in Vermont.

2 End Minute 6:06

3

4 April 12, 2005

5 HNR CD#05-148/Track 2

6 Begin Minute 6:00

7 UNIDENTIFIED MALE SPEAKER: The
8 authority that is preserved to the State of Vermont by
9 federal law is perfectly adequate to address what I'm
10 going to suggest is a -- a very positive legislative
11 purpose for legislation. And here's how I would put
12 that. And here's -- this is -- I'm going to give you a
13 suggested answer to question number one, what's the
14 legislative purpose. And this is something that, of
15 course, as someone who is just, you know, here to assist
16 you, this is just a suggestion for you to discuss.

17 Here's how I would put it. Vermont
18 Yankee provides a very large fraction of Vermont's power
19 supply and, as we all know, it comes from a single
20 generating facility. If you think about it, whether the
21 plant runs to the end of its current license and then is
22 decommissioned or whether it's relicensed and is later
23 decommissioned, or whether, for some reason, it's
24 required to be shut down on relatively short notice
25 before either of those dates arises, a large fraction of

1 Vermont's power supply is tied up in the plant and will
2 need someday to be replaced. That's really the issue
3 here. The future. Will need someday to be replaced by
4 sources that are diverse, reliable, economically sound
5 and environmentally sustainable. We know that,
6 ultimately, without even knowing the dates, that's what
7 Vermont is going to need.

8 Vermont needs to plan for that future
9 and we need to start making investments as soon as
10 possible in transitioning towards a power supply that is
11 diverse, economically and environmentally sound. And if
12 the -- if you agree with those propositions and conclude
13 that the legislative purpose for addressing the storage
14 question is to answer the question, how can we create a
15 pool of investment dollars that helps us to accelerate
16 the transition to a more diverse, reliable, sound energy
17 mix? Just think about Vermont's energy future as the
18 goal here.

19 End Minute 8:43

20

21 April 13, 2005

22 HNR CD#05-183/Track 1

23 Begin Minute 00:00

24 CHAIRMAN: -- dry cask storage issue
25 that's before your committee. It's my understanding

1 that it's still an issue because you haven't put
2 anything to paper yet. And it would be helpful for this
3 Committee to get an update this morning where -- where
4 you've been, where you're planning to go, as far as you
5 know.

6 MR. DOSTIS: Okay. Good morning. I'm
7 Representative Robert Dostis. So today is Wednesday.
8 Tomorrow is Thursday. Tomorrow evening we have a public
9 hearing down in Brattleboro. We wouldn't have anything
10 out, obviously, prior to that, because we want to hear
11 what the public has to say before we actually put
12 together a bill.

13 Our goal is to have a bill out by next
14 Tuesday, the 18th of April. The one snag in those plans
15 is that both Thursday and Friday of this week, our
16 legislative counsel person is not going to be around.
17 So whatever we're going to do has to happen -- whatever
18 we conclude today with is what we're going to have until
19 next Monday when he returns. There's not a heck of a
20 lot we'll be able to do in the interim, so I'm actually
21 going to be taking up some other issues in my committee.

22 I'm still hoping that, by next
23 Tuesday, we'll have something. But given the importance
24 of this issue, if it requires an extra day or two, I may
25 ask for that, but I'm trying very hard not to. But I

1 don't want to rush something through, if it's not
2 completely cooked, so-to-speak.

3 So, at this point, we are this morning
4 hearing from witnesses who have some ideas about how the
5 charge would be received, the funds from that charge
6 would be received and spent. This afternoon, we have
7 Richard Coward from the regulatory assistance project
8 who is helping us with this issue, working with us in
9 kind of an outline of -- of what a bill would look like
10 and then just helping us structure the conversation in
11 our committee. So I'm hoping by the end of today we'll
12 have something that at least the committee can kind of
13 digest over the next couple days. And then my hope is
14 that I can get enough of my committee members in on
15 Monday maybe to flush that out a little more. I know
16 they all can't be there, so there won't be any voting
17 going on. And then Tuesday, you know, whoever is not
18 there, get them up-to-speed and then continue to work on
19 that, say, the whole day Tuesday.

20 CHAIRMAN: Um hum.

21 MR. DOSTIS: But as you well know with
22 Tuesdays, you know, because caucus and floor and
23 starting at ten there's never much time, so yet another
24 challenge when it comes to time. So that's where we're
25 at right now.

1 CHAIRMAN: Okay. Are there any
2 particular avenues or facts or testimony you'd like to
3 share with us at this point or --

4 MR. DOSTIS: No. Just -- not -- I
5 mean, we haven't -- there hasn't -- we've taken so many
6 -- I mean, we've done all the testimony, you know, in
7 the past months, and now it's really about just kind of
8 crafting the bill. So the only testimony scheduled now
9 is the one I already told you for today. So, no.

10 UNIDENTIFIED FEMALE SPEAKER: Is this
11 going to be a committee bill or is it a bill that you're
12 rewriting?

13 MR. DOSTIS: No. It's a committee
14 bill.

15 UNIDENTIFIED FEMALE SPEAKER:
16 Committee bill.

17 MR. DOSTIS: Yes.

18 UNIDENTIFIED MALE SPEAKER: Could you
19 -- would you be able to share with us what do you think
20 are the areas for which there's still sort of further
21 discussion that needs to be done within the committee.
22 Not what the positions are, but just what are the areas
23 that are still sort of outstanding?

24 MR. DOSTIS: Well, I think, first and
25 foremost, the committee needs to decide if they are

1 going to allow dry cask storage. We're going to set the
2 standards or perimeters around that storage of -- of
3 those casks. And we'll be looking at what we think is
4 an appropriate charge to store the waste on our
5 premises. So that's the three big issues. I want to
6 say there's a fourth, but I can't remember.

7 UNIDENTIFIED MALE SPEAKER: Is the
8 fourth -- I thought you mentioned like how the money is
9 going to be used.

10 MR. DOSTIS: Yes. Yes. And then how
11 the money is going to be used. Right. Right.

12 CHAIRMAN: David.

13 UNIDENTIFIED MALE SPEAKER: Thank you.
14 When the committee is talking about an appropriate
15 charge, is that a charge that would be leveled by the
16 State to the folks who are -- I am not sure if it's
17 Entergy or the -- the appropriate name for the folks who
18 are, obviously, the right name.

19 MR. DOSTIS: Right. Who own the --
20 who own the thing. Yeah. If levied by the State is the
21 appropriate terminology, I am not sure, but it would be
22 a charge, yeah, to Entergy. And the money would be used
23 specifically to help bridge that gap for the time when
24 Entergy will not be providing us with electricity. So
25 it will be used to support in-state, mostly renewable

1 energy projects, maybe efficiency, maybe co-generation.
2 So just used to -- used to help us meet our future
3 electricity needs by in-state generation and through
4 efficiency. So looking into the future.

5 CHAIRMAN: Other questions for Robert?
6 Jonnie?

7 UNIDENTIFIED FEMALE SPEAKER: Is there
8 really a sense of urgency for this bill?

9 MR. DOSTIS: Yeah. We were given a
10 timeline yesterday, which I'm sure Entergy Vermont
11 Yankee will be happy to share with you as well, about
12 why it's important that something pass this year. And
13 then that's been a -- a real -- well, bone of contention
14 for some, but a lot of discussion just amongst the
15 public and committee members about why is this being
16 rushed through so quickly. And Entergy will say that
17 this is not new. They brought it up at least last year
18 with trying to get the language and one or few words
19 changed so that they would be exempt from having to go
20 through this process. That failed. Their hope was that
21 they may succeed this year and I think that's what they
22 were trying to accomplish earlier in this session.

23 UNIDENTIFIED FEMALE SPEAKER: The
24 exemption?

25 MR. DOSTIS: Yes. The exemption. So

1 we were waiting for language -- something from them
2 saying what they wanted because we didn't want to assume
3 that we knew. So we wanted something in writing from
4 them and that took some time before we finally got it.
5 And it was about I want to say maybe a month ago when we
6 actually got that and that's when we started working on
7 the issue. But we didn't want to do anything before.

