

NOTE: This order is nonprecedential.

**United States Court of Appeals  
for the Federal Circuit**

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**VERMONT YANKEE NUCLEAR POWER  
CORPORATION,**  
*Plaintiff-Cross Appellant,*

v.

**ENTERGY NUCLEAR VERMONT YANKEE, LLC  
AND ENTERGY NUCLEAR OPERATIONS, INC.,**  
*Plaintiffs-Cross Appellants,*

v.

**UNITED STATES,**  
*Defendant-Appellant.*

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2011-5033, -5034, -5042

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Appeals from the United States Court of Federal  
Claims in consolidated case nos. 02-CV-898 and 03-CV-  
2663, Judge Thomas C. Wheeler.

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**ORDER**

The United States submits a notice that its initial  
brief includes a challenge upon federal preemption  
grounds to the State of Vermont's action requiring En-  
tergy Nuclear Vermont Yankee, LLC to make certain  
financial contributions before permitting it to construct a

dry storage facility on its nuclear reactor site. The United States also moves without opposition for judicial notice of the official transcript of a June 23-24 hearing in Entergy Nuclear Vermont Yankee, LLC v. Shumlin, No. 1:11-CV-99 (D. Vt.).

Section 2403(b) of 28 U.S.C. and Fed. R. App. P. 44 requires that this court certify to the attorney general of the State the fact that the challenge has been made.

Upon consideration thereof,

IT IS ORDERED THAT:

(1) Notice is hereby provided to the attorney general of the State of Vermont. If the State determines to file an amended brief amicus curiae, that brief is due within 30 days of the date of filing of this order. The due date for the United States' brief is 60 days from the date of filing of this order.

(2) The motion for judicial notice is granted.

FOR THE COURT

SEP 02 2011

Date

/s/ Jan Horbaly

Jan Horbaly  
Clerk

cc: Richard James Conway, Esq.  
Brad Fagg, Esq.  
Harold D. Lester, Jr., Esq.  
Kyle Landis-Marinello, Esq.

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**FILED**  
U.S. COURT OF APPEALS FOR  
THE FEDERAL CIRCUIT

SEP 02 2011

JAN HORBALY  
CLERK