8 UNIDENTIFIED FEMALE SPEAKER: But when
9 I talk about urgency, I mean, how much time do they have
10 right now for storage in the pools, or whatever you call
11 them?

12 MR. DOSTIS: And they can give you the
13 more specifics. My understanding is that, if there is
14 no uprate, then they would run out of room by 2008 and
15 would have to start the decommissioning process. If
16 there is an uprate, which now is uncertain because of
17 just recent happenings, if there is an uprate, then it
18 would be anywhere from six months to 12 months earlier
19 than that. So in 2007 sometime they would run out of
20 room. They -- it will take about two years, apparently,
21 for them to get the certificate of public good and
22 permits and everything else they need to get that area
23 ready for these casks. So two years from today is '07,
24 so -- so they really feel it's -- it's now or never.

25 CHAIRMAN: Bob.

1 UNIDENTIFIED MALE SPEAKER: Are you
2 finding all the people that you're working with, at this
3 point, have they been helpful in terms of supplying you
4 the information that you need?

5 MR. DOSTIS: I think so. I mean,
6 there -- some members feel that answers haven't been as
7 complete as they would like and Entergy then has tried
8 again to come back with additional responses. But I
9 think they've been pretty forth -- forthright and
10 forthcoming with information as we've needed it.

11 UNIDENTIFIED MALE SPEAKER: Okay.
12 Thank you.

13 ***

14 End Minute 8:30

15

16 HNR CD#05-106/Track 1

17 Begin Minute 50:50

18 UNIDENTIFIED MALE SPEAKER: --
19 standpoint in terms of how we got to where we are today
20 and that the -- the operator, the licensee is asking for
21 dry cask storage. But before I do that, I thought it
22 would be helpful for some of the questions that were
23 asked, to clear up some of the things that are where we
24 stand in terms of jurisdiction, state verses federal.
25 Vermont is unique in terms of its jurisdiction as a

1 state over this facility and it's -- if another nuclear
2 plant were to request dry cask storage -- or were to
3 want to install dry cask storage, there would not be
4 state oversight over that decision. By and large, this
5 has been a federally regulated process by the Nuclear
6 Regulatory Commission. They've already, basically,
7 accepted the known technology on dry cask and said this
8 is an accepted solution and -- and kind of blanket
9 approved or permitted these dry casks.

10 In Vermont, from the point of time
11 that the plant was owned by the Vermont utilities,
12 certainly, we had plenty of regulatory oversight because
13 ratepayers dollars were involved. When Entergy acquired
14 the plant, during the sale case, it was made very clear
15 that the State was going to have an ongoing jurisdiction
16 over certain decisions, including uprate and dry cask.
17 And in the uprate case, it was made very clear that dry
18 cask storage was going to be a state decision. So the
19 Public Service Board or the PUC in Vermont is in a
20 unique position relative to this plant in terms of these
21 decisions.

22 Now, there are lines of separation in
23 terms of jurisdiction in the sense that the Public
24 Service Board does not look at safety considerations.
25 That is a clear line of preemption where the Nuclear

1 Regulatory Commission comes in. And for that reason --
2 excuse me -- the Public Service Department is in a
3 hearing process before the Nuclear Regulatory Commission
4 on some safety issues related to dry cask. And that is
5 the venue for us to assert those.

6 When we reviewed uprate before the
7 Public Service Board representing the State, we looked
8 at it primarily based on the criteria under 248, public
9 benefit, public good, which actually had a lot to do
10 with the settlement we reached with the company on
11 sharing the future revenues based on the incremental
12 power output.

13 So, I -- I think the members of the
14 committee should know that we are in certainly a
15 different place than a lot of other states in terms of
16 asserting jurisdiction.

17 In Minnesota, which has been
18 mentioned, that -- those nuclear plants are actually
19 owned by a fully regulated ratepayer utility.

20 End Minute 53:28

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22

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Act 160 (2006)

1969 - S. 38 - p.2

1 Sec. 1. 30 V.S.A. § 246 is added to read:

2 § 246. NEW ELECTRIC GENERATION AND TRANSMISSION FACILITIES; CERTIFICATE
3 OF PUBLIC GOOD

4 No company, as defined in 30 V.S.A. § 201, or cooperative may begin
5 construction of an electric generation facility within the State, or
6 electric transmission facility within the State which is designed for
7 immediate or eventual operation at any voltage in excess of 48 KV, or
8 exercise the right of eminent domain in connection therewith, except
9 for the replacement of existing or equivalent facilities in the usual
10 course of business, without the Board having first found the same to
11 promote the general good of the State and having issued a certificate
12 to that effect. The Public Service Board shall hold a public hearing
13 on each petition for such finding and certificate in a county in which
14 any portion of the construction of said facility is proposed to be
15 located. Notice by certified mail shall be given to the chairman or
16 director of the municipal and regional planning commissions and the
17 municipal legislative body for each town and city in which the proposed
18 facility will be located not less than twenty days prior to said hearing.
19 The Public Service Board shall take final action only after due considera-
20 tion of the recommendations of the municipal and regional planning commis-
21 sions and the municipal legislative bodies, the need to meet present and
22 future demands for service, effect on system stability and reliability,
23 economics, esthetics, historic sites and the effect on air and water

24

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1 pollution. Said public hearing shall be advertised in a newspaper of
2 general circulation in the county or counties in which the proposed
3 facility will be located two weeks successively, the last publication
4 to be at least twelve days before the day appointed for the hearing.

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Sec. 87. Public safety - emergency management

*Act 7/22
(2004)*

*Act 122
2004*

Personal services	1,479,294
Operating expenses	701,700
Grants	<u>799,487</u>
Total	2,980,481

Source of Funds

Transportation fund	63,969
Special funds	1,192,211
Federal funds	1,721,800
Interdepartmental transfer	<u>2,501</u>
Total	2,980,481

emergency plan

(a) In fiscal year 2005, the division of emergency management in collaboration with the state agencies, the management of the nuclear power plant, the selectboards of the municipalities in the emergency planning zone, the Windham regional planning commission, and any other municipality defined by the state as required to support the plan shall develop the budget for expenditures from the radiological emergency response plan fund for fiscal year 2006 following the provisions of 20 V.S.A. § 38(a). From the fund, each town within the emergency planning zone shall receive an annual base payment of no less than \$5,000.00 for radiological emergency response related expenditures. Additional expenditures by the municipalities in the emergency planning zone, the Windham regional planning commission, and any other municipality defined by the state as required to support the plan shall be determined during the budgeting process established by this section.

(b) Of the above special fund appropriation, up to \$30,000.00 shall be granted to WTSA radio for the emergency alert system.

(c) Notwithstanding 20 V.S.A. § 38(a)(5), for that portion of the emergency response plan fund budget for fiscal year 2005 that is approved by the general assembly for support of local community emergency planning zone activities, the commissioner of public safety shall arrange for and receive payment from Entergy Nuclear Vermont Yankee, LLC of the full amount required from Entergy for fiscal year 2005 in the month of July 2004. Within 30 days of receipt thereof the commissioner shall remit directly to each of the municipalities in the emergency planning zone, the Windham regional planning commission, and any other municipality defined by the state as required to support the plan the full amount it is entitled to receive for expenditures as budgeted in subsection (a) of this section. These and all other authorized radiological emergency response plan budget expenditures will continue to be accounted for to the radiological emergency response plan fund manager and included in the annual report.

(d) The director of emergency management shall determine the feasibility of reducing the amount of state personal services and operating expenses needed to support the radiological emergency response plan by utilizing available personnel and material resources from within the emergency planning zone area.

(e) Of the total general fund appropriation for the department of public safety, personal services, \$31,995.00 shall be used to fund the emergency management administrative assistant position

This draft combines the legislature's dry cask storage extension duties with a new requirement that to operate a nuclear plant beyond its termination date, general assembly approval must be obtained. The bill would combine the two processes into one, and would anticipate that an original legislative decision be made regarding whether to authorize this form of electricity generation to continue within the state. Under the bill, no plant may operate beyond the final date in its CPG unless the general assembly approves and authorizes the PSB to conduct proceedings, and until the PSB completes its proceedings and issues its CPG.

The bill anticipates that any petition for construction or operation of a nuclear plant be submitted to the PSB no later than four years before the date upon which approval may take effect. Upon receipt of a petition, the board notifies the general assembly and the PSD. The PSD in consultation with the joint energy committee arranges for studies on subjects specified in the bill and then submits the studies to the PSB and to the natural resources and energy, commerce and finance committees of the general assembly. The PSD conducts a public process on the question, and presents a report on public comments to members of pertinent legislative committees. Costs incurred by the PSD would be billed back. Then, the general assembly considers the matter and takes action it deems appropriate.

Subjects to be considered in the studies include long term economic and environmental issues; the need for the plant and its long term economic and environmental benefits, risks, and costs; an evaluation of alternatives; long term accountability and financial responsibility issues including funding for guardianship, closure obligations and escrow of funds; emergency management requirements and evacuation plans; dry cask storage and decommissioning options.

The bill amends section 248 to require legislative approval for the operation of a nuclear plant within the state, and it would add a provision that requires the PSB to consider license extension matters as new activities to be evaluated under present day cost-benefit assumptions.

Act 160 of 2006

Committee Hearings (Feb.-May 2006)

Senate Finance

- **Feb.** 1, 22, 28; **Mar.** 2

House Natural Resources and Energy

- **Mar.** 22, 29; **Apr.** 4, 6, 13, 19, 20; **May** 3

Senate (Feb.-May 2006)

Senate Floor

- **Feb.** 24: Introduced; referred to Senate Committee on Finance
- **Mar.** 14: Sen. Gander reports for Senate Committee on Finance
- **May** 2: Sen. Gander reports for Committee on Finance

House of Representatives (Mar.-May 2006)

House Floor

- **Mar.** 16: Referred to House Committee on Natural Resources and Energy
- **Apr.** 27-28: Rep. Klein reports for House Committee on Natural Resource and Energy; amended and passed
- **May** 3: Rep. Klein reports for House Committee on Natural Resource and Energy; amended and passed

Enacted May 18, 2006

STATE OF VERMONT - State House Computer System

2005 - 2006 Legislative Session

Committee Hearings where S.0124 was discussed

Act 160

2/23/2010

Certificate of Public Good for extending the operating license of a nuclear power plant

Page 1

Hearing Date: 02/01/2006

Hearing Type: Standard

Summary:

Comment:

Committee(s): S Finance

Recording(s): Type Number Side

<u>Witness</u>	<u>Representing</u>	<u>Bill</u>	<u>Subject</u>
Burr, Sam	Legislative Counsel		Fuel Bill - Vote
Morris, Gerry	Lobbyist, Entergy Nuclear Vermont Yankee	S.0124	S.124 A Certificate of Public Good for Extending t
Volz, James	Chair, Public Service Board	S.0124	S.124 A Certificate of Public Good for Extending t
Hofmann, Sarah	Public Advocacy Director, Department of Public Service	S.0124	S.124 A Certificate of Public Good for Extending t
Moore, James	Vermont Pubic Interest Research Group	S.0124	S.124 A Certificate of Public Good for Extending t
Gundersen, Arnold	Nuclear Engineer, Burlington	S.0124	S.124 A Certificate of Public Good for Extending t
Nulty, Tim	Member, Vermont State Nuclear Advisory Panel (VSNAP)	S.0124	S.124 A Certificate of Public Good for Extending t
Mihaly, Marc	Vermont Law School - via telephone (4:15 p.m.)		Intervenor Funding
Volz, James	Chair, Public Service Board		Intervenor Funding
Saudek, Richard	Former Chair, Public Service Board		Intervenor Funding
Patt, Avram	Manager, Washington Electric Coop		Intervenor Funding

Hearing Date: 02/22/2006

Hearing Type: Standard

Summary:

Comment:

Committee(s): S Finance

Recording(s): Type Number Side
 CD 060074 A
 CD 060075 A

STATE OF VERMONT - State House Computer System
 2005 - 2006 Legislative Session
 Committee Hearings where S.0124 was discussed

2/23/2010

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<u>Witness</u>	<u>Representing</u>	<u>Bill</u>	<u>Subject</u>
		S.0228	S.228 Price Gouging for Petroleum Products
Morris, Gerry	Lobbyist, Entergy Nuclear Vermont Yankee	S.0124	S.124 A Certificate of Public Good for Extending t
Anthes, Ed	Nuclear Free Vermont by 2012, Dummerston - via telephone (2:30 p.m.)		S.124 A Certificate of Public Good for Extending t
Bodett, Tom	Member, Selectboard, Dummerston - via telephone (3:00 p.m.)		S.124 A Certificate of Public Good for Extending t
Errecart, Joyce	Representative, Shelburne		Intervenor Funding
Hallquist, David	Vermont Electric Coop		Intervenor Funding
Levin, Matt	Lobbyist, Vermonters for a Clean Environment		Intervenor Funding
Knight, Sylvia	Charlotte		Intervenor Funding
Levine, Sandra	Senior Attorney, Conservation Law Foundation		Intervenor Funding
Perry, Renny	City Manager, Vergennes (3:30 p.m.)		Intervenor Funding
Smith, Rich	Deputy, Department of Public Service		Intervenor Funding
Maynard, Hull	Senator, Rutland County		Governor's Appointment - John Valente, Member, VT

Hearing Date: 02/28/2006

Hearing Type: Standard

Summary:

Comment:

Committee(s): S Finance

<u>Recording(s)</u>	<u>Type</u>	<u>Number</u>	<u>Side</u>
	CD	060081	A
	CD	060082	A
	CD	060083	A
	CD	060084	A

STATE OF VERMONT - State House Computer System
2005 - 2006 Legislative Session
Committee Hearings where S.0124 was discussed

2/23/2010

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<u>Witness</u>	<u>Representing</u>	<u>Bill</u>	<u>Subject</u>
Russell, Bill	Legislative Counsel	✓ S.0124	S.124 A Certificate of Public Good for Extending t
Dworkin, Michael	Professor of Law; Director, Institute for Energy and Environment; Vermont Law School - via telephone	✓ S.0124	S.124 A Certificate of Public Good for Extending t
Smith, Dan	Lobbyist, Greater Burlington Industrial Corporation (GBIC)	S.0142	S.142 Growth Centers Bill
Bradley, Jo	Director, Vermont Economic Development Authority (VEDA)	S.0142	S.142 Growth Centers Bill
Saudade, James	Deputy, Department of Housing and Community Affairs	S.0142	S.142 Growth Centers Bill
Kenney, Fred	Director, Vermont Economic Progress Council (VEPC)	S.0142	S.142 Growth Centers Bill
Lindley, Dan	Administrator, St Albans Town	S.0142	S.142 Growth Centers Bill
Thompson, Richard	Administrator, Swanton	S.0142	S.142 Growth Centers Bill
Shupe, Brian	Vermont Forum on Sprawl	S.0142	S.142 Growth Centers Bill
Mesner, Susan	Economist, Department of Taxes	S.0142	S.142 Growth Centers Bill

Hearing Date: 03/02/2006

Hearing Type: Standard

Summary:

Comment:

Committee(s): S Finance

	<u>Type</u>	<u>Number</u>	<u>Side</u>
Recording(s):	CD	060088	A
	CD	060089	A
	CD	060090	A

STATE OF VERMONT - State House Computer System
2005 - 2006 Legislative Session
Committee Hearings where S.0124 was discussed

2/23/2010

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<u>Witness</u>	<u>Representing</u>	<u>Bill</u>	<u>Subject</u>
Volz, Jim	Chair, Public Service Board	S.0124	S.124 A Certificate of Public Good for Extending t
Hofmann, Sarah	Public Advocacy Director, Department of Public Service	S.0124	S.124 A Certificate of Public Good for Extending t
Sherman, Bill	Nuclear Engineer, Department of Public Service	S.0124	S.124 A Certificate of Public Good for Extending t
Morris, Gerry	Lobbyist, Energy Nuclear Vermont Yankee	S.0124	S.124 A Certificate of Public Good for Extending t
Moore, James	Vermont Public Interest Research Group	S.0124	S.124 A Certificate of Public Good for Extending t
Levin, Matt	Outreach and Development Director, Vermonters for a Clean Environment	S.0124	S.124 A Certificate of Public Good for Extending t
Burke, Tim	Conservation Law Foundation	S.0124	S.124 A Certificate of Public Good for Extending t
Russell, Bill	Legislative Counsel	S.0124	S.124 A Certificate of Public Good for Extending t
Noonan, Anne	Vermont State Employees Association (VSEA)	S.0285	S.285 Continuation of Group Coverage Following Div
Herlihy, David	Counsel, Department of Human Resources	S.0285	S.285 Continuation of Group Coverage Following Div
Edson, Cassandra	Legislative Counsel	S.0285	S.285 Continuation of Group Coverage Following Div
Heintz, Rebecca	Attorney, Health Care Administration, Department of Banking, Insurance, Securities and Health Care Administration	S.0285	S.285 Continuation of Group Coverage Following Div
Hughes, Jackie	Lobbyist, America's Health Insurance Plans (AHIP)	S.0285	S.285 Continuation of Group Coverage Following Div
Love, Wendy	Director, Vermont Commission on Women	S.0285	S.285 Continuation of Group Coverage Following Div

Hearing Date: 03/22/2006

Hearing Type: Standard

Summary:

Comment:

Committee(s): H Natural Resources & Energy

	<u>Type</u>	<u>Number</u>	<u>Side</u>
Recording(s):	CD	060091	A
	CD	060092	A
	CD	060093	A
	CD	060094	A

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<u>Witness</u>	<u>Representing</u>	<u>Bill</u>	<u>Subject</u>
Boright, Al	Legislative Counsel	S.0142	S.142 - Downtowns and Growth Centers
Murray, Sharon	VT Planners Association	S.0142	S.142 - Downtowns and Growth Centers
Lyons, Sen. Ginny	Senate Natural Resources Committee	S.0142	S.142 - Downtowns and Growth Centers
Zahner, Mike	Environmental Board	S.0142	S.142 - Downtowns and Growth Centers
Shupe, Brian	Forum on Sprawl	S.0142	S.142 - Downtowns and Growth Centers
Munson, Michael	VT Planners Association	S.0142	S.142 - Downtowns and Growth Centers
Lyons, Sen. Ginny	Reporter	S.0259	S.259 - Climate Change
Cummings, Sen. Anne	Chair, Senate Finance Committee	S.0124	S.124 - Certification of Public Good for Extending
Gander, Sen. Rod	Report of Bill	S.0124	S.124 - Certification of Public Good for Extending
Illuzzi, Sen. Vince	Chair, Sen. Economic Dev., Housing & General Affairs Comm.	S.0175	S.175 - Large Retail Stores
Cohen, Andrea	Agency of Natural Resources	S.0106	S.106 - Increasing the Beverage Handlers' Containe
Committee Discussion		S.0106	S.106 - Increasing the Beverage Handlers' Containe

Hearing Date: 03/29/2006
 Hearing Type: Standard
 Summary:
 Comment:

Committee(s): H Natural Resources & Energy

<u>Type</u>	<u>Number</u>	<u>Side</u>
Recording(s): CD	060099	A
CD	060100	A
CD	060101	A
CD	060102	A

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<u>Witness</u>	<u>Representing</u>	<u>Bill</u>	<u>Subject</u>
Cioffi, Frank	Ex. Director, GBIC	S.0142	S.142 - Downtowns and Growth Centers
Smith, Dan	Lobbyist, GBIC	S.0142	S.142 - Downtowns and Growth Centers
Horn, Karen	VT League of Cities and Towns	S.0142	S.142 - Downtowns and Growth Centers
Volz, James	Chair, Public Service Board	S.0124	S.124 - Certificate of Public Good for Extending t
Matteau, James	Windham Regional Planning Commission	S.0124	S.124 - Certificate of Public Good for Extending t
Arthur, Ed	Dummerston, Coalition Windham County	S.0124	S.124 - Certificate of Public Good for Extending t

Hearing Date: 04/04/2006
 Hearing Type: Standard
 Summary:
 Comment:

Committee(s): H Natural Resources & Energy

<u>Type</u>	<u>Number</u>	<u>Side</u>
Recording(s): CD	060107	A

<u>Witness</u>	<u>Representing</u>	<u>Bill</u>	<u>Subject</u>
Boright, Al	Legislative Counsel	S.0124	S.124 - Certificate of Public Good for Extending t
Committee Discussion		S.0124	S.124 - Certificate of Public Good for Extending t

Hearing Date: 04/06/2006
 Hearing Type: Standard
 Summary:
 Comment:

Committee(s): H Natural Resources & Energy

<u>Type</u>	<u>Number</u>	<u>Side</u>
Recording(s): CD	060111	A
	060112	A
	060113	A

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<u>Witness</u>	<u>Representing</u>	<u>Bill</u>	<u>Subject</u>
Zahner, Michael	VT Natural Resources Board	S.0142	S.142 - Downtowns and Growth Centers
Everheart, Nancy	VT Housing Conservation Board	S.0142	S.142 - Downtowns and Growth Centers
Brown, Greg	Ex. Director, Chittenden County Regional Planning Commission	S.0142	S.142 - Downtowns and Growth Centers
Shupe, Brian	VT Forum on Sprawl	S.0142	S.142 - Downtowns and Growth Centers
Committee Discussion		✓ S.0124	S.124 - Certificate of Public Good for Extending t

Hearing Date: 04/13/2006

Hearing Type: Standard

Summary:

Comment:

Committee(s): H Natural Resources & Energy

	<u>Type</u>	<u>Number</u>	<u>Side</u>
Recording(s):	CD	060119	A
	CD	060120	A
	CD	060121	A
	CD	060122	A

<u>Witness</u>	<u>Representing</u>	<u>Bill</u>	<u>Subject</u>
Boright, Al	Legislative Counsel	S.0142	S.142 - Growth Centers
Shupe, Brian	VT Forum on Sprawl	S.0142	S.142 - Growth Centers
Francis, Dawn	Lobbyist	S.0142	S.142 - Growth Centers
Emmons, Rep. Alice	Chair, House Institutions	S.0142	S.142 - Growth Centers
Westman, Rep. Rich	Chair, House Transportation	S.0142	S.142 - Growth Centers
Kerr, Steve	Secretary, Agency of Agriculture	S.0142	S.142 - Growth Centers
White, Marion	Agency of Agriculture	S.0142	S.142 - Growth Centers
Committee Discussion		✓ S.0124	S.124 - VT Yankee

Hearing Date: 04/19/2006

Hearing Type: Standard

Summary:

Comment:

Committee(s): H Natural Resources & Energy

	<u>Type</u>	<u>Number</u>	<u>Side</u>
Recording(s):	CD	060133	
	CD	060134	
	CD	060135	

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<u>Witness</u>	<u>Representing</u>	<u>Bill</u>	<u>Subject</u>
Committee Discussion		S.0124	S.124 - Vermont Yankee
Smith, Rich	Deputy Commissioner, Department of Public Service	S.0124	S.124 - Vermont Yankee
Matheau, James	Windham Planning Commission	S.0124	S.124 - Vermont Yankee
Committee Discussion		S.0124	S.124 - Vermont Yankee
Kitchel, Sen. Jane	Sponsor	S.0138	S.138 - Use Value Enrollment of Municipal Watershe
Crawford, Patricia	Chair, Selectboard, West Fairlee	S.0138	S.138 - Use Value Enrollment of Municipal Watershe
Johnson, Bill	Dir., Property Tax Valuation & Review, Department of Taxes	S.0138	S.138 - Use Value Enrollment of Municipal Watershe
Jeffrey, Steve	Vt. League of Cities & Towns	S.0138	S.138 - Use Value Enrollment of Municipal Watershe
Larson, Ed	Lobbyist, Use Value Appraisal, VT Forest Products	S.0138	S.138 - Use Value Enrollment of Municipal Watershe

Hearing Date: 04/20/2006

Hearing Type: Standard

Summary:

Comment:

Committee(s): H Natural Resources & Energy

	<u>Type</u>	<u>Number</u>	<u>Side</u>
Recording(s):	CD	060136	A
	CD	060137	A
	CD	060138	A

<u>Witness</u>	<u>Representing</u>	<u>Bill</u>	<u>Subject</u>
Lyons, Sen. Ginny	Chair, Sen. Natural Resources & Energy Committee	S.0259	S.259 - Green House Gases
Chapman, Matt	Council, Environmental Conservation Department	S.0259	S.259 - Green House Gases
Smith, Richard	Deputy Commissioner, Department of Public Service	S.0259	S.259 - Green House Gases
Moore, James	Clean Energy Advocate, Vermont Public Interest Research Group (VPIRG)	S.0259	S.259 - Green House Gases
Volz, James	Chair, Public Service Board	S.0124	S.124 - Vermont Yankee
Hoffman, Sara	Attorney, Department of Public Service	S.0124	S.124 - Vermont Yankee
Kennedy, Jeanne	Lobbyist, Green Mountain Power Corp.	S.0124	S.124 - Vermont Yankee
Johnson, Kerrick	Central Vermont Public Service Corp.	S.0124	S.124 - Vermont Yankee
Cosgrove, Brian	Energy	S.0124	S.124 - Vermont Yankee

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Hearing Date: 05/03/2006

Hearing Type: Standard

Summary:

Comment:

Committee(s): H Natural Resources & Energy

	<u>Type</u>	<u>Number</u>	<u>Side</u>
Recording(s):	CD	060150	A

Witness

Representing

✓ Bill
S.0124

Subject
S.124 - Vermont Yankee

Committee Discussion

Vermont State Senate - Act 160 of 2006

As recorded on March 14, 2006

Janice D. Badeau
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1 Senator from Windham, Senator Gander, for the report of
2 the Committee on Finance.

3 SENATOR FROM WINDHAM: Thank you, Mr.
4 President. We've all just received a short memorandum
5 speaking to the various sections of the bill. I must
6 admitted, I just received it myself. And so, therefore,
7 I'd like to be talking a bit about the ramifications of
8 the bill and, at some length, before going into
9 sections.

10 This bill is important to state that,
11 and let you know what this bill is not as much as what
12 it is. This bill is not a vote about the future of
13 nuclear power up or down in the State of Vermont. And
14 this bill is not and you will not find the word anywhere
15 in the bill or anywhere else, this bill is not about the
16 safety of nuclear fission or any entity that exists in
17 the state. Safety is the pure duty of the NRC to
18 determine. And it's the NRC that does that and the --
19 neither the Public Service Board nor legislature has
20 any -- any say about the safety of (inaudible) nuclear
21 fission in the long run.

22 What this bill does is puts squarely
23 on the legislature an appropriate responsibility. We
24 have in front of us very, very difficult decisions to
25 make about the energy policy in the State of Vermont.

1 We all know that, you know, how broadly -- how broad
2 those problems are. It would certainly be, I think, a
3 dereliction not to do -- not for the legislature to do
4 due diligence when looking at the future of energy
5 policy in the State of Vermont.

6 This bill will not -- will -- will --
7 is actually for the benefit of a future legislature, not
8 -- not this one. What we are doing here today is making
9 sure that a future legislature, four years hence or
10 whatever, has the opportunity to look at the energy
11 policy of the state -- the policy of the state and make
12 a determination about the future -- the future licensing
13 of the nuclear plant.

14 The -- excuse me. So the -- to go
15 through the sections. What it really does at its most
16 simple -- what it does is set up twin authorities which
17 must be met by anyone wishing to extend -- to have a new
18 license, another nuclear plant, a new license for the
19 one that exists. They must -- the twin authorities,
20 answer to two authorities within the state and must have
21 the approval of the certificate of public good and of
22 the Public Service Board and they must have the approval
23 of the legislature as well.

24 To go through the bill, I think,
25 instead of taking a little short (inaudible), I have

1 taken some notes on another copy that I had. And as
2 soon as I find it, I'll try to piece them together.
3 I -- I must confess, I didn't expect to be doing this
4 quite this early today. But nevertheless, policy and
5 purposes of the bill, as I have said, that it really is
6 the restating of the long-standing policy of the State
7 of Vermont that a nuclear power facility may be operated
8 in the state only with the explicit approval of the
9 General Assembly by law.

10 The next two technical amendments, one
11 having to do with an issuance of the public good by the
12 Board. The other stating that this -- that the Board
13 also has authority to grant a certificate of public good
14 and this would be amended in a similar manner to
15 explicitly provide that a nuclear fission plant may not
16 be operated in the state beyond its existing license
17 unless the PSB issues a certificate of public good under
18 the existing titles. Excuse me.

19 And then in Section 3 -- pardon me,
20 Section 4 now is the substance of the bill. It amends a
21 title that say 248. Establishes procedures and
22 requirements for the PSB to grant a certificate for the
23 construction and the operation of a nuclear fission
24 plant in Vermont. And here is the meat of the bill. It
25 requires a four-year timeline. What that timeline works

1 out to is that anybody wishing to be -- be licensed must
2 petition the Public Service Board before the March of
3 2008. At that point, the Public Service Board will, for
4 two years do fact-finding and public comment, analysis
5 and then report back to the legislature not later than
6 March 2010. Then it will be up to -- and -- and then
7 the Public Service Board may issue its certificate of
8 public good. The legislature can take the matter under
9 consideration and the -- no nuclear plant may operate
10 without -- beyond the date of 2012 without the approval
11 of the legislature. 2012 being the ending date of the
12 current licensee. Excuse me.

13 This timeline, there's plenty of time
14 to bring the resources -- all our resources to bear on
15 this so that -- so that the legislature can make a well-
16 founded knowledgeable decision at the appropriate time.
17 It also gives the Public Service Board at the time,
18 certainly, to do its job, as well.

19 The -- we have -- going back to the
20 beginning for just a moment, we have serious, serious
21 problems in energy. There is simply no question about
22 it. And at the very least it would be, as I said
23 earlier, I would think that it would be derelict of this
24 body, both bodies, not to -- not to take a central role
25 in the plans for the future. It's interesting to note

1 that how volatile that industry is. And that's why
2 looking four years off, the volatility is amazing. Four
3 years ago, Vermont had either the highest, I think, or
4 the second highest energy costs in -- in -- in New
5 England. Now they have the lowest. That's not because
6 anything changed very much in the Vermont portfolio.
7 It's because of change in natural gas pricing and so on.
8 These things can happen to any -- any -- any one of
9 these -- these (inaudible).

10 The other thing is we talk about cheap
11 energy. Well, it may not be four years from now. We --
12 we, simply, honestly don't know. Or eight or ten years
13 from now. But if anything, the industry is becoming
14 more complicated. It is very, very likely that -- that
15 the trend is to no longer have any long-term contract.
16 At the moment, one has two; one with Hydro Quebec which
17 ends in 2020 and the other with Entergy which ends in
18 2012. And it is highly doubtful that long-term
19 contracts will be able to be met in either case.
20 However, through the passage of this bill, I believe it
21 a lot more likely that the -- the State, if the
22 licensure is improved, it puts the State in a much
23 better position to -- to have this -- this bill -- bill
24 in place.

25 There's -- when people talk about the

1 cheap energy we're having and how long it will -- how
2 long it's going to go on and so on and why not stay with
3 it. There is nothing, once this contract ends, once the
4 contract ends in 2012, it's a whole new ball game.
5 Absolutely new ball game. You start from scratch. You
6 can't count on "X" amount of your state power coming
7 from any particular entity, whether it's Hydro Quebec or
8 whether it's Entergy and so on. It's going to be
9 terribly important for -- for the State to have every
10 bit of leverage it possibly can as we go forward in the
11 energy business. Believe me, it -- there's no more
12 competitive business and the profit motive is strong.
13 And -- and selling -- selling electricity to Vermont
14 under the current contract I would be very surprised if
15 that would be as profitable as -- as Entergy would like
16 it to be. Put it that way. (Inaudible) on-the-spot
17 market (inaudible) I believe \$75 a kilowatt hour or
18 something like that.

19 So what -- after March 12th, again,
20 that may not be the correct date. After March 2012, all
21 bets are off. That's -- and -- and we have the time,
22 and it's not a lot of time. Here we are, we've been
23 talking about this and talking about this. We talk
24 about renewables. We talk about energy future. How
25 many problems -- we probably have a good -- a good bill

1 we're going to be looking at. But in the meantime,
2 these -- these months slip by and we're really here only
3 -- only six years away from this particular license and
4 not that far away from the other one.

5 Again, I -- I really, really believe,
6 and the only word I can use is derelict, if the
7 legislature did not maintain itself in the best possible
8 position to take any action they felt necessary that
9 this current crisis and it's looming greater crisis goes
10 on. The -- in -- in -- in testimony we took, we heard
11 from -- well, let me put it this way, over the -- over
12 the past few years, I -- the number of people we've
13 heard from are in the dozens and dozens. But in this
14 particular bill, we heard from Michael Dworkin, we heard
15 from James Volz, Chair of the Public Service Board. We
16 heard from Jerry Morris, the lobbyist from -- for
17 Entergy who stated their positions very clearly.
18 They're -- they're against this bill. They didn't --
19 they wanted Jerry to testify and -- and so he did. Tim
20 -- Tim Nulty, member of VSNAP; Arnold Gunderson, nuclear
21 engineer; Ed Anthes, Nuclear Free Vermont; Tim Burke,
22 Conservation Law Foundation; James Moore, Vermont Public
23 Interest Research Group; Matt Levin, Vermonters for a
24 Clean Environment; Laura Hoffman, Public Advocacy
25 (inaudible) Public Service Department; Bill Sherman,

1 clear it up right now. I don't know if --

2 PRESIDENT: Chair -- Chair now
3 recognizes the Senator from Washington.

4 SENATOR FROM WASHINGTON: Thank you,
5 Mr. President. Last year, the -- this body voted on a
6 bill that would require VY to come back for additional
7 dry cask storage. That could be dry cask necessary to
8 either close it or continue operation. But this bill
9 extends that and extends the legislature's ability.
10 We've asked the Public Service Board to conduct
11 extensive public review to do extensive research into
12 the economic impacts on the state. Basically, the
13 economic impacts on the state so that this is a policy
14 decision. When we first authorized VY in the state,
15 nuclear power in the state, it was a policy decision
16 that was done by the legislature. The Finance Committee
17 felt that, since this is essentially a new license, this
18 is, again, re-looking at that policy to decide whether
19 or not it is in the best interests to continue that
20 policy of having nuclear power within the State of
21 Vermont. So this is broader. I think our vision is
22 that, if we're going to do this, that since they need
23 dry cask to continue, that would probably fold both of
24 those -- you know, they're not licenses, they're
25 authorizations to continue and do them at the same time.

1 might be able to, Peter, because -- I'm sorry, Senator
2 Pro Tem. I know him. He's from Windsor.

3 PRESIDENT: Senator from Windham now
4 yields to the Senator from Windsor.

5 SENATOR FROM WINDSOR: This is -- the
6 Finance Committee was very careful to make certain that
7 this preserved the authority of the PSB with respect to
8 the consideration of and the issuance of the certificate
9 of public good. It also allows the legislature, people
10 elected by the State of Vermont, to decide yes or no on
11 the basis of whatever policy reasons that the
12 legislature felt had to be part of consideration to make
13 its decision. So it -- what you've got is a situation
14 that's very similar to the original enabling legislation
15 that authorized Vermont Yankee to operate. Vermont
16 Yankee had to get a certificate of public good. It also
17 had to get legislative enactment to be permitted to
18 operate. That was when the original license was granted
19 about 40 years ago. What would happen now with
20 relicensing, under this legislation, is that the PSB
21 process is not touched. Everything that now exists
22 continues to exist with respect to the PSB. But the
23 legislature would also have the opportunity to vote yes
24 or no. And the legislature is free in that
25 consideration to take into account its perception of

1 what this does for Vermont's energy future, how it helps
2 rate payers, what the economic trade-offs are, whatever
3 negotiations may occur between the administration and/or
4 the legislature and the licensed applicant. So it's a
5 parallel decision that's made by the General Assembly on
6 the basis of information similar to how it made a
7 decision 40 years ago in the original license
8 authorization. But it does -- absolutely does not
9 interfere with the current administration of the Public
10 Service Board.

11 SENATOR FROM CHITTENDEN: Thank you,
12 Mr. President. Could I further inquire as to whether it
13 was the Finance Committee's conclusion that, based on
14 the thorough process which is being recommended in this
15 legislation, that when a public -- a certificate of
16 public good is issued, that, in fact, the legislature
17 would do due diligence and then concur.

18 SENATOR FROM WINDHAM: There's nothing
19 in the bill that would -- would make it mandatory for
20 the legislature to concur.

21 SENATOR FROM CHITTENDEN: Thank you,
22 Mr. President.

23 PRESIDENT: The Chair recognizes the
24 Senator from Rutland.

25 SENATOR FROM RUTLAND: Mr. President,

Vermont Act 160 of 2008

S.124

1 February 1, 2006

2 (Begin Recording.)

3 Senate Finance Disk #2006-45/Track 1

4 (Transcriber note: There were several parties present
5 at these meetings. Speakers' names were used whenever
6 possible, but in the instances where they were not
7 identified or could not be discerned by the transcriber,
8 generic terms were used.)

9 Begin Minute 21:28

10 CHAIRMAN: So the next one I have is
11 Gerry Morris.

12 MR. MORRIS: Right here, Madame Chair.
13 Thank you. For the record, my name is Gerry Morris and
14 I'm a contract lobbyist here in Vermont. Today, I'm
15 representing Entergy Vermont Yankee. I'm sitting in the
16 chair and not a member of senior management team because
17 they are all over to the Public Service Board because
18 our certificate of public good hearing started a couple
19 of days ago and they send their apologies. But, of
20 course, be willing and able to come as you please,
21 Madame Chair, in the future on this.

22 CHAIRMAN: Okay.

23 MR. MORRIS: Entergy Vermont Yankee
24 does not support S.124. We are committed to pursuing a
25 certificate of public good before the Public Service

1 Board and we have every confidence that that process
2 achieves the intent that the legislature wished it to do
3 when it created the PSB some decades ago. That's the
4 end of my testimony.

5 CHAIRMAN: That was very clear.

6 MR. MORRIS: Thank you.

7 End Minute 22:18

8

9 Begin Minute 35:36

10 ***

11 CHAIRMAN: Okay. From VSNAP. Okay.
12 James Moore.

13 MR. MOORE: Thank you, Madame Chair.

14 For the record, my name is James Moore. I'm a clean
15 energy advocate with the Vermont Public Interest
16 Research Group; VPIRG. Thank you to all the members of
17 the committee for allowing me to testify here today.

18 I wanted to thank the committee for
19 taking this bill up in the 2000 legislative -- and 6 --
20 legislative session. When we look at 2012, that often
21 seems like a long way away. But when you consider the
22 power constraints in the New England market and our
23 current situation, it's -- there's an imperative for us
24 to act now to address our future energy needs. So thank
25 you for taking this up this year.

1 ***

2 End Minute 52:15

3

4 Begin Minute 52:16

5 CHAIRMAN: Arnold Gunderson.

6 MR. GUNDERSON: Hi.

7 UNIDENTIFIED MALE SPEAKER: Hi.

8 MR. GUNDERSON: I'm Arnie Gunderson.

9 I teach physics at Burlington High. Not associated with
10 any of the organizations. I'm here as a private
11 citizen. Although, I did testify as an expert for the
12 New England Coalition in the uprate hearings. I'm not a
13 member of the Coalition. I was a hired expert.

14 CHAIRMAN: You've been here before,
15 right?

16 MR. GUNDERSON: Yes.

17 CHAIRMAN: Yes.

18 MR. GUNDERSON: Yes.

19 CHAIRMAN: That's what I thought.

20 MR. GUNDERSON: And in addition, I'm
21 an expert in a nuclear case down in Florida and
22 separately in another nuclear case in South Carolina. I
23 was formerly an executive in the nuclear industry before
24 I started teaching physics at Burlington High.

25 UNIDENTIFIED MALE SPEAKER: What were

1 you formerly?

2 MR. GUNDERSON: Senior Vice President
3 of Nuclear Engineering for a company, a nuclear
4 engineering company. And I actually built the racks
5 that I think are still in Vermont Yankee back in the
6 early Eighties.

7 I -- I -- normally, I like to have a
8 formal presentation, but I don't. This is it. I -- I
9 discovered of this meeting last night and I taught until
10 1:30, so here I am.

11 I -- I do think the -- the bill is
12 necessary, unlike Entergy, for several reasons. The --
13 the first reason is that this really is going to be a
14 new plan. The -- I understand that Entergy has told you
15 that it was licensed for 40 years, but it was designed
16 for many years beyond that. That's not true. I was the
17 -- I reviewed 200 thousand pages of documents as a part
18 of the uprate and I can assure you that there are
19 documents in Entergy's files which clearly show that
20 this plan was designed for 40 years. So the intent of
21 everybody was it was a 40-year plant. They built it for
22 40 years. And so any statement to -- to the contrary
23 just isn't true. It was designed for 40 years and those
24 statements are known to the executives of Entergy
25 because they signed the memos that I'm referring to.

1 It's crystal clear. It was designed for 40 years.

2 So I really think in 2012 it's a --
3 it's a -- the -- the contract they had with the State is
4 -- is over and it's time for a new contract so that the
5 bill is certainly appropriate.

6 The -- the second thing is, two years
7 ago in 2003, I was the one who introduced the concept of
8 a bathtub curve. And it's when you plot unreliability
9 of -- of anything -- a new car, if it doesn't break in
10 the first month, it's going to run for seven or eight
11 years before it starts to break again. And so
12 unreliability looks like a bathtub with a steep side.
13 Unreliability decreases and becomes more reliable. It's
14 flat for a long, long period of time and then, as it
15 gets older, it curves upward, which would be your
16 headrest in the bathtub, hence the term bathtub curve.
17 And that's a reliability term. That's not my term.

18 The -- the plant, if it does get out
19 beyond 2012, is clearly in the upswing on that bathtub
20 curve. With the uprate that -- the position and the
21 slope of that curve will be changed even more
22 dramatically. It will become more unreliable. And the
23 plant will -- it's interesting, because we had this
24 discussion in the PSC hearings two years ago, but some
25 unreliability is actually to Entergy's advantage. They

1 have this warrantee clause in effect right now which
2 ends in about 10 more months. After that, if the plant
3 breaks, the ratepayers take it in the ear and it's more
4 likely, I ran a reliability engineer section and even
5 Entergy's expert recognized it, it is likely that the
6 uprate will cause the plant to be more unreliable.

7 For example, a 20 percent uprate, 20
8 percent of 365 is essentially 70 days. So Entergy gets
9 70 days more running at what is now full power. Well,
10 if it breaks for 35 days --

11 UNIDENTIFIED MALE SPEAKER: Arnie, I
12 -- I --

13 MR. GUNDERSON: Yes.

14 UNIDENTIFIED MALE SPEAKER: You're
15 going fast.

16 MR. GUNDERSON: Oh, I'm sorry. I --

17 UNIDENTIFIED MALE SPEAKER: Are you
18 saying -- were you saying that the plant gets 400 and
19 whatever that number was, 30-something --

20 MR. GUNDERSON: Yes. Four hundred
21 and --

22 UNIDENTIFIED MALE SPEAKER: -- 35 days
23 worth of --

24 MR. GUNDERSON: Of --

25 UNIDENTIFIED MALE SPEAKER: -- energy

1 in a 365 day period?

2 MR. GUNDERSON: -- 65-day year. If
3 you count -- if you calculate energy at the present --

4 UNIDENTIFIED MALE SPEAKER: Yes.

5 MR. GUNDERSON: -- energy level, it
6 effectively, for every year it operates, it runs on 400
7 and whatever -- add 75 days to 365 and it essentially
8 runs that far. So if it's unreliable and breaks 35
9 days, those are real days our ratepayers take it in the
10 ear. And then, however, when it operates, those
11 revenues go to -- go to Entergy. And I --

12 UNIDENTIFIED MALE SPEAKER: So we --
13 sorry. So you -- the Vermont ratepayers don't see any
14 of those additional days because they --

15 MR. GUNDERSON: Right.

16 UNIDENTIFIED MALE SPEAKER: -- they
17 have a contract that --

18 MR. GUNDERSON: For that block at
19 baseload.

20 UNIDENTIFIED MALE SPEAKER: So that
21 all those --

22 MR. GUNDERSON: Right.

23 UNIDENTIFIED MALE SPEAKER: Okay. All
24 those days are -- go to the owner. Okay. That's what
25 I --

1 MR. GUNDERSON: Go elsewhere.

2 UNIDENTIFIED MALE SPEAKER: That's
3 what I --

4 MR. GUNDERSON: And probably not to
5 Vermont as -- as this uprate will handle 100 thousand
6 new homes, but there's not 100 thousand new homes
7 scheduled for Vermont. So most of it will go out of
8 state. So the -- the power goes out of state. The --
9 the revenues go to Entergy and the risk goes to the
10 Vermont ratepayers.

11 So I think this bill, because it is a
12 new plant, the -- this bill gives you an opportunity to
13 -- to address that. The -- one would hope it would be
14 favorable energy costs, as they are now. But in
15 addition, the uprate is making this thing more
16 unreliable. And that unreliability is something that
17 needs to be factored into your -- to your
18 considerations.

19 The -- so point one is it is a new
20 plant. There's no doubt. Point two is that the -- I
21 would hope that somehow the language of the bill would
22 reflect that you should look at the issue of
23 unreliability and compensate the ratepayers in Vermont
24 because the unreliability is, in fact, caused by the
25 uprate. You know, the 19-day outage with the fire is an

1 example of an uprate-related problem already. There's
2 no -- there's no doubt that had there not been an
3 uprate, the flow rates in that particular line would
4 have been less and that the component may not ever have
5 failed. And certainly, if it did fail, it would be far
6 out in the future. So there's a -- and there are many
7 examples of other reactors just like this one.

8 We keep talking about Quad Cities and
9 the barrel cracking. Well, it's worse than that. Quad
10 Cities has major problems now with actuators that are
11 vibrating and there's another confirmatory action letter
12 on Quad Cities. So there are many problems with these
13 uprated reactors that are causing them to be unreliable.
14 And the net loser in the process, as long as the plant
15 doesn't break more than 70 extra days a year, is the --
16 is the Vermont ratepayers.

17 The third thing is decommissioning
18 costs. It -- I am not a financial expert. I was a
19 senior VP and I had operational financial
20 responsibilities, but as I read the Entergy annual
21 report, it appears to me that the decommissioning fund
22 is a -- is a profit center. When the market generates
23 more income than -- than projected required to fund the
24 decommissioning fund, those funds are stripped off and
25 they go into Entergy's profits, as I understand it. And

1 I don't pretend to be a financial expert here and I
2 would hope that -- that you could authorize a little
3 more on this. But the -- the net effect is it's very
4 much like the airline stripping the -- the funds from
5 the --

6 UNIDENTIFIED MALE SPEAKER:

7 Retirement?

8 MR. GUNDERSON: The retirement funds.
9 You know, where in the good years they stripped the
10 revenues off, but in the bad years, they never made it
11 up. And it looks to me like, you know, when the market
12 is going well, the rate at which the decommissioning
13 fund grows is capped and the funds are stripped off.
14 But when the market is going less than anticipated,
15 there isn't necessarily the opposite occurring.

16 I have no problem if Entergy takes the
17 profits. I mean, we -- we argued that out months --
18 years ago -- once its fully funded. But let's get the
19 decommissioning fund fully funded and then they can take
20 half and we can take half as -- as agreed to. And
21 I'm -- I'm afraid that, as I read Entergy's annual
22 report right now, the funds are being stripped out
23 before the fund is fully funded because they talk about
24 how revenues are being generated from their
25 decommissioning funds. So that's a -- a third concern.

1 Lastly, is the cost of emergency
2 response. And it was eluded to earlier here, too. The
3 -- there's a shell game going on. The uprate has
4 increased the amount of radiation that, in the event of
5 an accident, that would be released from Vermont Yankee
6 by 40 percent. A 20 percent uprate will increase the
7 amount of radiation by 40 percent. Well, to get around
8 that problem, Vermont Yankee lowered the amount of
9 radiation that they would release now by 40 percent.
10 They got the NRC to agree to lower the amount by 40
11 percent now. And then with the uprate it comes back up
12 to 40 percent. So they say no laws are broken. And --
13 and -- but that's a word game. The real issue here is
14 that, whatever was going to be released from Vermont
15 Yankee at the present power level, 40 percent more will
16 be released in -- in the event of the same accident in
17 the -- in the future.

18 I would hope that emergency planning
19 and -- and funding of emergency planning would take into
20 account that there will be a net increase of radiation
21 released from the facility of 40 percent.

22 CHAIRMAN: Would that require a
23 broader radius --

24 MR. GUNDERSON: Yes.

25 CHAIRMAN: -- be included in that

1 plan?

2 MR. GUNDERSON: Well, there's a move
3 afoot in the industry to actually attempt to shrink the
4 -- the -- the zones down to a mile or two. And there's
5 -- there's some convoluted, in my opinion, convoluted
6 chemical analyses to show that the plants really won't
7 release as much radiation as we've anticipated. That
8 doesn't seem very conservative. So I think that the
9 move afoot is to drive these emergency planning zones
10 down to a mile or two. And, in fact, I believe it
11 should be -- be moved out by two or three miles so that
12 the next affect, in my opinion, is that emergency
13 planning zones should be moved outward by -- by several
14 additional miles as a result of the uprate.

15 CHAIRMAN: Well, we do have another
16 bill dealing with emergency planning, though, I believe.
17 Maybe we'll take a look at that.

18 MR. GUNDERSON: Okay. And I -- and I
19 can come back and talk on that. And then the -- the
20 last thing is that I -- I realize Vermont Yankee gives
21 us very favorable rates right now and -- and I'm an
22 advocate of keeping the plant running to 2012. It may
23 very well be too late to replace Vermont Yankee. I
24 mean, six years to put 600 megawatts on line is a very
25 difficult proposition and I don't think we're in a

1 situation to even begin to put 100 megawatts on line,
2 let alone 600. But -- but we all need to think that
3 Vermont -- if -- if I was a businessman, I would think
4 Vermont is a brand. And a brand thing is purity. And
5 if this thing were to pop, and I think, you know, we
6 talked about likelihood earlier, the industry will say
7 it's one in a million. I think it's maybe one in 100
8 thousand or one in 10 thousand. It's good 10 fold or
9 100 fold lower reliability than the industry will
10 propose. And but -- but the net affect is that we've
11 got a brand here of purity and if the money we're saving
12 on electricity, which is a real tangible asset could get
13 just wiped off the map if -- if it were to blow, because
14 you've got things like, you know, Cabot Cheese. And
15 even if there wasn't a lot of radiation in the
16 environment, Cabot Cheese's reputation goes down, Ben &
17 Jerry's reputation goes down, maple syrup's reputation
18 goes down, ski industry's reputation goes down. And I
19 hope that, when we look at extending the plant's life
20 out there, we take that risk into account, too. We are
21 responsible for a brand and that brand is called Vermont
22 and it means purity. Thank you.

23 CHAIRMAN: Okay. Questions?

24 UNIDENTIFIED FEMALE SPEAKER: Could
25 you tell me what you mean by stripping funds out of the

1 decommissioning fund?

2 MR. GUNDERSON: It -- it looks to me,
3 and again, I'm not a financier, I'm an engineer, but I
4 had some financial responsibility, there's probably
5 close to 370, 380 million dollars in the funds right
6 now. If the market -- and -- and in order to hit -- so
7 that the -- the -- the funds are growing at a rate of
8 perhaps eight percent a year. In order to hit 600
9 million in 2012, which is the estimated cost to
10 decommission, they need a rate of about eight percent a
11 year. If the fund grows faster than eight percent, it
12 seemed to me, as I read the Entergy annual report, that
13 those funds don't remain invested in the fund. I mean,
14 wouldn't it be neat if this thing were fully funded in
15 2010. If those funds stay invested in -- in the fund,
16 we could have this thing fully funded in 2010 or 2009,
17 in which case, after it's fully funded, the -- the
18 ratepayers of Vermont get to split that difference 50/50
19 with -- with Entergy.

20 Now, if -- when the market is growing
21 at -- when -- when the funds are invested at eight
22 percent and they get actually maybe nine or ten, as they
23 have in years past --

24 UNIDENTIFIED FEMALE SPEAKER: Um hum.

25 MR. GUNDERSON: -- I think, and it's

1 very hard to read these annual reports at that detail, I
2 think that extra two percent is being stripped out. And
3 that's okay, assuming the plant gets to 2012. But and
4 also assuming that the market continues to generate
5 eight percent. If it generates less than eight percent,
6 there doesn't appear to be the opposite occurring. In
7 other words, Entergy doesn't -- isn't required to refund
8 that program back up to eight percent.

9 UNIDENTIFIED FEMALE SPEAKER: Um hum.

10 MR. GUNDERSON: And the other thing,
11 of course, if the plant were to have an accident and
12 have to shut down, even a little accident, and shut down
13 in 2010, if -- it is possible that the fund will be
14 under-funded, in which case, Entergy has not legal
15 obligation, I mean, it can give us the keys and walk
16 away. They're an LLC, a limited liability corporation.

17 UNIDENTIFIED FEMALE SPEAKER: Ah-huh?

18 MR. GUNDERSON: And Vermont Yankee is
19 an LLC and they can give us the keys and leave and
20 Entergy Corporate Louisiana goes on and the plant just
21 shuts down at that point.

22 UNIDENTIFIED FEMALE SPEAKER: Thank
23 you.

24 MR. GUNDERSON: Okay.

25 CHAIRMAN: Okay. Committee, any other